

# Towards the design of REDD+ grievance system in Cambodia

Cambodia, 2015



## **Disclaimer**

This synthesis report was prepared by Antonia Engel, and does not necessarily represent the views of the Cambodia REDD+ Taskforce, the Forestry Administration, the General Department of Administration of Nature Conservation and Protection, the Fisheries Administration, and FCPF Project.

# **Towards the Design of a REDD+ grievance system in Cambodia**

**Synthesis Report**

**January 2015**

## Table of Contents

<b>Abbreviations</b>	<b>3</b>
<b>1 Executive Summary</b>	<b>4</b>
<b>2 Assessment goals, terms of reference and methodology</b>	<b>12</b>
<b>3 Classification of existing disputes</b>	<b>15</b>
<b>4 Frequency of existing disputes</b>	<b>18</b>
<b>5 Existing conflict management and resolution mechanisms</b>	<b>23</b>
<b>6 Resolution rates</b>	<b>27</b>
<b>7 UNFCCC guidance on principles and framework for a grievance mechanism</b>	<b>33</b>
<b>8 Next steps with time lines towards designing the GRM</b>	<b>43</b>
<b>Annex I: Map showing the estimated size and location of ongoing disputes</b>	<b>47</b>
<b>Annex II: Detailed description of disputes</b>	<b>48</b>
<b>Annex III: Existing mechanism and institutions resolving disputes</b>	<b>56</b>

## Abbreviations

ADR	Alternative Dispute Resolution denotes all forms of dispute resolution other than litigation or adjudication through the courts, including customary law.  The term “alternative dispute resolution” is used in this study to cover mechanisms a) established by the law and part of the State (Cadastral Commission), b) established and regulated by law but independent (Labour Arbitration Council), c) traditional conflict management, and d) local conflict resolution.
CAC	Cambodian Arbitration Council
CBI	Consensus Building Institute, Washington
CFMCs	Community Forest Management Committees
CPACs	Community Protected Area Committees
DKCC	District Khan Cadastral Commissions
ELC	Economic Land Concession
FA	Forestry Administration
GRM	Grievance Response Mechanism
IPs	Indigenous Peoples
MAFF	Ministry of Agriculture, Forestry and Fisheries
MoE	Ministry of Environment
MoI	Ministry of Interior
MoJ	Ministry of Justice
MLMUPC	Ministry of Land Management, Urban Planning and Construction
NALDR	National Authority for Land Dispute Resolution
NCC	National Cadastral Commission
PCFP-CC	Provincial Community Forestry Program Coordination Committee
PMCCs	Provincial Municipal Cadastral Commissions
REDD	Reduced Emissions from Deforestation
RGC	Royal Government of Cambodia

## 1 Executive Summary

The Cambodia REDD+ Roadmap identifies a range of actual and potential disputes and conflicts that create risks for REDD+ implementation. It commits the Royal Government of Cambodia (RGC) and its partners to strengthen conflict resolution mechanisms in order to achieve REDD+ goals in Cambodia.

To support the development of Cambodia's REDD+ strategies, UN-REDD had commissioned this assessment through UNDP as part of its contribution towards a grievance redress mechanism.

The purpose of the assessment was to:

- Provide an improved understanding of the kind, classification and frequency of existing grievances related to land, forests, access to protected, conservation areas;
- Identify what specific REDD+ actions and activities could lead to grievances;
- Analyse the existing grievance mechanisms and their effectiveness;
- Benchmark the existing grievance mechanism against UNFCCC principles;
- Identify data and information gaps;
- Recommend next steps with timelines;

A grievance redress mechanism is a process for receiving and facilitating resolution of queries and grievances from affected communities or stakeholders related to REDD-plus activities, policies or programs at the level of the community or country. Typically, these mechanisms focus on flexible problem solving approaches to dispute resolution through options such as fact finding, dialogue, facilitation or mediation. Designed well, a feedback and grievance mechanism should improve responsiveness to citizen concerns, help identify problems early, and foster greater trust and accountability with program stakeholders. Additionally data on complaints or feedback can be used to improve program performance.

The term grievance refers to “an issue, concern, problem, or claim (perceived or actual) that an individual, a community or any other stakeholder group wants the RGC to address and resolve”.

### **Key findings are:**

Little official information exists on the number, locations, severity and outcome of forest disputes in Cambodia. The Royal Government of Cambodia does not display reliable data on natural resources disputes. Some data exist though on land disputes gathered through cases filed with the cadastral commission or courts, and through data gathered by the NGO Forum on Cambodia.

For the REDD context, it should be noted that the actual number of disputes may be higher because disputes involving “private parties only” might go unreported by the local media and might not enter the files of cadastral commissions or courts.

Despite this shortcoming, the available data on land disputes may be regarded as a proxy indicator<sup>1</sup> to get an idea about the magnitude of disputes relevant for REDD in Cambodia, for mainly two reasons:

- The available data on land disputes does include forest land (state forest and community forest land);
- Forest boundaries are often disputed, or are at least legally ambiguous as they span over different types of land. Therefore REDD relevant disputes occur not only over forest land, but also over agricultural land (farmland and rice land), residential areas and other types such as wetlands, footpaths and flooded forest land.

***Kind and classification of grievances:***

- The land and forest disputes that are relevant to the REDD+ context can be classified in three broader types:
  - The first type is “between the state and ordinary citizens”. These disputes can be clustered into two opposite scenarios: Disputes which occur because 1. *the state* is appropriating land for public purposes and 2. *villagers* occupy or use land and forests which theoretically belong to the state.
  - The second type of conflict is “between citizens and representatives of the state” who are acting either in their own personal interests or as intermediaries for the private sector. In such cases, there is a blurring of the distinction between the private sector and the state as government officials are either directly involved in private sector activities or are acting in close cooperation with investors.
  - The third type of conflict arises exclusively “between private parties” and can be further sub-grouped as internal disputes within communities and external disputes between communities and outsiders.
- Most of the dispute scenarios described in the first type “between the state and ordinary citizens” and second type “between citizens and representatives of the state” are asymmetrical in the sense that the communities have limited political and economic power in comparison to other individuals and groups involved in the conflict. These conflict scenarios include forced evictions due to concessions or land encroachment by corporations, army members and powerful people; as well as indigenous land alienation through brokers.

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<sup>1</sup> i.e. an indirect measure that approximates a phenomenon in the absence of a direct measure.

### ***Frequency of disputes:***

- During 2013, in total an area of 188,435 ha of land were subject to dispute across the country. The total number of cumulated land disputes recorded in 2013 was 405. This figure is comprised of 28 new disputes in 2013 plus cumulative disputes that are not resolved and are carried over from previous years (NGO Forum of Cambodia, 2014).
- Half of the disputes cases registered throughout 2013 are made of ‘easier’ disputes involving ordinary citizens ‘only’. The other half of the disputes is happening between the state, or state representatives and ordinary citizens, often involving more powerful actors (in Khmer: *khnâng* or *neak kraoy khnâng*). 25% of the total land disputes were related to the granting of ELCs.

### ***Existing dispute resolution mechanisms:***

- Cambodia has the official state justice system and extrajudicial conflict resolution mechanisms. Judicial conflict resolution mechanisms refer to the “official” system of justice based on state law, enforced by state agencies and following specifically recognized legal procedures. Extrajudicial conflict resolution mechanisms refer to various mechanisms which can be covered by the term Alternative Dispute Resolution (ADR). ADR is composed of negotiation, mediation, conciliation, and arbitration. Negotiation, which is based just on the interaction between the disputing parties, without a third party. Mediation, conciliation and arbitration rely on the intervention of a third party. The difference among these mechanisms is the level of intervention of the third party. At the lowest level of involvement, mediation, the third party (mediator) tries to help the disputants solve the problem using the disputants’ own proposals and without offering a third-party solution. At the next stage, conciliation, the third party might bring his or her own proposals to facilitate conflict resolution between the parties. And finally, with arbitration, the third party brings the solution himself or herself, after listening to the parties.

#### *Official state justice system*

- The courts are only installed at the provincial and municipal level, while around 84% of the population live in rural areas, in villages and communes far from the cities. To pursue a judicial proceeding is very expensive, considering legal and illegal fees, the cost of transportation and legal representation, and other costs. Usually, the processes are long and imply the loss of several working days for the disputants. Most rural people are unfamiliar with the formal proceedings and the law, and do not participate in the cultural background of the formal legal system. In addition, legal defence is not accessible for the poor, and lawyers are seldom available in the more remote areas.
- The RGC through its local agency staff has limited possibilities to resolve disputes. This is for two reasons:



- Local agency staff is involved in many disputes with local communities and hence rather to be considered a party to the dispute than a third party.
- The relationships between communities and local government authorities are often described as poor or adversarial.

#### *Extrajudicial conflict resolution mechanisms*

- Due to the above-mentioned premises, historical reasons, and also the nature and quantity of the conflicts, a significant number of the conflicts are therefore resolved or managed outside the courts by different ADR kinds of mechanisms, especially in remote areas.
- ADR is practiced by:
  - The Cadastral Commission (CC) which operates at three levels: On the national level, CC has the power to resolve conflict through arbitration, on the provincial and the district level, CC resolve conflicts through conciliation;
  - The provincial governor as the chairman of the provincial Cadastral Commission;
  - The district governor acts as judicial police and has conciliatory functions;
  - Commune councils resolve conflicts mostly through conciliation.
  - Village Chiefs
  - Council of Elders (Indigenous People)
  - Forestry Committees
- The different ADR kinds of mechanisms are not able to resolve fairly the majority of the cases where the parties have unequal bargaining power. ‘Major’ land conflicts between communities and a powerful party (wealthy people, high-ranking officers, the military, corporations, concession beneficiaries, etc.) are difficult to resolve through ADR. The weakness with ADR is that if there is a right at stake, and one party does not wish to respect it, ADR lacks the capacity to recognize and enforce respect of the right. ADR is also limited in its capacity to deal with other important demands for justice, such as violations of rights and the abuse of power committed by public servants (illegal fees for the delivery of some public services). These shortcomings of ADR do not apply when institutions receive an official mandate to arbitrate conflicts and make decisions.
- Indigenous People overwhelmingly trust, use and support their customary laws and conflict resolution processes within their communities. They make only very limited use of the formal legal system (provincial level courts), and when necessary seek assistance at the village, commune and district government levels for conflicts which cannot be resolved internally. Results showed that out of 257 cases dealt with by the traditional authorities in ten villages in the recent past, 70 were resolved by the traditional adjudicators. Of those which were taken to a higher level; 87 were taken to the government appointed Village Chief for his/her further assistance, 0 were taken to the Commune Council, 9 to the Commune Police, nine to the District level, and only six were taken to the Courts.

**Resolution rates:**

- For ‘easier’ cases that involve only private parties and small numbers of disputants, there is evidence of substantial and sometimes successful dispute resolution efforts at commune and district level.
- For ‘major’ cases, however, where the parties have an unbalanced bargaining power, the situation looks quite different. As the data in 2013 reveals, most of these conflicts are not getting resolved. The total number of land disputes in 2013 amounted to 405. Among them, 81 cases (equal to 20%) were fully resolved<sup>2</sup> and 13 land dispute cases were abandoned. 122 cases were only partly resolved (for example, a dispute involving multiple households may be resolved for some, but not all of the affected households). As a result, 77%, or 311 cases out of the total 405 land disputes recorded, are still awaiting resolution.
- The low resolution rates of ‘major’ cases, indicate a widespread reluctance by any one of the responsible institutions in Cambodia (Courts, National Cadastral Commission and the ‘National Authority for Land Dispute Resolution’) to deal with cases, where more powerful people are involved.

To develop effective dispute resolution mechanisms for use in REDD+ and more generally in forest management in Cambodia, and to enable such a system to achieve fair and equitable resolution of disputes, the most important recommendations from this report are:

- The existing dispute resolution mechanism in Cambodia requires strengthening on various levels:
- On the national level:  
The key question is whether an existing interagency body can be designated the task to receive and respond to requests for assistance with dispute resolution from provincial inter-agency teams and governors; and to oversee, evaluate and support ongoing local and provincial dispute resolution systems.

Options include:

- i) The devolution of adjudicatory power to the PMCCs;
- ii) The expansion of the NARLD mandate;
- iii) The expansion of the Cambodian Labor Arbitration Council mandate to include arbitration of REDD forest disputes;

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<sup>2</sup> It should be noted here that RIC cannot comment on the adequacy of dispute resolution process or result, simply that the conflict has been resolved in favor of one party or the other, or a settlement has been negotiated (NGO Forum, 2014, p.12).

iv) Alternatively, a new inter-agency body must be informed for that purpose.

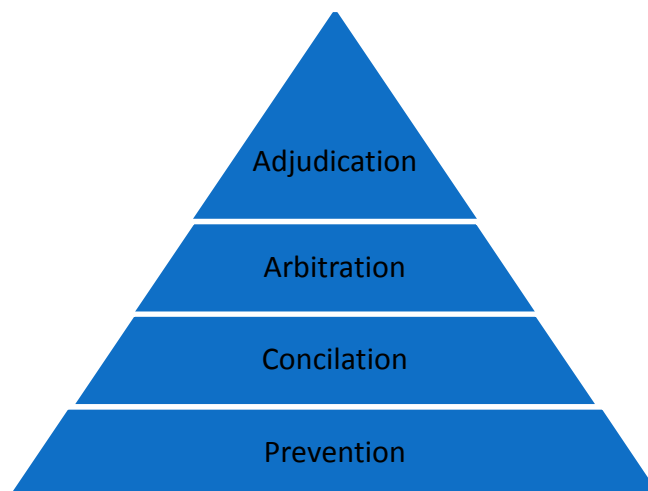
- On the provincial level of governance, it might be an option to designate the Provincial Community Forestry Program Coordination Committee with the mandate to respond and resolve disputes. Alternative are to establish an inter-agency standing task force or a time-limited task team.
- On the local level of governance, options are to strengthen either the already existing Commune Councils or to be forming joint dispute resolution committees including several CFMC/CPAC and several Commune Council members.
- In the further design of a Grievance Response Mechanism, special attention should be paid to the poor, women and indigenous peoples as they belong to the most vulnerable groups with regard to forestry and land disputes.
  - To make the GRM accessible for *poor* people requires to provide greater clarity over the jurisdiction of each mechanism and their inherent procedures. It requires to improve access to dispute resolution mechanisms for impacted individuals and communities through a reduction of time-consuming administrative and procedural burdens, and a reduction of costs associated with transportation, lost wages and legal assistance. It also requires to establish checks and balances as complainants have reported that decisions issued by existing dispute resolution bodies are inconsistent and subject to political pressures.
  - To enable *indigenous people* to have equal access to a Grievance Response Mechanism, amendments to legal provisions and institutional arrangements are required which strengthen and recognize indigenous law and traditional conflict resolution mechanisms, as well as improve the coordination with the judiciary and government authorities (for more detailed recommendations see .
  - To enable *women* to make equal use of a Grievance Response Mechanism, possibilities to increase access for women to legal aid and consultation have to be identified and possibilities to file grievances in other than in written forms have to be explored.
- According to the lessons learned in the building of the Cambodian Arbitration Council, it will be important to recognize that what can be achieved in the building of a Grievance Redress Mechanism will be directly proportional to the political space that can be created. In the case of the Arbitration Council, the U.S.-Cambodia bilateral trade agreement –with its linking of increased quota privileges, worth many millions of dollars, created an immediate commercial inducement for improved implementation of the Labour Law and the necessary leverage to negotiate an effective legal regulation

(the enabling Prakas), establishing the Council. It may be possible to create similar incentives in the context of REDD.

## Conclusions

- REDD+ will have significant implications for conflict over land and resources in Cambodia, because of the long history of contention and conflict in the natural resource sector, particularly surrounding issues related to tenure arrangements, governance and access over land and forestry resources.
- Against this background and the findings of this mission, it would be a risk to overly rely on a re-active type of Grievance Redress Mechanism (GRM) which 'just' responds to concerns raised by REDD+ stakeholders. Given the current situation, characterized by low resolution rates for the more complex cases which often involve powerful people, any re-active type of GRM would get easily overwhelmed and impossible to administrate, risking to loose the credibility and trust of communities as well as potential carbon buyers/partners in the state. On the other side, the establishment of a GRM is a requirement to be fulfilled during the UN REDD+ readiness phase and within the limited time and funding available to strengthen a GRM and to have it ready for operations (by the End of 2016), it will not be possible to address long standing issues of the forestry sector.
- Proactive' or 're-active' orientation of the 'grievance redress mechanism' is a key design question. In the absence of a decision, the mission leaves both options open for active consideration and ultimate decision by REDD+ stakeholders in Cambodia. This report attempts to address the entire spectrum from re-active to pro-active by a dual approach: The focus of the analysis, observations and recommended next steps is on the establishment of the 'Grievance Redress Mechanism', while pointing out and highlighting the important opportunities for proactive dispute prevention for Cambodia as a whole to address longstanding issues and reduce the demand on grievance mechanisms. For more and concrete suggestions on 'pro-active' prevention types of measures see the scoping mission report.
- In any case, it will be important that the GRM is designed in a 'pyramid' structure', whereby the different conflict management procedures such as conflict prevention, conciliation, arbitration and adjudication all play their role and complement each other.

### GRM within a 'pyramid' structure



- When carbon sales begin, the number and complexity of disputes is expected to increase. Hence, ensuring that the necessary institutions, policies and processes are in place to effectively manage conflicts in an efficient, timely and ethical manner will be key to the success and sustainability of REDD+ in Cambodia.

### Next steps

- Given the circumstances that the GRM will be set up in a complex and fluid political environment, it is recommended to assign a qualified national expert with the responsibility of leading the process of further investigation and decision-making, i.e. to lead decisions on priority issues such as
  - Design a 'pro-active' or 're-active' type of GRM;
  - designate existing institutions with the mandate to respond and resolve to REDD grievances or establish new inter-agency bodies.
- To take further decisions for the development of an effective Grievance Response Mechanism for use in REDD+ and more generally in forest management in Cambodia, it will be important to conduct further analysis to:
  - Understand what political and institutional changes would be required to expand the mandate of the National Cadastral Commission or the Cambodian Arbitration Council to respond to and arbitrate 'major' disputes.
  - Conduct a more detailed assessment among the identified government institutions at communal, provincial and national level to assess the capacity for dispute tracking and

handling, and to gather information on established procedures and operational guidelines.

## 2 Assessment goals, terms of reference and methodology

Cambodia is at an important stage of its REDD+ readiness process, with a host of management structures and mechanisms being established to support the national REDD+ program. While important progress has been made, some key gaps still remain before Cambodia can effectively meet the objectives of the National REDD+ program.

Given the core concept behind REDD which is that deforestation trends can be slowed, halted, or even reversed conserving billions of tons of carbon that would otherwise be emitted and considering the long history of conflict in Cambodia's forestry sector and the significant impacts REDD+ is likely to have on existing power relations, there is an important need for a holistic and considered approach to conflict resolution in Cambodia's REDD+ strategy.

To succeed, REDD projects will need to control powerful drivers of deforestation and forest degradation operating at multiple levels and carried-out by a variety of actors, from rural people to political and economic elites. Hence, the success of the REDD+ mechanism in Cambodia will depend on the ability of stakeholders to be able to effectively resolve problems and conflicts that arise during REDD+ implementation.

Towards this end, UN-REDD had commissioned a scoping mission in 2013 to review current patterns of forest sector disputes in Cambodia, with a focus on the REDD+ pilot sites and to assess the mechanisms and practices currently being used for dispute resolution at different levels of forest governance.

The scoping missions report concluded that it is important to explore more deeply the findings and the options presented above, especially the potential for a "linked" system that more clearly defines procedures and supports for local government to request and receive dispute resolution assistance from the provincial level, and for the provincial level to request and receive assistance from the national level.

This consultancy report builds on the former analysis undertaken during the scoping mission in January, 2013, and is asked to:

- Provide an improved understanding of the kind, classification and frequency of existing grievances related to land, forests, access to protected, conservation areas;

- Identify what specific REDD+ actions and activities could lead to grievances;
- Analyse the existing grievance mechanisms and their effectiveness;
- Benchmark the existing grievance mechanism against UNFCCC principles;
- Identify data and information gaps;
- Recommend next steps with timelines;

This assessment includes a review of existing grievance mechanisms in terms of:

- a) Legitimacy: enabling trust from the stakeholder groups for whose use they are intended;
- b) Accessibility: being known to all stakeholder groups for whose use they are intended;
- c) Predictability: providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- d) Equitability: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- e) Transparency: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- f) Rights compatibility: ensuring that outcomes and remedies accord with internationally recognized human rights;
- g) Enabling continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;
- h) Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

The Terms of Reference call for the consultant to

1. Conducting consultation meetings to collect information on the kind, classification and frequency of existing grievances and the existing grievance mechanisms and their effectiveness,
2. Suggesting modification based on an assessment of the existing mechanism against UNFCCC principles.
3. Providing a presentation to officials of the Cambodia REDD+ Programme, UN officials and staff of other development partners, highlighting the findings of the mission.

4. Prepare a synthesis report in the form of an options paper outlining a number of options for establishing/strengthening existing grievance mechanisms so as to create a seamless REDD+ grievance system in Cambodia.

The methodology used was

- Desk review of relevant documents and reports prepared by UN-REDD Cambodia, Forest Carbon Partnership Facility (FCPF), World Bank, UNDP, academia, civil society and others (list is provided in annex).
- Interviews and consultation meetings in Phnom Penh with stakeholders in the Royal Government of Cambodia; international partners; civil society representatives; and government (GDANCP), NGO (WCS), and community (CPA) participants;
- Field visit to Kampong Speu province for meetings and interviews with provincial officers, Deputy district governor, Community Forestry Management committee, commune councilors and villagers.
- Debriefing with officials in the Forestry Administration, Ministry of Environment/GDANCP, and international partners;
- Drafting of a synthesis report based on the desk review, interviews and field visits.



### 3 Classification of existing disputes

Various types of land and forestry disputes have been identified as relevant for REDD+. They occur at various levels from state to communities or local level. In some cases disputes are limited to forest resources, and in others conflict includes both, forest resources and land.

This section describes the range of forest related disputes and conflicts in Cambodia. The description is based on information provided by interviewees, and supplemented by review of existing assessments and studies.<sup>3</sup>

The aim of the section is to provide an up-dated list of the land and forest conflicts and disputes that are most relevant to the REDD+ context as understood by the mission.

The various disputes can be usefully classified in three broader types:

The first type is *between the state and ordinary citizens*. These disputes can be clustered into two opposite scenarios: Disputes which occur because 1. *the state* is appropriating land for public purposes and 2. *villagers* occupy or use land and forests which theoretically belong to the state.

The second type of conflict is *between citizens and representatives of the state* who are acting either in their own personal interests or as intermediaries for the private sector. Many of the claims made to the National Assembly over land acquisitions by the military or other arms of the government forcibly appropriating land for personal benefit.

The third type of conflict arises exclusively *between private parties* and can be further sub-grouped as internal disputes within communities and external disputes between communities and outsiders.

The below table summarizes the main drivers of forest conflicts and disputes that are relevant to the REDD+ context.

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<sup>3</sup> See for example:

- Center for Advanced Studies, 2006: *Towards Institutional Justice? A Review of the Work of Cambodia's Cadastral Commission in Relation to Land Dispute Resolution*;

- ARD, Inc. 2004: *An Assessment of Forest Conflict at the Community Level*, Washington;

- PACT & UNDP, Cambodia, 2011: *Conflict resolution in REDD+: An assessment in the Oddar Meanchey Community Forestry REDD+ Site, Cambodia*, Lessons Learned Report, (citing A. Bradley, *Does Community Forestry Provide a Suitable Platform for REDD? A Case Study from Oddar Meanchey, Cambodia*. Wisconsin Land Tenure Center, 2011).

- Poffenberger, M. 2009: *Cambodia's forests and climate change: Mitigating drivers of deforestation*;

## Summary of main drivers for forest conflicts in Cambodia

<p><b>Disputes between the state and ordinary citizens</b></p> <p>Most of the scenarios described here are asymmetrical in the sense that the communities have limited political and economic power in comparison to other groups involved in the conflict.</p>	
<p><b>Local people occupy land and forests which belongs to the state.</b> <i>These disputes between community forestry institutions and local government authorities are caused by:</i></p> <ul style="list-style-type: none"> <li>• Unclear or ambiguous land and forest tenure</li> <li>• Poverty and lack of alternative livelihoods</li> <li>• Limited or lacking awareness and / or understanding of policies, laws and regulations</li> <li>• Limited enforcement capabilities of local government authorities</li> </ul>	<p><b>The state is appropriating land for Public purposes.</b> <i>Disputes arise because existing occupants either refuse to give up their land, or because they are not satisfied with the compensation offered. The RGC appropriates land for:</i></p> <ul style="list-style-type: none"> <li>• Social Land Concessions (SLC)</li> <li>• Economic Land Concessions (ELC)</li> <li>• Military personnel and their families</li> <li>• Resolving and legalizing unclear land occupation under the Prime Minister’s land titling campaign</li> </ul>
<p><b>Disputes between citizens and representatives of the state</b></p> <p>Most of the scenarios described here are asymmetrical in the sense that the communities have limited political and economic power in comparison to other groups involved in the conflict.</p>	
<ul style="list-style-type: none"> <li>• Land Grabbing (forest land sold outside formal channels)</li> </ul>	
<p><b>Disputes involving private parties only</b></p>	
<p><b>Internal disputes within communities</b></p> <ul style="list-style-type: none"> <li>• Competing interests and ideas regarding CF management</li> <li>• Leadership problems including corruption;</li> <li>• Unclear or inequitable benefit sharing arrangements;</li> <li>• Expansion of cultivated areas or other encroachments and new site settlements;</li> </ul>	<p><b>External disputes with other communities and outsiders</b></p> <ul style="list-style-type: none"> <li>• Informal in-migration</li> <li>• “Anticipatory land clearing”</li> <li>• Illegal logging</li> <li>• Land used as collateral for credit</li> <li>• Unclear or contested boundaries;</li> </ul>

<ul style="list-style-type: none"> <li>• Lack of recognition of customary user rights for timber harvesting or NFTP collection;</li> <li>• Unclear or contested boundaries;</li> <li>• Competing ownership claims to the same forest land;</li> <li>• Small scale logging activities (which are continuing despite the 2002 logging ban<sup>4</sup>).</li> <li>• Inheritance and other family disputes</li> <li>• Land used as collateral for credit</li> </ul>	<ul style="list-style-type: none"> <li>• Competing ownership claims to the same forest land;</li> <li>• Expansion of cultivated areas or other encroachments and new site settlements;</li> <li>• Lack of recognition of customary user rights for timber harvesting or NFTP collection;</li> </ul>
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A detailed description of disputes can be found in Annex I.

***Chapter observations and discussion:***

- Many forest boundaries are disputed, or at least are legally ambiguous and span over different types of land. Therefore REDD relevant disputes occur not only over forest land, but also over agricultural land (farmland and rice land), residential areas and other types such as wetlands, footpaths and flooded forest land.
- The RGC through its local agency staff is involved in many disputes with local communities, limiting its possibilities to dispute resolution.
- Poor and sometimes adversarial relationships between community forestry institutions and local government authorities stem from many sources, including low enforcement capacities, limited or lacking awareness and/or understanding of policies, rights and regulations.
- Most of the dispute scenarios described in the first type “between the state and ordinary citizens” and second type “between citizens and representatives of the state” are asymmetrical in the sense that the communities have limited political and economic

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<sup>4</sup> As reported from both REDD pilot sites in the CBI report “Assessment of Cambodia Forest Sector/REDD+ Dispute Resolution Mechanisms With Options for Institutional Strengthening”, 2013.

power in comparison to other groups involved in the conflict. Severe power differentials limit the possibilities of alternative dispute resolution means (such as negotiation, mediation and conciliation) to achieve successful and fair outcomes.

#### 4 Frequency of existing disputes

As can be seen in the previous section, many forest boundaries are disputed, or at least are legally ambiguous and span over different types of land. Therefore REDD relevant disputes occur not only over forest land, but also over agricultural land (farmland and rice land), residential areas and other types such as wetlands, footpaths and flooded forest land.

Little official information exists on the number, locations, severity and outcome of forest disputes in Cambodia. The Royal Government of Cambodia does not display reliable data on land disputes in general or by province. Some numbers exist though on cases filed with the cadastral commission or courts, and because of the NGO Forum on Cambodia, an association of several Cambodian NGOs, that has gathered substantial material and data on land disputes through its own “land information centre”.

Included in the record of the NGO Forum are disputes that were reported in the local media and information collected from NGO network members<sup>5</sup>. Land disputes that occurred but went unnoticed by the local media or the network members are not included. For the REDD context, it should be noted that the actual number of disputes may be higher because disputes involving private parties only might go unreported and thus the actual number of disputes may be much higher.

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<sup>5</sup> The information collection and data updating system of the RIC is as follows:

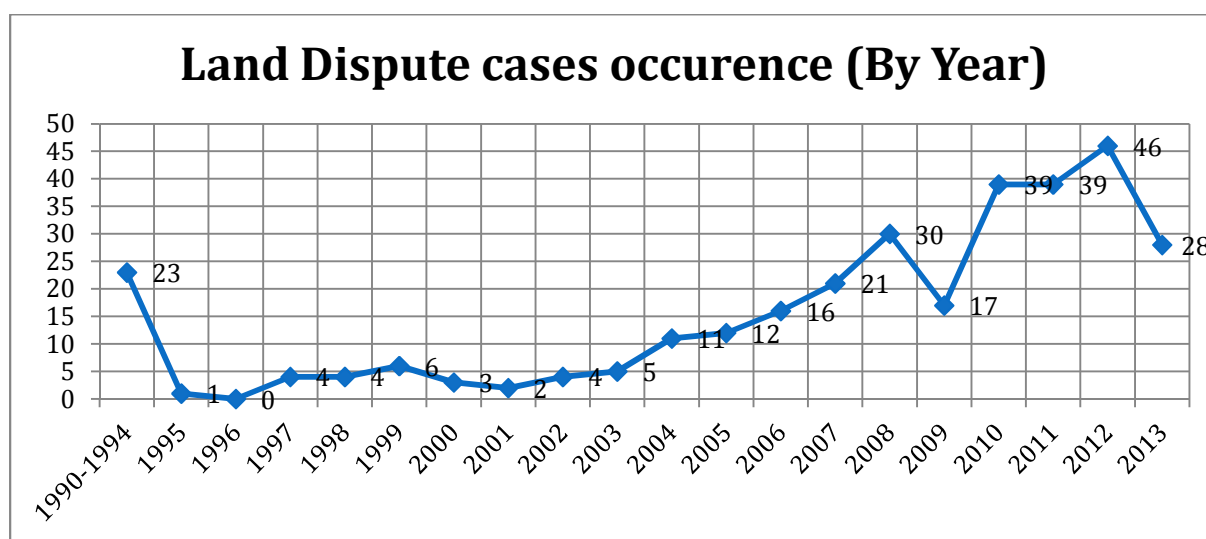
- Daily collection of information on land dispute cases is conducted through monitoring of local media (including the Phnom Penh Post, Radio Free Asia, The Cambodia Daily, Koh Santepheap and Raksmei Kampuchea).
- Based on the collected information, each case goes through a process of verification to avoid double entries in the database with provincial LAHRiN members via bi-monthly network meetings.
- The bi-monthly meetings provide a chance, not only to conduct verification of land dispute cases, but also to gather information on land disputes that were not reported in the media, but are known to be on-going in Network member’s target areas.
- Provincial LAHRiN members conduct land dispute verification in the field. In order to gather the relevant data, members use a form developed by the RIC.
- The RIC conducts an Annual Campaign to update and verify data Statistical Analysis of Land Disputes in Cambodia, 2013 on land dispute cases throughout the country. This is conducted in cooperation with each provincial LAHRiN member, and is carried out during November every year.
- Legal Officers of the NGO Forum on Cambodia conduct site visits to verify details of land dispute cases that LAHRiN members are unable to verify.

Despite this shortcoming, the available data on land disputes does include forest Land (State Forest and Community Forest land) and thus can be regarded as a proxy indicator, i.e. an indirect measure that approximates a phenomenon in the absence of a direct measure, to get a general idea about the magnitude of disputes relevant for REDD in Cambodia.

The following criteria were used to identify a land dispute:

- Involving five households or more;
- Not yet resolved or only partially resolved
- Cases resolved during 2013
- Over titled and untitled land

The available figures show that conflicts related to land have continuously increased since the 1990s. In total 28 new land dispute cases meeting the RIC criteria listed above were recorded as commencing in 2013. This number is lower compared to the cases that emerged during the years 2010, 2011, and 2012 with 39, 39 and 46 new disputes respectively.



Source: NGO Forum of Cambodia, 2014.

Note: This data does not include cases that were resolved during the year.

In total, 188,435 ha of land were subject to dispute across the country. The total number of cumulated land disputes recorded in 2013 was 405. This figure is comprised of 28 new disputes in 2013 plus cumulative disputes that are not resolved and are carried over from previous years (NGO Forum of Cambodia, 2014).

Based on the results of this analysis, 80 cases, or 25% of the total land disputes were related to the granting of ELCs. In total, 19,740 households or 92,778 people were affected by land disputes related to ELCs.

### ***Locations impacted by disputes***

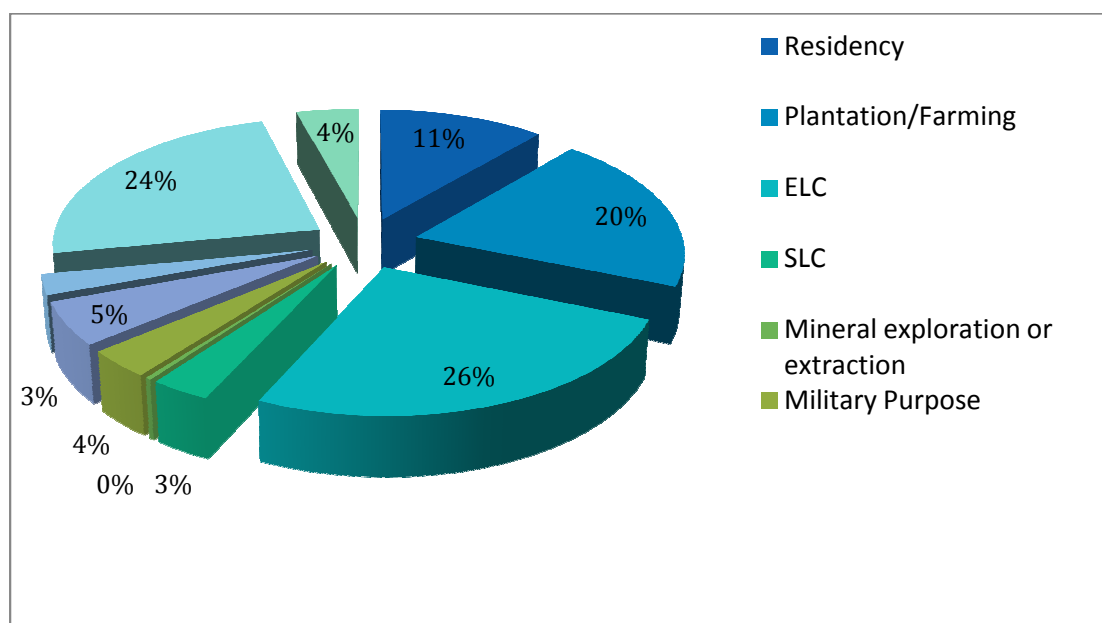
All 24 provinces of Cambodia are affected by land disputes. The highest incidences of disputes occur in Phnom Penh with 29 cases, followed by Ratankiri and Kamong Speu with 26 and 24 cases respectively. Land disputes caused by ELCs are more prevalent in the east of the country, and areas where rubber is commonly grown. A more detailed map of the World Bank about the estimated size and location of land disputes in Cambodia in the year 2010 can be found in annex I.

### ***Types of land impacted by disputes***

The results of this analysis show that the agriculture land is the most common, followed by residential and forest land (NGO Forum of Cambodia, 2014).

No	Land Type	Land Size(ha)	%
1	Agricultural Land	91.323	48
2	Residential Land	54.420	29
3	Forest Land (State Forest and Community Forest land)	32.486	17
4	Wetland	197	0
5	Other	4.707	2
6	Unknown	5.302	3
<b>Total</b>		<b>188.435</b>	<b>100</b>

Source: NGO Forum of Cambodia, 2014.



Source: NGO Forum of Cambodia, 2014.

### ***Reasons for Land Disputes***

Based on the analysis of the RIC database, it can be seen there are various reasons for disputes. What is worth taking note is that 80 cases (equal to 26 percent) emerged after land was claimed as an ELC by a private company. In 45 out of these 80 disputes, “rich and powerful” people were involved claiming the land of the original landholders (NGO Forum, p. 18).

Furthermore, by grouping ELCs, ILCs, military it is worthwhile noting that half of the cases (155) are made of disputes happening between the state, or state representatives and ordinary citizens and the other half of the cases are involving ‘just’ ordinary citizens. From the available data, it may not be feasible to accurately estimate in how many of these cases powerful actors with access to high level political figures were involved, but one can conclude there is a likelihood of involvement of more powerful actors in half of the cases.

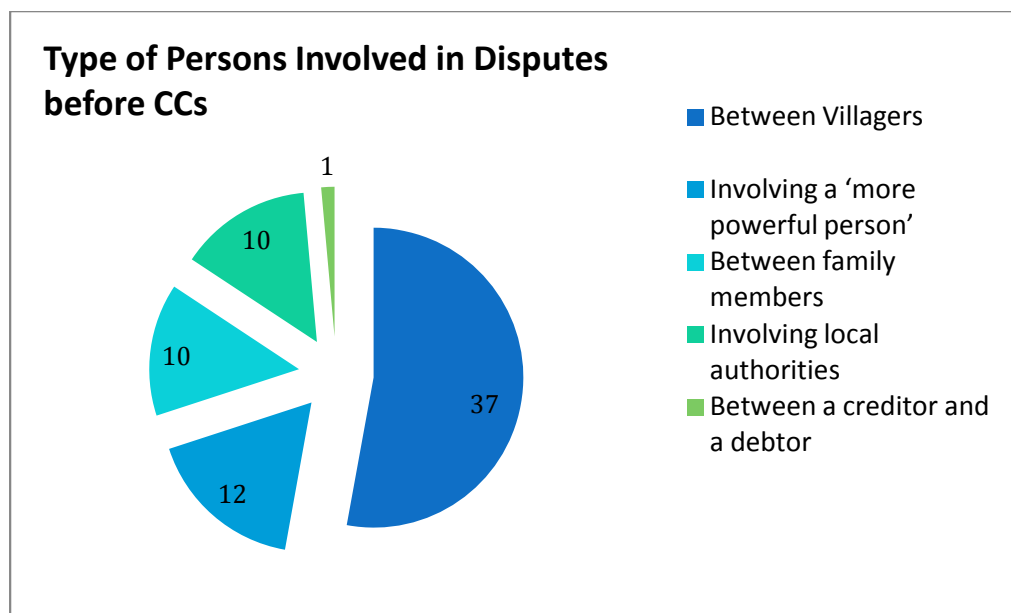
<b>Reason</b>	<b># cases</b>	<b>%</b>
Residency	35	11,25
Plantation/Farming	62	19,94
ELC	80	25,72
SLC	10	3,22
Mineral exploration or extraction	1	0,32
Military	11	3,54
State land	17	5,47
State development area	8	2,57
Other	74	23,79
No data	13	4,18
<b>Total</b>	<b>311</b>	<b>100</b>

### ***Parties impacted by disputes***

A consideration of the sort of parties involved in cases before the Cadastral Commissions (CCs) is only possible because case file analyses were conducted for 70 pilot cases. And even though, interpretation is limited as only very basic data was collected and it should be noted this will not be a representative sample of cases before the CCs. Nevertheless, the following observations are possible (CAS, 2006):

- With 53 percent, the majority of cases (37 actual cases) involved private parties only (internal and external disputes between villagers or neighbors).
- 15 percent (10 cases) of the cases reviewed involved conflicts between relatives.

- 17 percent of the cases involved ‘more powerful people’ (defined as someone who works or described as having connections with the government or military at the district level or above), which is still as significant number of 12 cases.
- Another 14 percent of the cases involved local government representatives (primarily the village chief, the commune council or its members), which is equal to 10 cases.
- One case involved a dispute between a creditor and a lender.



From this analysis of the cases filed at CCs, it can be observed that:

- With 59% the largest group of cases (more than 42 cases out of 70) is caused by conflicts over what has been described in the previous chapter *over ‘Unclear or ambiguous land and forest tenure’*.
- The second largest group is made of land being subject of informal lending arrangements.
- 17% of the cases reviewed involved boundary disputes.

According to information provided by the Cadastral Commission (CC), the majority of disputants are farmers, with indigenous people and refugees accounting for less than one-fifth of the cases.

Almost 70% of the cases filed at the CC involved ownership disputes over farmland or plantation land, with land for construction accounting for most of the remaining cases. The opponents in the disputes were mainly local, provincial or national authorities (39% of cases), armed forces (30%) and wealthy elites (16%). The remaining disputes were between



private parties (Sohka et al. 2008; Phann 2006; GTZ 2009; Grimsditch and Henderson 2009; CAS 2006).

## 5 Existing conflict management and resolution mechanisms

**Overview of dispute resolution mechanisms** (a detailed description can be found in the Annex)

Depending on whether the land in question is registered or unregistered<sup>6</sup>, there are five dispute resolution mechanisms to address natural resources land-related conflicts.

- 1) The Commune Councils
- 2) The Administrative Committees
- 3) The Cadastral Commission
- 4) The National Authority for Land Dispute Resolution (the “NALDR”) and
- 5) The Court system

1) *The Commune Councils* “reconcile differences of opinion” among citizens of communes, but do not have power to make decisions. While not a prerequisite, in practice most cases are heard before Commune Councils before going on to higher levels. According to the findings of a national survey done in 2005<sup>7</sup>, the public view of commune councils’ role and performance in conflict resolution is generally positive and they are generally trusted more than the provincial and national levels of government, however, people also see problems with power and class influences and the emergence of petty corruption (The Asia Foundation, 2005).

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<sup>6</sup> Unregistered means ‘untitled land’ (land for which no formal titles have been issued).

<sup>7</sup> The Asia Foundation (2005) *Commune Councils in Cambodia: a National Survey on their Functions and Performance, with a Special Focus on Conflict Resolution*, Phnom Penh. This report is based on a nationwide public opinion survey of both citizens and commune councilors on the roles, responsibilities, and performance of commune councils. A total of 1,416 voter-age citizens and 708 commune councilors were surveyed through a nationally representative proportionate sampling designed by the Institute of Statistics in Phnom Penh.

Local-level conflicts and the role of commune councils in conflict resolution was included through issues such as:

- what are the most common types of conflicts at the village level;
- who are the major actors in local-level dispute resolution;
- what are the disputes that come to the commune councils for mediation;
- the level of effectiveness of commune council’s dispute resolution; and
- challenges facing the commune councils in dispute resolution.

2) *The Administrative Committees* operate in all areas and as first instance for cases arising during the state sponsored land registration campaign. Although the Administrative Committees lack power to issue binding decisions, they may assist the conflicting parties in resolving their disputes.

3) *The Cadastral Commission on District Khan level, Provincial Municipal level and the national level*

Land disputes before the Cadastral Commission must first be heard at the District Khan level, which only has the authority to provide support for reconciliation. If an agreement cannot be reached at this level, the case should be referred to the provincial/municipal level for further attempts at conciliation. Since 2009, Provincial Cadastral Commissions have been delegated with the power to issue decisions in cases where a resolution is not possible.

At the district and provincial levels, the Cadastral Commission is headed by the district/provincial governor. If the case cannot be resolved at the district and provincial levels, it should be forwarded to the national level of the Cadastral Commission for adjudication.

According to a report from September 2013 by GIZ Cambodia, the Cadastral Commission had processed nearly 5,000 cases and solved more than 2,500. Of these, almost 400 cases involved parties embroiled in a conflict, often involving a group of villagers against a powerful person. With land conflicts on the rise and a reported case resolution of around 50 percent, the Cadastral Commission's record demonstrates room for improvement.

4) *Courts*

The courts in Cambodia have jurisdiction involving disputes over registered, or titled land. If the parties are not satisfied, the case can be filed with the Court of Appeal. Parties who are not satisfied with the decision of the National Cadastral Commission may also file an appeal with the Court of Appeal.

Courts also have jurisdiction over cases relating to forced evictions as well as contract and inheritance disputes, irrespective of the registered or non-registered status of the land. If the dispute is related to unregistered land, the parties must first go through the Cadastral Commission.

5) *National Authority on Land Dispute Resolution*

In March 2006, a Royal Decree established the National Authority on Land Dispute Resolution ("NALDR"). The NALDR's creation by Royal Decree, rather than under the Land Law by the Parliament, has made its role difficult to reconcile with other dispute resolution bodies. Moreover, the absence in the Land Law for the Authority's existence has raised

serious doubts over its constitutionality. The NALDR influences the resolution of land disputes by determining which ones to accept, which ones to refer to other bodies (including the courts), and the manner in which it investigates complaints. NALDR's decisions can be appealed to the Court, however as far as it can be determined, this right has not been exercised.

The NALDR serves a complementary function to the Cadastral Commission, and is mandated to hear cases which are "beyond the jurisdiction" of the Cadastral Commissions. Since cases involving high profile or influential people are forwarded to the NALDR, the Authority has been criticized of effectively stripping the Cadastral Commission and the Courts of their proper jurisdiction.

It is not always easy to determine an organization's purpose and functions. This is often due to a lack of information, but also because organizations are created (intentionally or otherwise) to obscure their true nature. Despite these constraints, an overview over the existing institutions, their formal and informal mandates and the regulations in place, is provided in the annex.

#### ***Chapter observations and discussion:***

- Cambodian statutory law provides a number of Ministries with mandates to resolve disputes. Laws and regulations contain a number of provisions to grievance address, handling and conflict resolution. The mission lacks data to say to what extent these have been operationalised and have already resulted in concrete operational guidelines and capacities on the ground to implement these measures in order to support implementation of REDD+ activities.
- The ongoing review and identification of functions to be transferred - along side with the right to collect taxes - to sub-national councils under the RGC Organic Law (2008), implemented through the Ministry of Interior (Moi), might present an important opportunity to strengthen Commune Councils role and effectiveness in local dispute resolution.
- Disputes are getting dismissed and indefinitely stalled resulting in a backlog of cases and low resolution rates for a number of reasons:
  1. Reluctance to channel cases upwards because of unclear procedures and lack of resources, support or confidence in the system;
  2. Lack of an independent arbitration mechanism in the current system;

- According to studies done by CAS (2006, 2010) and ILO (2011) there are high backlogs and cases pending for months and years before they drop out of the conflict resolution system without any conclusion. Because these unresolved cases are usually conflicts involving more powerful actors (in Khmer: *khâng* or *neak kraoy khâng*), this situation indicates a notable and widespread reluctance to deal with conflicts involving more powerful actors by any one responsible institutions in Cambodia (NCC, NALDR, Supreme Court). This means, Cambodia is currently lacking an effective system for fair, impartial and affordable adjudication. Given the current political environment in Cambodia, it might be unrealistic to expect within the remaining time of Cambodian REDD+ readiness phase (by the End of 2016), independent dispute resolution services from the NALDR or the courts. Expanding the mandate of the national Cadastral Commission or the Labor Arbitration Council to make decisions on major REDD relevant disputes will be critical.
- In light of the above observations, the findings confirm both, potential and need for a linked system to ensure that there is a clear set of procedures for dealing with more complex disputes in a systematic way, from the local to the provincial level, and to the national level.

## 6 Resolution rates

The total number of land disputes in 2013 amounted to 405. Among them, 81 cases (equal to 20%) were fully resolved<sup>8</sup> and 13 land dispute cases were abandoned. 122 cases were only partly resolved (for example, a dispute involving multiple households may be resolved for some, but not all of the affected households). As a result, 77%, or 311 cases out of the total 405 land disputes recorded, are still awaiting resolution.

From 2010 to 2012, the number of resolved disputes increased. It rose from 20 in 2010 to 40 in 2011 and then 108 cases in 2012. In 2013, the number of resolved cases declined to 81 cases.

Resolution Rates and Status according to land types

Type of Land	Resolution Status			
	Fully resolved	Partly resolved	No resolution process /Unresolved	Total (Percentage)
Agricultural Land	47	56	79	200 (49%)
Forest land (CF)	4	8	19	33 (8%)
Forest land (State)	5	4	5	14 (3%)
Residential area	15	38	57	112 (28%)

According to a national survey carried out by The Asia Foundation, 2005 leaving the village arena means mediation becomes more difficult and more costly without bigger chances for success. The commune council still scores squarely on the positive side of the spectrum. Given their local character, the police do not look good, being rated as “difficult” as often as the court, and “expensive” nearly as often as the court. Citizens give the Provincial Court the worst mark, while viewing the District Justice Department as quite efficient and effective as a conflict resolution mechanism<sup>9</sup>.

		Elders	Village Chief	Commune Council	Police	District Justice Department	Provincial Court
Costs	Expensive	2%	15%	27%	51%	42%	64%
	Not	92%	70%	62%	44%	45%	32%

<sup>8</sup> It should be noted here that RIC cannot comment on the adequacy of dispute resolution process or result, simply that the conflict has been resolved in favor of one party or the other, or a settlement has been negotiated (NGO Forum, 2014, p.12).

<sup>9</sup> The numbers have been derived through the national wide survey which covered all 24 provinces of Cambodia by way of a nationally representative proportionate sampling scheme. 1,416 voter age citizens were asked to assess their satisfaction with dispute resolution mechanism.

	<b>expensive</b>						
	<b>Don't know</b>	6%	15%	11%	5%	12%	4%
<b>Efficiency</b>							
	<b>Easy</b>	89%	82%	70%	63%	73%	64%
	<b>Difficult</b>	11%	18%	30%	37%	27%	36%
	<b>Don't know</b>	-	-	-	-	-	-
<b>Effectiveness</b>							
	<b>Successful</b>	52%	40%	40%	53%	45%	60%
	<b>Unsuccessful</b>	48%	56%	54%	43%	52%	32%
	<b>Don't know</b>		3%	4%	5%	3%	8%
<b>Total mediation instances</b>		<b>85</b>	<b>202</b>	<b>87</b>	<b>43</b>	<b>33</b>	<b>25</b>

Source: The Asia Foundation (2005, p.48)

The above table illustrates that village chiefs and commune councils are almost equally important in actually resolving conflicts: both solve one out of three local conflicts for which mediation is sought. For some conflict cases, local mediation sometimes does not suffice: 13% of all conflict cases involve moving upward to the district and provincial levels. When the conflict is taken beyond the village arena, district level beats provincial level 87% to 68%. “District level” near exclusively stands for the District Justice Department, whereas “province” mostly stands for provincial court.

Another review done by the Centre for Advanced Studies of the early work of the Cadastral Commission in relation to land dispute resolution is from 2006. As such it might not accurately reflect the performance of the CCs in our days; however, the mentioned dispute resolution challenges may still prevail.

An appreciation of the few available figures by statistics provided by the National Cadastral Commission Secretariat (NCCS) shows that, as of the end of April 2006, the CC had received 3,949 cases. Of these, 1,146 had been successfully resolved, 773 dismissed and 70 withdrawn. The highest number, 1,960 cases were pending (CAS, 2006).

According to the NCCS, the majority of successfully resolved cases involved small numbers of families. The CC has resolved few cases involving powerful people or numerous parties. Based on these figures, the CC usually reports a resolution rate of 29 percent. Another way of reporting these figures would be to remove the cases dismissed or withdrawn from the equation because these, assuming that they were dealt with properly, can be considered not

within the jurisdiction of the CC. On this basis, the resolution rate increases to 37 percent (CAS, 2006).

As of June 2006, the NCC had officially received 79 cases. Of these, three were dismissed, eight were successfully conciliated, and 13 were decided by the NCC. The remaining 55 cases are pending. While the case disposition rate of 27 percent (21 out of 79) at the NCC is comparable with that of the CC overall, the number of cases being referred to the NCC for decision is strikingly low (less than 2 percent of the caseload of the CC)<sup>10</sup>.

Cases involving ‘more powerful people’ had the lowest resolution rate (25 percent compared with over 65 percent for other categories). Some of these cases became stalled at the DKCC, with little progress being made in the dispute resolution process. In other cases, conciliation was attempted but failed. In one notable case (discussed below), a high-ranking official failed to respond to requests to participate in the dispute resolution process issued by the District/Khan Cadastral Commissions (DKCC). This finding corresponds with the statements made by DKCC staff, namely, that they feel as though they lack the authority to progress with the dispute resolution process when more powerful individuals are involved.

Despite the fact that the district and provincial level CCs have many cases that they are unable to resolve, there appears to be a reluctance to refer cases up to the NCC for decisions. In these circumstances, the adjudicatory power of the NCC is playing only a very minor role in the land dispute resolution process (CAS, 2006).

Of 797 cases documented by the Cadastral Commission, 27% percent ended up in courts. Of these, less than 40% of the cases had been resolved by 2005, about 20% were still under investigation by the authorities, and the remaining 40% had dropped out of the dispute-resolution system without any conclusion. Many of these cases had been abandoned by the landholders who were forced to leave the land (CAS 2006; Engvall and Kokko 2007).

Nearly two-thirds of the cases are complaints about power violations or use of violence against the families using land. Typical conflicts involve land-grabbing and allocation of allegedly unused land for economic concessions and development projects. Not surprisingly most disputants (70%) have no formal documents to prove their claims to the land. At the same time, few opponents (less than 10%) could support their claims to the land with formal titles (CAS 2006; Engvall and Kokko 2007).

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<sup>10</sup> Indications that there may be up to 5,000 unresolved cases from the sporadic registration process which have never been referred on to the NCC for adjudication further support the conclusion that the system is lacking in decision-making capacity (CAS, 2006).

The report reveals struggles to resolve more complex cases, especially multi-party cases and those involving parties from, or with connections to, the government or military.

This state of affairs has a number of impacts on the way the CC system works as set out below:

1. *Reluctance to refer cases up*: A sense among DKCC and PMCC staff that the CC lacks an effective system for adjudication leads to a pressure not to refer cases to the higher levels of the system. Cases that are referred up are often sent back to the lower level with instructions to conduct further investigations or to reattempt conciliation.

2. *Pressure to reach agreement*: Without the real possibility of referring cases to higher levels of the system, there is an increased pressure on the DKCC and the PMCC to reach an agreement. It is suspected that this lack of alternatives encourages CC staff to place increased pressure on parties to reach an agreement. In this context, it is worth noting that of the 64 respondents to the party survey who reported that they had reached a resolution to their dispute, 31 (or 48 percent) reported feeling very much or somewhat forced into reaching an agreement.

3. *Increased pressure to dismiss cases*: One way in which the CCs can clear their caseload is to dismiss cases. As mentioned above, there appears to be an increasing trend towards doing this. Although it is appropriate to dismiss cases in some instances, it would be unfortunate if an overly narrow interpretation of the jurisdiction of the CCs were being taken so as not to have to deal with difficult cases.

4. *Parties seek other forms of dispute resolution*: Earlier research on land dispute resolution indicates that some stakeholders are critical of the effectiveness of the CC, particularly in relation to more complex disputes. One of the criticisms leveled against the current system is that it takes too long to process disputes and that it is difficult to move the disputes up the hierarchy of the CC. In these circumstances, it has been noted that there is a tendency for parties to sidestep the CC process and look to powerful individuals within the administration to resolve their disputes (CAS/WB, 2006: 24).

5. *High numbers of cases 'pending'*: As noted above, approximately 50 percent of the caseload of the CC is currently pending. Without practical options for resolving cases, they can remain pending for months or years. We suggest that this is partly a result of the lack of adjudication capacity within the system.

*Difficult cases: What makes them difficult and how they are handled*



When asked why some cases are difficult to resolve, CC staff consistently cited two grounds. Cases were difficult to resolve if powerful people were involved or if one party had powerful ‘backers’ (*khnâng*) or, alternatively, if parties ‘lack the will’ (*chanteak*) to resolve the dispute.

In Khmer, *khnâng* or *neak kraoy khnâng*: literally ‘a back’ or ‘someone standing behind them’. People are backed by relatives or acquaintances in higher positions.

*“... Some things we only get resolved if we have found who is behind the parties and so we talk to the khnâng too, and coax them. When we do so, we get the khnâng to convince parties into accepting the resolution. With this method we can resolve some difficult cases too [DKCC staff]” (CAS, 2006).*

The resolution rates are even lower looking at the performance of the National Authority for Land Dispute Resolution. According to an article in the Phnom Penh Post<sup>11</sup> referencing the NALDR 2012 Annual Report, less than 30 percent of complaints filed in 2012 were resolved. The NALDR dealt with 103 complaints and resolved 30 from residents and institutions from across 19 provinces.

The current number of complaints before the NALDR could not be determined. However figures from an earlier study have indicated that 1,956 complaints were submitted between March and October 2006. Of the 1,956 cases, 527 were accepted. Among these, 153 were referred to the Ministry of Justice (for referral to the courts); 130 were referred to the National Cadastral Commission; 28 were determined to be duplicates, and only four were resolved. It is not clear why the NALDR did not accept a large majority of cases, 1429 out of 1956. Nor is it clear what happened to the remaining 212 of the 527 cases which were accepted, indicating the NALDR’s low rate of resolution.

#### ***Chapter relevant discussion points and conclusions:***

- At the local and district level there is evidence of substantial and sometimes successful dispute resolution efforts.
- There is equally clear evidence that greater communication and coordination among governance bodies at each level, and across levels from local to national, could increase the efficiency and effectiveness of dispute resolution.
- As seen with the example of CCs, there are many cases at district and provincial level that cannot be resolved by conciliation, however, cases are rather left inactive than

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<sup>11</sup> The Phnom Penh Post, ‘Most land disputes in Cambodia unsettled,’ (21 February 21, 2013), <http://bit.ly/1nzKxPZ>

referred up the system to the NCC for decisions. The national commission feels itself too weak to go into a case against the “rich and powerful”.

- There is a notable and widespread reluctance to deal with ‘more complex cases’ which may be defined as multi-party cases involving parties from, or with connections to, the government or military (in Khmer, *khâng* or *neak kraoy khâng*, literally ‘a back’ or ‘someone standing behind them’) by any one responsible institutions in Cambodia (NCC, NALDR, Supreme Court). This is leading to a high backlogs and cases pending for months and years, associated with increasing levels of frustration and lost credibility of communities in the state.
- The current framework for dispute resolution in Cambodia lacks an effective system for fair, impartial and affordable adjudication. Given the current political environment in Cambodia, it might be unrealistic to expect within the remaining time of Cambodian REDD+ readiness phase (by the End of 2016) independent dispute resolution services from the NALDR or the courts. Expanding the mandate of an existing institution - such as e.g. the Labor Arbitration Council - which has the reputation to be highly credible, to take on board arbitration of REDD relevant disputes will be critical.
- Given the particularly challenging and complex environment of REDD in Cambodia, it is important to recognize that what can be achieved in the building of a Grievance Redress mechanism will be directly proportional to the political space that can be created.

## 7 UNFCCC guidance on principles and framework for a grievance mechanism

As mentioned in the scoping mission report, several guiding principles should drive the design of Grievance Response Mechanisms. GRMs designed according to these principles are more likely to be reliable, trustworthy and to provide effective resolution of stakeholder grievances.

The key principles are:

- a) Legitimacy: enabling trust from the stakeholder groups for whose use they are intended;
- b) Accessibility: being known to all stakeholder groups for whose use they are intended;
- c) Predictability: providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- d) Equitability: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- e) Transparency: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- f) Rights compatibility: ensuring that outcomes and remedies accord with internationally recognized human rights;
- g) Enabling continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;
- h) Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

Effective grievance redress mechanisms have furthermore a number of characteristics, such as:

- multiple grievance uptake locations and multiple channels for receiving grievances;
- prompt, clear, and transparent processing guidelines (including reviewing procedures and monitoring systems);
- the availability of a variety of dispute resolution approaches for flexible response to specific grievances;

- and an effective and timely system for informing complainants of the action taken.

The benchmarking of the existing dispute resolution mechanism against the above principles, is leading to the following observations.

In the design of a Grievance Redress Mechanism that provides equal chances to the poor, it will be important to pay attention to:

- Provide greater clarity over the jurisdiction of each mechanism and their inherent procedures.
- Improve access to dispute resolution mechanisms for impacted individuals and communities through a reduction of time-consuming administrative and procedural burdens, and a reduction of costs associated with transportation, lost wages and legal assistance.
- Establish checks and balances as complainants have reported that decisions issued by existing dispute resolution bodies are inconsistent and subject to political pressures.

A high incidence of disputes is in particular challenging the livelihoods of Cambodia's 17 different indigenous groups<sup>12</sup>. Indigenous peoples in Cambodia are fully protected by the law and international treaties, with respect to their citizenship and political rights, economic and social rights, traditional and cultural rights and rights to development and environmental management. However, economic land concessions have presented a new challenge. It has been observed that the registration of collective land titling is moving more slowly than the process of granting concession licenses'.

In the design of a Grievance Redress Mechanism that provides equal chances to indigenous peoples, it will be important to pay attention to a number of special circumstances with respect to IP current livelihoods:

- Indigenous Communities overwhelmingly trust, use and support their customary laws and conflict resolution processes within their communities (UNDP, MoI, MoJ, 2007).
- Foremost among new problems which traditional authorities have to deal with is an increasing number of disputes with more powerful people — usually outsiders — over

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<sup>12</sup> Phnong, Kreung, Jarai, Kaol, Steang, Thmoon, Kuoy, Tumpuon, Brao, Kavet, Kachak, Lun, Radaer, Mil, Khnong, Por and Suoy (Ministry of Culture and Fine Arts and UNESCO, 2004; NGO Forum, 2010b).

control of the village's land and forests. Disputes with neighbouring villages over village boundaries and ancestral land claims are becoming increasingly difficult to solve because of these new pressures from the outside.

- A key issue impacting the effectiveness and authority of traditional legal systems is a lack of any status or recognition in Cambodian law.
- Most indigenous peoples are illiterate or semi-literate in Khmer;

Indigenous peoples face particular challenges in finding just resolutions to their problems outside their villages.

Against this background, to make the GRM accessible to indigenous groups amendments to legal provisions and institutional arrangements are required which strengthen and recognize indigenous law and traditional conflict resolution mechanisms, as well as improve the coordination with the judiciary and government authorities.

It is therefore suggested to:

- Recognizing the important role NGOs are playing in conducting awareness campaigns, providing legal advice and transmitting community complaint letters to high-level authorities and facilitating negotiations between the conflicting parties.
- Traditional conflict resolution processes should also be recognized within existing government Structures (Cadastral Commission, Provincial Land Allocation Committee, etc.). Processes such as the 'local elder trustees'<sup>13</sup> should be strengthened and utilized.
- Measurement and demarcation of communal land: Further define the role of the traditional authority in the measurement and demarcation of immovable properties of indigenous communities.
- Explore the opportunity for the Traditional Authorities to have a more formalized role in Conflict Resolution under the commune councils with delegation of power from the Ministry of Justice (MoJ) and the Ministry of Interior (MoI): Under provisions of the law on Administration of Communes (Khum-Sangkat), MoJ and MoI could define the role of traditional authorities and commune councils.
- Develop the role of the Dispute Resolution Committee (DRC) that can be set up under article 27 of the sub-decree on Decentralisation of Powers, Roles and Duties to Commune/Sangkat Councils. The DRCs in highland areas could be developed to be an important instrument in the formal interface between the traditional system and the formal system with a legal mandate to facilitate and conciliate disputes.
- The government should invest traditional authorities with the formal authority to deal with Illicit land sales and conflicts, and to mediate boundary disputes, including ancestral land claims: The role of the traditional authority to manage

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<sup>13</sup> Local elderly trustees function as ad hoc members of the DKCC under Article 5 of the sub-decree on the Organisation and Functioning of the Cadastral Commission (UNDP, 2006).

their communal property under the 2001 Land Law must be interpreted to include an authority to manage land conflicts on their lands, and this role should be further defined and strengthened. Guidelines need to be formulated for these land dispute resolutions (following existing laws).

In the design of a Grievance Response Mechanism, attention should be paid also to Gender issues as women in Cambodia tend to be more vulnerable to exploitation when dealing with contracts and legal agreements, especially in cases where there are conflicts over land.

While according to the constitution of Cambodia men and women have equal rights before the law and enjoy equal participation in political, economic, social and cultural life, there are still a host of gender-based constraints that restrict equitable participation in and access to government programs and services.

A Grievance Redress Mechanism that provides for equity and inclusiveness with regards to women, it will be important to pay attention to a number of special circumstances with respect to the current situation of women:

- Literacy rate of adult female<sup>14</sup> in Cambodia was reported to be 79,7 percent in the period 2008-2012 according to UNICEF.
- Women often have limited awareness of their constitutional rights, along with limited access to legal aid and consultation (USAID, 2010).
- Female headed-households face greater challenges in securing land tenure rights and dealing with the land registration system, leaving widowed women and female-headed households more susceptible to land-grabbing (Licadho, 2004).
- Access to productive resources like land is very crucial for women not only as a source of income but also as collateral for credit. The Royal Government of Cambodia (RGC) promulgated the Land Law in July 2002. This law guarantees equal rights including inheritance rights for women and men to own land (RGC, 2001).
- Women in male-headed households face a different set of constraints with respect to land. While the law provides for joint titling, customary practices and enforcement regimes frequently undermine joint titling rights. In many cases the land rights vest in the name of the male head of household only. One study found that women often needed their husbands' permission to include their names on land titles. Even where women have joint rights to land, gender-biased cultural and social factors often combine to limit

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– <sup>14</sup> Adult literacy rate is the percentage of people ages 15 and above who can, with understanding, read and write a short, simple statement on their everyday life.

their ability to exercise their rights. In principle, when land is jointly registered, both parties must sign to transfer land titles; in practice, however, this is not enforced.

- In cases of divorce, death or family breakup, women may lose their land rights, which generally leads to the impoverishment of women and children (ADB, 2004). Many women in Cambodia are unaware of their land rights and have no access to legal aid or any other form of support for their rights. The lack of knowledge and support often renders women more vulnerable to those pursuing claims against their land (OECD, 2009).

It is therefore suggested to:

- Recognize in the design of a Grievance Response Mechanism the important role NGOs are playing in supporting women for their rights.
- Consider the fact that women awareness about their constitutional and other rights would need to be raised;
- Consider possibilities increasing access for women to legal aid and consultation;
- Consider that filing grievances has to be made possible in other than in written

**Options to strengthen the current dispute mechanism and practices on local level governance are:**

Options	Description	Strengths	Weaknesses
<b>1. Commune councils (CCs)</b>	<p>As first line of response on local level, the CCs would have the following responsibilities:</p> <ul style="list-style-type: none"> <li>• Regular communication and discussion about new and ongoing disputes;</li> <li>• Communicating with community members where appropriate;</li> <li>• Documenting disputes and their resolution;</li> </ul>	<ul style="list-style-type: none"> <li>• Are already perceived by communities as the first line of response for local level disputes.</li> <li>• The currently ongoing deconcentration and decentralization reform based on the Organic Law (2008) provides an important opportunity: Among the priority functions for transfer to sub-national levels of governance is <ul style="list-style-type: none"> <li>• agriculture; forestry, natural resources, and environment; industry</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Limited continuity and sustainability as councils are elected for 5 years.</li> <li>• The challenge for capacity building compared with the joint option.</li> </ul>

		<p>and economic development; land and water use.</p> <ul style="list-style-type: none"> <li>• There may be opportunities to expand the only broad guidance on the transfer of administrative functions by dispute resolution.</li> <li>• Councils have authority and can make legislative and executive decisions.</li> <li>• Councils are accountable directly to citizens;</li> </ul>	
<p><b>2. Joint local committees for dispute resolution</b></p>	<ul style="list-style-type: none"> <li>• Joint dispute resolution committees would include several CFMC/CPAC and several Commune Council members.</li> <li>• The committees would link the two governance bodies for dispute resolution.</li> <li>• They would have responsibility for regular communication and discussion about new and ongoing disputes, for communicating with community members where appropriate, and for documenting disputes and their resolution.</li> </ul>	<ul style="list-style-type: none"> <li>• Compared with commune councils, joint committees have advantages in terms of representation, wider expertise on forestry related issues, assumingly acceptance for dealing with forestry disputes, and more sustainability.</li> <li>• Joint committees combine strength of two separate bodies: CFMCs/CPACs are the first line of response for internal CF/CPA disputes; and are the first line of response for CF/CPA-community member disputes.</li> </ul>	<ul style="list-style-type: none"> <li>• Additional administrative 'hurdles' normally associated with setting up new committees.</li> </ul>



**Options to strengthen the current dispute mechanism and practices on the provincial level of governance are:**

On provincial level of governance, there are regular (monthly) provincial inter-agency meetings chaired by the provincial governors. The provincial governors may establish standing task forces and time-limited task teams under these inter-agency forums.

Such a provincial inter-agency team or body could have the following design elements:

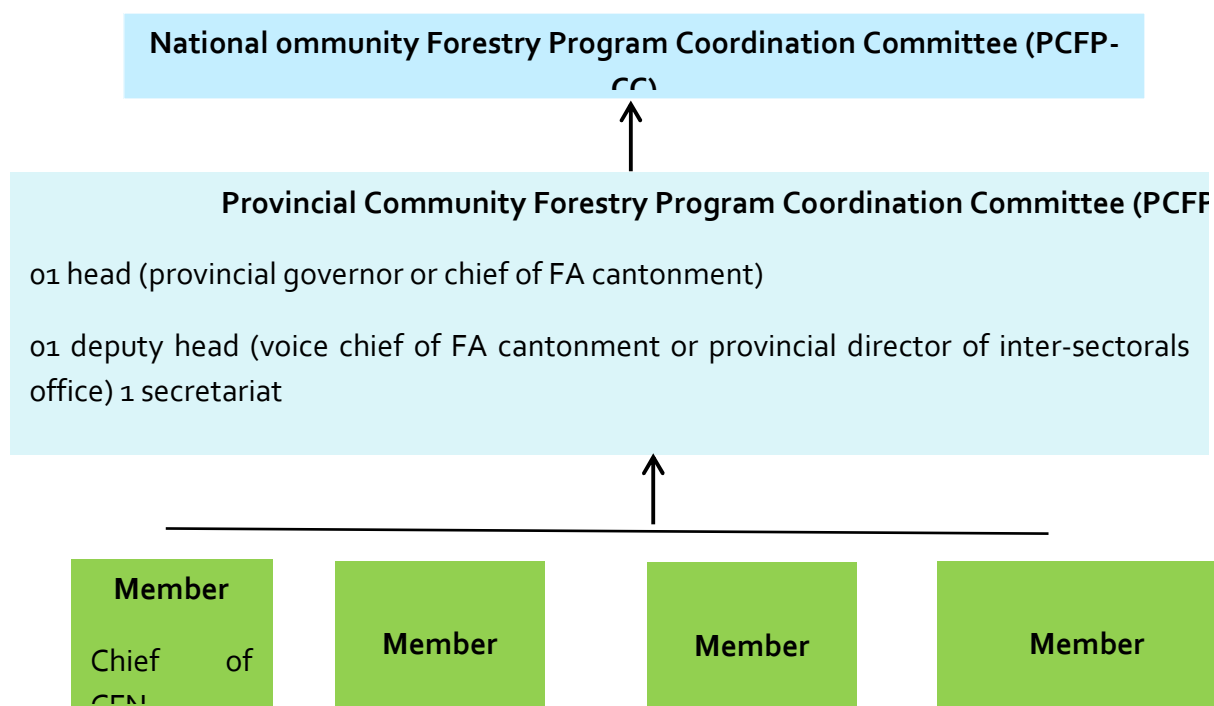
- mandate to resolve disputes involving CFs/CPAs and external actors when requested by local governance bodies, FA, GDANCP, or senior provincial leadership
- established under the auspices of the provincial governor, with explicit terms of reference for participation of national Ministry counterparts (FA, GDANCP), and representation from Community Forest Networks and supporting NGOs/CSOs where they are present
- authority to use a variety of means of resolution, including regulatory action by government agencies, direct dialogue, education and negotiation, and use of independent mediation where available and appropriate

The mission has been informed that a provincial community forestry program coordination committee (PCFP-CC) has been agreed already and have resources for a few pilots in a few provinces.

**1) The composition of the PCPF is:**

- Forestry Administration (FA)
- Representative of provincial planning and investment office
- Chief of provincial community Forestry Network
- Program Coordinator and provincial NGOs partners

## 2) The structure of PCFP is:



### Options to strengthen the current dispute mechanism and practices on National level governance

The question on the national level is whether an existing interagency body can be designated the task to receive and respond to requests for assistance with dispute resolution from provincial inter-agency teams and governors; and to oversee, evaluate and support ongoing local and provincial dispute resolution systems.

Options include:

- i) The devolution of adjudicatory power to the PMCCs;
- ii) The expansion of the NARLD mandate;
- iii) The expansion of the Cambodian Labor Arbitration Council mandate to include arbitration of REDD forest disputes;

Or if a new inter-agency body must be informed for that purpose.

Given the diverse stakeholders who need to be involved in dispute resolutions for supporting REDD+ implementation, it is evident that whatever institution is selected or created, it has to have cross-sectoral, inter-ministerial arrangements. This means authorizing

staff of FA Divisions/GDANCP Protected Areas, MLMUPC, and other national agencies as appropriate to participate in provincial inter-agency dispute resolution teams, and providing guidance and resources on the ways that they can work with provincial counterparts to resolve disputes.

Options	Description	Strengths	Weaknesses
The devolution of adjudicatory power to the PMCCs	-	<p>Experienced and competent civil servants who have received training in land law and land dispute resolution.</p> <p>While exceptions were observed, the work of the CC is being carried out in broad compliance with the procedures set out in the relevant laws and regulations.</p>	-
The expansion of the NARLD			<p>There is a concern that the NALDR is composed of ruling-party powerbrokers with a history of land-grabbing (LICADHO 2006; LHWG 2009).</p> <p>The creation of the Authority by Royal Decree (which is issued by the King on request of the Government) rather than under the 2001 Land Law (which was enacted and is amended by Parliament) makes its role</p>

			formally difficult to reconcile with other land dispute resolution bodies;	
The expansion of the Cambodian Arbitration Council (CAC)	<p>The Arbitration Council is a national labour arbitration institution established under Cambodian law to resolve collective labour disputes between employers and workers or their unions.</p> <p>The Council is mandated to resolve both ‘rights disputes’ – related to <i>existing</i> rights under the law, employment contracts or collective bargaining agreements, and ‘interests disputes’ –</p>	<p>Truly independent and highly credible Cambodian institution;</p> <p>Broad arbitral powers;</p> <p>There might be opportunities to enlarge the CAC mandate as the future funding of the CAC is uncertain:</p> <p>Over 90 per cent of the Arbitration Council’s cases have originated from the garment sector where labour unions have historically been most active. To the extent the garment sector’s ability to survive the present crisis is uncertain, there are serious challenges for the Council’s future. If the garment industry declines rapidly and the unions are unable to organise in other sectors, the Council’s relevance may be reduced.</p>	Depends on the funding support of international donors	

## **8 Next steps with time lines towards designing the GRM**

This chapter is sketching out some suggested next steps towards the establishment of a Grievance Redress Mechanism (GRM). Recognizing the importance of demonstration and adopting a learning-by-doing approach, the intention is not to provide a fixed template, but a broad orientation and overview of objectives and tasks which need to be accomplished towards the establishment of a GRM.

The mission understands that flexible management may be required to quickly respond to unforeseen contextual changes and complexities in a responsive and adaptive fashion with ongoing revisions to plans and objectives.

## Towards the Design and Establishment of a REDD+ Grievance Redress System (GRM) in Cambodia - 2015

Next steps	Jan15	Febr15	Mar15	Apr15	May15	June15	July15	Aug15	Sept15	Oct15	Nov15	Dec15
1. Designate a national GRM counterpart leading the process of further investigation and decision making in close cooperation with an international expert.												
2. Setting up a steering committee on GRM under the auspices of e.g. the REDD+ Task Force fostering broad inter-sectoral engagement by national and provincial government leaders, and local governance bodies, for discussion and decision making.												
3. Making decisions on questions raised and options presented by this mission. i.e.: pro-active or re-active type of GRM; existing institutions to designate to mandate to respond and resolve to grievances on local, provincial and national level of governance												
4. Conduct a more detailed assessment among the identified government institutions at communal, provincial and national level to assess the capacity for dispute tracking and handling, and to gather information on established procedures and operational guidelines.												
5. Develop strategies to creating the required political space for building an effective GRM.												

6. Explore possibilities to expanding the mandates of an existing institution to take on board arbitration of REDD relevant disputes.												
8. Drafting of new sub-decrees, or <i>prakas</i> , or regulations to provide existing institutions with a clear mandate for dispute resolution under existing laws, if required.												

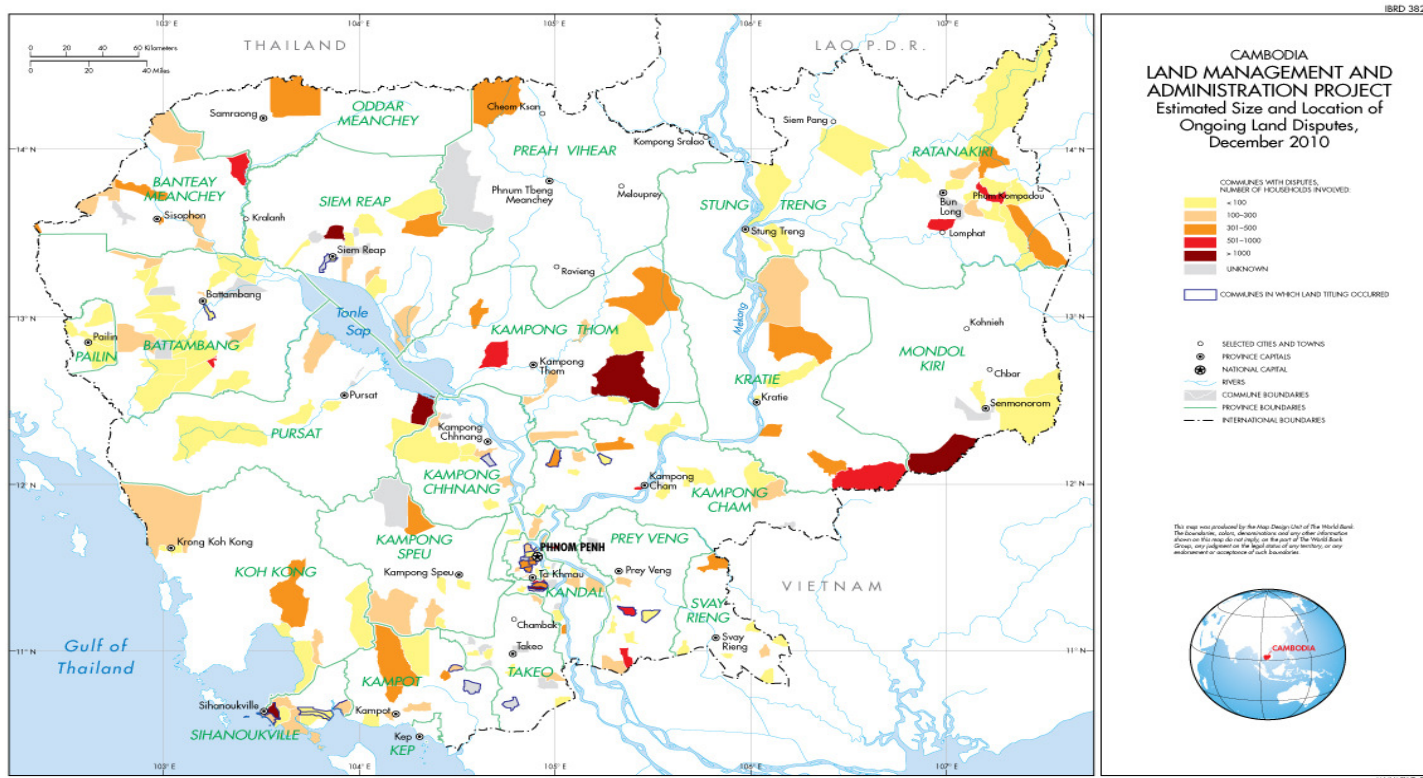
### Towards the Design and Establishment of a REDD+ Grievance Redress Mechanism (GRM) in Cambodia -2016

Next steps	Jan16	Febr16	Mar16	Apr16	May16	June16	July16	Aug16	Sept16	Oct16	Nov16	Dec16
9. Defining standards for receiving, referral and recording complaints and dispute resolution and drafting GRM operational guidelines for each level of forest governance, detailing procedures for receiving, referral and recording complaints and resolution procedures ensuring smooth coordination of a linked local-provincial-national level.												

10. Design a pilot to test the process for receiving and facilitating resolution of queries and grievances from affected communities or stakeholders related to REDD-plus activities, policies or programs at the level of the community or country.												
11. Test and evaluate the process for receiving and facilitating resolution of queries and grievances as well as pilot of operational guidelines in two or three provinces.												
12. Develop capacity building programmes for grievance redress and documentation.												
13. Start strengthening the capacity for grievance and redress at each level of governance (communal, provincial and national).												
14. Document the operations manual for the Cambodian GRM.												



## Annex I: Map showing the estimated size and location of ongoing land disputes as of December 2010 (World Bank)



## Annex II: Detailed description of disputes

### 4.1. Disputes between the state and ordinary citizens

Most of the scenarios described here are asymmetrical in the sense that the communities have limited political and economic power in comparison to other groups involved in the conflict.

1.1 The first sub-category describes disputes where *villagers occupy or use land and forests* which theoretically belong to the state. These disputes between community forestry institutions and local government authorities are caused by:

- *Unclear or ambiguous land and forest tenure:* The Khmer Rouge dissolved all private ownership and to this day, much of rural Cambodia continues to rely on the use-based approach to ownership, where common understandings between neighbors and villagers are believed to be sufficient in demarcating boundaries. Millions of Cambodians still lack documentation and the full recognition of their rights that comes with a land title<sup>15</sup>. Local people often have differing and sometimes competing perceptions and are in effect in conflict over the rules which determine who has rights to access forests and land. When land has been left fallow, is farmed irregular or unused, disputes typically arise when one party considers themselves to be the rightful owner/possessor of land because they cleared it, or farm it, or because it was distributed to them by the local authorities when land was decollectivized in the 1980s. This land becomes the subject of a competing claim from another party who begins to farm it or has it allocated to them by the local authorities. Similar disputes occur when local authorities allocate land to wealthy individuals. In such cases the new allocation may either conflict with existing usage patterns or, if the land is not used intensively, become the subject of subsequent usage based claims.
- *Poverty and lack of alternative livelihoods:* when resources are apparently abundant and are important livelihood resources and communities see harvest restrictions as being in conflict with their livelihood needs, they might know but not accept the rationale for restricting resource use.
- *Limited or lacking awareness and / or understanding of policies, laws and regulations:* When local government authorities restrict communities use and/or access to resources that are not aware and /or understand the conservation regulations (such as stopping hunting of an endangered animal species), this often results in conflict.

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<sup>15</sup> Surya P. Subedi, 'Report of the Special Rapporteur on the situation of human rights in Cambodia, Add: A human rights analysis of economic and other land concessions in Cambodia', A/HRC/21/63/Add.1/Rev.1, (10 October 2012), <http://bit.ly/17FL8bq>

- *Limited enforcement capabilities of local government authorities:* With limited human as well as financial resources, local government authorities face many challenges in assisting local communities claim their legal rights and address local forest conflicts, a situation which is contributing to poor relationships between community forestry institutions and local government authorities. This can be illustrated with an example of FA in Oddar Meanchey, but assumingly extends to all government authorities relevant for REDD. In the case of Oddar Meanchey, the provincial FA (comprising of Division, Triage and Cantonment officers) is described as under-equipped and understaffed to conduct law enforcement in project areas. There are currently 35 local FA officers stationed in Oddar Meanchey, which results in each officer being responsible for managing nearly 13,000 hectares of forest land.

1.2 This sub-category is made of disputes where *the state is appropriating land for public purposes*. Disputes arise because existing occupants either refuse to give up their land to the state or because they are not satisfied with the compensation offered. Both of these sorts of disputes are very much in evidence today (Oxfam, 2005; Leuprecht, 2004; World Bank, 2006). The RGC is appropriating land for:

- *Social Land Concession (SLC) holders:* The main objective of the SLC scheme is to improve economic development and to alleviate poverty by transferring state private for social purposes to the poor lacking residential land and /or agricultural land. SLCs are granted for free and may be converted into full private ownership after five years of use. 485 SLCs were granted for a total of 626, 823.26 hectares in 2013. Out of 485, 287 SLCs covering a total of 206, 027.05 hectares were on forestry land.
- In theory, the government intention is to provide land ownership to citizens. In practice, the implementation of SLC schemes is leading to numerous conflicts:
  - a) In several cases land transferred to SLC recipients was already claimed by other people or already in the process of being registered as IP collective land;
  - b) In other cases, evictions of local residents have been carried out in order to make way for new settlers;
  - c) Procedures and criteria set out in the Sub-Degree 19 on SLCs which demand for land suitability analysis and SEIA studies, have often been disregarded, in particular with regard to community consultations (ADHOC, 2014);

d) Large portions of forest covered areas, including protected areas and wildlife sanctuaries, have been re-classified as state private land<sup>16</sup>.

- Resolving and legalizing unclear land occupation under the Prime Minister’s land titling campaign (“Directive 001”): This campaign may resolve and also complicate current migrant-resident conflicts. It aims to resolve and legalize unclear land occupation, ensure tenure security, resolve land conflicts and the donation of ownership rights to families resident in ‘dispute-free areas’ on State Public Lands. This is including families inside ELCs, in Protected Areas under the jurisdiction of the Ministry of Environment, and in Protection and Production Forests (including cancelled/suspended logging concessions) under the jurisdiction of the Forestry Administration.<sup>17</sup>
- *Economic Land Concessions (ELC) holders*: Large tracts of forest land allocated to private sector firms displace local residents and stimulate social conflict. The mission’s interviews and studies highlight the lack of transparency or participation by local stakeholders in national government decision making about ELC awards. There are indications that local stakeholders learn of the award of ELCs (as well as SLCs), covering thousands of hectares of land within the Sanctuary by reading the relevant sub-decrees in the government gazette. They then had to “ask around” a variety of government agencies in Phnom Penh to gain access to legal documents indicating the geographic coordinates and permitted activities for each ELC. The number of concessions granted and the total size of land assigned for ELC increased at a significant pace (e.g. nine times more land were granted as land concession in the period of 2000-2001 than in 1996-1996 [3] and three times more concessions were granted in 2006 than in 2005[4]) with the aim to boost commercial production of agro-industrial crops and plantations (e.g. rubber, teak, eucalyptus, palm oil, corn, sugarcane, cassava) and to raise tax revenues and rental income for the State<sup>18</sup>. According to official data of the Ministry of

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<sup>16</sup> As of March 2014, the government reported to have excised or reclassified the total area of more than 1 million hectares out of 18 concession companies and more than 480,000 hectares out of state land and forest land confiscated with provincial order (MLMUPC, Results achieved on Delivering Land Titles to People by March 2014 on [www.mlmupc.gov.kh](http://www.mlmupc.gov.kh)).

<sup>17</sup> For an initial analysis of the land titling initiative, see Franz-Volker Müller and Günther Zülsdorf, “Old Policies – New Action: A Surprising Political Initiative to Recognize Human Rights in the Cambodian Land Reform,” Paper prepared for presentation at the Annual World Bank Conference on Land and Poverty. Bonn: GIZ, 2013.

<sup>18</sup> MoP and UNDP, 2007: *Expanding choices for rural people: Cambodia human development report 2007*. Ministry of Planning and United Nations Development Program (UNDP): Phnom Penh, Cambodia.

Agriculture, Forestry and Fisheries (MAFF<sup>19</sup>), as of 2013 this totaled 118 companies with a total land area of 1,204,750 hectares.

- *Military personnel and their families:* Under the authority of the military itself, and in other cases, by providing SLCs to military families, conflicts arise between communities and military personnel and their families. Military bases and roads are constructed for legitimate defence purposes, as well as support to illegal logging and encroachment on forests by soldiers. The 2013 assessment report<sup>20</sup> mentions that for both, national security and financial reasons, the RGC has allowed military families to settle in areas where they are stationed. The military has also built roads that have facilitated settlement in forest areas. Though FA and GDANCP staff, partner NGOs, and CF/CPA members understand the national security issue and respect the need to station troops in the area, there have been numerous conflicts between CF/CPA members and military personnel and families clearing land in CF/CPAs.<sup>21</sup>

#### **4. 2. Disputes between citizens and representatives of the state**

This category comprises conflict between communities and local government officials who are engaged in illegal land sales and forest clearing, acting either in their own personal interests or as intermediaries for the private sector. In such cases, there is a blurring of the distinction between the private sector and the state as government officials are either directly involved in private sector activities or are acting in close cooperation with investors (CAS, 2006). It appears, there is significant overlap between these last two categories, as many of the disputes described in Category 2 will have arisen from the financial benefit flowing to government officials from the transactions concerned.

Many of the claims being made to the National Assembly involve individuals from the military or other arms of the government forcibly appropriating land for personal benefit.

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<sup>19</sup> Ministry of Agriculture, Forestry and Fisheries (MAFF). Economic land concessions. <http://www.elc.maff.gov.kh/> (Accessed 1 March 2014)

<sup>20</sup> Here the report refers to REDD pilot sites (REDD+ pilot sites, including the Oddar Meanchey Community Forests (CFs) and the Kulen Promtep Community Protected Areas (CPAs).

<sup>21</sup> See also PACT, *op.cit.*, pp. 4-5.

- *Land Grabbing*: Land grabbing takes different forms. In Cambodia, it is linked to different phenomena such as the granting of ELC's, SLCs and forced evictions. To distinguish these different forms of land acquisitions, 'land grabbing' is defined in this report as the dispossession of land by local authorities, powerful local elites, private land owners. Thus, it refers to a local phenomena and is as such distinct from definitions commonly used internationally, e.g. by the 'Internal Land Coalition'. Literature on Cambodia describes this tactic as employed by businessmen or government officials who try to establish a claim to potentially valuable forestland, primarily for speculation. In this category, *(forestry) land is sold outside formal channels*, based on possession rather than legal title. Military and police forces have been increasingly involved often siding with company owners and provincial and district authorities (Neef, A. and Touch, S., 2012).

#### **4.3 Disputes involving private parties only**

##### ***3.1 Internal disputes within communities or community forest committees***

These are internal disputes within communities that are settled in forest areas. They arise when they themselves may be extracting resources from forests and/or converting forest land to agricultural use, in unsustainable ways. Those practices may be challenged both by the community's own population growth and by external factors.

Local conflicts within communities or within Community Forest Committees are described as arising from:

- Competing interests and ideas surrounding the management of the CF areas leading to social exclusion and factional divisions within Community Forest Committees;
- Leadership problems including corruption;
- Unclear or inequitable arrangements for distributing benefits from forest management;
- Expansion of cultivated areas or other encroachments and new site settlements;
- Lack of recognition of customary user rights for timber harvesting or NFTP collection;
- *Boundary disputes*: These disputes occur as a result of unclear and disputed land tenure arrangements and often surface in the process of formalizing boundaries – for example when fences are constructed to replace natural boundary markers.

- Conflicts over small scale logging activities (which are continuing despite the 2002 logging ban<sup>22</sup>).
- Inheritance and other family disputes. In particular, land disputes are found to arise when 'land that is controlled by one relative is used by other relatives'.
- Conflict around repayment of loans and other money issues: Land is being increasingly used officially as collateral for credit or as a subject of informal lending arrangements. Disputes are found to arise when debts cannot be repaid and creditors attempt to foreclose. In such disputes, one party claims to be the original owner/possessor of land and to have lent the land to the other party. The second party, who has actually been occupying the land, denies any agreement to lend and sees themselves as the legitimate possessor/owner of the land based on the idea that rights to land arise from usage.

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<sup>22</sup> As reported from both REDD pilot sites in the report "Assessment of Cambodia Forest Sector/REDD+ Dispute Resolution Mechanisms With Options for Institutional Strengthening", 2013.

### 3.2 External conflicts between communities and outsiders

External conflicts between communities and outsiders may also stem from ambiguous tenure such as unclear or contested boundaries; competing ownership claims to the same forest land and expansion of cultivated areas or other encroachments, new site settlements and lack of recognition of customary user rights for timber harvesting or NFTP. In addition, external local conflicts are often described as arising from:

- *Illegal logging* in Cambodia is widespread and poorly controlled. In Oddar Meanchey, it is said that communities report ongoing challenges to control illegal logging in the CF areas, especially of high-value ‘luxury wood.’ Communities claim that most of this activity is perpetrated by powerful people from outside that often have military backing. While according to the Forestry Law, community members have the authority to apprehend illegal loggers in the CF areas, many villagers claim that they do not feel comfortable apprehending loggers, because in many cases they are protected by soldiers, and as such, they ‘would not try to stop the loggers without the support of the FA.’
- “*Anticipatory land clearing*” both by recent migrants, and by some established families with land bordering or inside CF/CPA areas, in the hope that the cleared land will be included in titles awarded by the land titling teams. There is a general perception that tenure rights over land are strengthened once the land has been cleared and transformed into agricultural land (PACT & UNDP Cambodia report, 2011). Areas that are closest to roads are most likely to be encroached and cleared.<sup>23</sup> In border areas that have been prioritized for settlement, it is likely that road construction, and associated settlement development, will continue and perhaps accelerate over the next several years.
- *Informal in-migration*: There are cases reported from the REDD pilot sites of ‘outsiders’ coming to own land in Cambodian villagers. Sometimes migrant groups are supported by local land developers (local businessmen or officials) that have

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<sup>23</sup> See scoping mission report (CBA, 2013).



been enterprising with no clear legal rights to land<sup>24</sup> profit from the sale of land to those groups.

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<sup>24</sup> See scoping mission report (CBA, 2013) and PACT & UNDP Cambodia report, 2011.

### Annex III: Existing mechanism and institutions resolving disputes

Institution	Mandate (formal and informal)	Duties and Regulations (Comments)
Constitution , Article 39	States that Khmer citizens have the right to make complaints or file claims against any breach of law by state and social organs or members of such organs.	
Ministry of Agriculture, Forestry and Fisheries (MAFF)	<ul style="list-style-type: none"> <li>• The Sub-Decree 79, Article 23 and 24 on Community Forestry Management (2003) defines conflict management responsibilities of FA.</li> <li>• <i>“Facilitate CF Community’s conflict resolution”</i></li> <li>• <i>“Represent the CF Community in any negotiations and resolution of disputes that may arise”.</i></li> <li>• <i>“Report and inform immediately about any forestry offense occurring within a Community Forest area to the nearest Forestry Administration official.”</i></li> <li>• Article 26 defines the cooperation with commune councils, district governors and provincial governors to assist in conflict resolution.</li> <li>• <i>“If a conflict is discovered during the announcement period, the commune councils, district governors and provincial governors shall help facilitate the Community Forestry Management Committee to resolve the conflict or modify the draft Community Forest Agreement at the request of the CF Community Management Committee.”</i></li> </ul>	<p>The Law contains measures to manage conflicts and for conflict resolution, however these have not yet been operationalised yet<sup>25</sup>.</p> <ul style="list-style-type: none"> <li>• The FA and GDANCP staff at the Division/Wildlife Sanctuary levels supporting the pilot sites</li> <li>• Have effectively delegated responsibility and authority to manage internal disputes to their CFMC, NGO and Commune Council counterparts</li> <li>• Do not have clearly defined and well-understood procedures for resolving disputes between local governance bodies and outside actors</li> <li>• Have very uneven ad hoc responses to conflicts with external actors</li> <li>• Do not have consistent documentation of disputes, or a structured way to share or learn from their experience in resolving disputes</li> <li>• Do not have consistently effective channels or mechanisms for referring disputes to higher authorities for</li> </ul>

<sup>25</sup> According to CBI, 2013.

Institution	Mandate (formal and informal)	Duties and Regulations (Comments)
		resolution
<b>Ministry of Environment (MoE)</b>	<ul style="list-style-type: none"> <li>Protected Area Law (2008), Article 52 defines the right to any person to make a written complaint to the Head of the central Nature Conservation and Protection Administration.</li> <li>Protected Area law (2008) makes provisions for a national committee on conflict resolution. “A national committee for conflict resolution on protected area management chaired by the Minister of Environment and participated by relevant ministries and institutions as members shall be established to assist in the discussion, consultation, and conflict resolution on the protected area”.</li> <li>• Draft EIA law: Project components shall consult with the MoE to assist in the mediation process. In the settlement of environmental problems of disputes, all stakeholders have the right to settle their problems through consultation with the project proponents before taking the action to higher administrative body or court system.</li> </ul>	<p>The Law contains measures to manage conflicts and for conflict resolution, however these have not yet been operationalised yet<sup>26</sup>.</p> <p>The GDANCP staff at the Division/Wildlife Sanctuary levels supporting the pilot sites have effectively delegated responsibility and authority to manage internal disputes to their CPAC, NGO and Commune Council counterparts do not have clearly defined and well-understood procedures for resolving disputes between local governance bodies and outside actors have very uneven ad hoc responses to conflicts with external actors do not have consistent documentation of disputes, or a structured way to share or learn from their experience in resolving disputes do not have consistently effective channels or mechanisms for referring disputes to higher authorities for resolution</p>
<b>Ministry of Land Management, Urban Planning and Construction (MLMUPC)</b>	<ul style="list-style-type: none"> <li>Land law (2002): Disputes over an immovable property between possessors shall be submitted for investigation and resolution under determined procedures.</li> <li>The land law also governs lease rights (RGC Land Law 2001a)</li> </ul>	
<b>Commune Councils</b>	<ul style="list-style-type: none"> <li>Commune councils were elected first time in 2002 (replacing the state-</li> </ul>	<ul style="list-style-type: none"> <li>While no formal procedures exist for the Commune Council, most</li> </ul>

<sup>26</sup> According to CBI, 2013.

Institution	Mandate (formal and informal)	Duties and Regulations (Comments)
	<p>appointed commune chiefs of the past).</p> <ul style="list-style-type: none"> <li>• Councils have broad roles, duties, and authority and can make legislative and executive decisions. Councils are accountable directly to citizens. Councils may make legislative decisions—by-laws (ADB, 2011).</li> <li>• Have the mandate to “Reconcile differences of opinion” among commune citizens, but no formal decision making authority.</li> </ul>	<p>cases are addressed here before they go to higher levels (NGO Forum, Cambodia)</p> <ul style="list-style-type: none"> <li>• Conflict mediation at the village and commune level is experienced as easier, cheaper and more effective than mediation at higher levels (Kim Ninh and R. Henke, 2005).</li> <li>• Cambodians are remarkably positive about the enforcement of mediated agreements by commune councils: 74% of voters and 95% of councilors believe that such agreements are likely to be implemented (Kim Ninh and R. Henke, 2005).</li> <li>• However, citizens see corruption, nepotism, and impartiality as important problems in commune council mediation while councilors view a lack of legal knowledge/respect for the law, a lack of knowledge/skills on the part of the council, and a lack of resources as most challenging (Kim Ninh and R. Henke, 2005).</li> </ul>
<p><b>Cadastral Commissions</b><sup>27</sup> (under the supervision</p>	<ul style="list-style-type: none"> <li>• The Cadastral Commission (CC), created in 2002, has exclusive jurisdiction over most cases involving unregistered land (Land Law Art. 47).</li> </ul>	<ul style="list-style-type: none"> <li>• The CC operates at three levels: national, provincial and district.</li> <li>• The duties of the three different levels of CC (district, province,</li> </ul>

<sup>27</sup> The National CC is chaired by the Minister of LMUPC. Other members are the Secretaries of State and the Interior, and the Council of Ministers. The Provincial Governor or one of the Deputy Governors chairs the Provincial CC. The CC also has a working group at district levels (DCC) (Sohka et al. 2008; Phann 2006; GTZ 2009; Grimsditch and Henderson 2009).

Institution	Mandate (formal and informal)	Duties and Regulations (Comments)
of the MLMUPC)	<ul style="list-style-type: none"> <li>• Formally, no recourse can be made to court in these cases without first attempting to resolve the case through the CC system; once the case has been lodged with the CC there is no way back into the court without a decision from the NCC.</li> <li>• Cadastral Commissions are the primary formal institutions addressing all types of land disputes.</li> <li>• If disputes are not resolved by the Cadastral Commission, they may proceed to the formal court.</li> </ul>	<p>national) are defined by Sub-decree No. 47 and Prakas No. 112 in a way that suggests that each level works independently with regard to dispute resolution. Each level of the CC exercises its mandated jurisdiction.</p> <ul style="list-style-type: none"> <li>• Regulations for the operation of the CC established a three-tier system, with the District/Khan Cadastral Commission (DKCC)” and the “Provincial/Municipal Cadastral Commission (PMCC)” employing conciliation and exercising its decision-making power only at the national level.</li> <li>• Cases to be decided at the national level are: <ul style="list-style-type: none"> <li>• emergency cases, such as those in which there is a reasonable apprehension of ‘arson, use of force or intimidation’ (Prakas No. 112) in which cases interim orders may be issued;</li> <li>• cases outside of adjudication areas which could not be resolved by conciliation at the provincial or district levels; and</li> <li>• cases within adjudication areas which cannot be resolved by the administrative commission.</li> </ul> </li> <li>• Cases travel through the system from districts to provincial and national levels. Officials at the district level conduct investigations and collect evidence. A case can then be referred to a higher commission if</li> </ul>

Institution	Mandate (formal and informal)	Duties and Regulations (Comments)
		<p>a high-ranking authority is involved. Vulnerable communities involved in disputes with powerful and well-connected individuals often find their complaints unresolved, rejected or simply ignored.</p>
<b>Provincial / Municipal Governors / Inter-ministerial WG.</b>	<p>The mission heard of at least two different provincial committees with different jurisdictions.</p> <ol style="list-style-type: none"> <li>1. Based on sub-degree by Ministry of Interior.</li> <li>2. Quasi jurisdiction based on sub-degree by the Cabinet.</li> </ol>	<p>Interview partners mentioned guidelines, which are currently translated and it is expected that a review will be included in final report.</p>
<b>Administrative Commissions (ACs)</b>	<ul style="list-style-type: none"> <li>• ACs are not a permanent conflict resolution mechanism. They exist only temporarily during the Systematic Land Registration Process.</li> </ul>	<p>ACs are mandated to conciliate conflicts over (yet) untitled parcels, whether claimed by individuals, companies or the state.</p> <p>Unsuccessful conciliation cases are sent to the NCC.</p> <p>During Systematic land Registration, the ACs handle disputes between two and more parties.</p>
<b>National Authority for Land Dispute Resolution (NALDR)</b>	<p>The National Authority for Land Dispute Resolution (NALDR) was established in March 2006 and is specifically constituted to deal with land and natural resource related disputes.</p> <p>The NALDR was created by Royal Decree. The creation of the Authority by Royal Decree (which is issued by the King on request of the Government) rather than under the 2001 Land Law (which was enacted and is amended by Parliament) makes its role formally difficult to reconcile with other land dispute resolution bodies (such as the Cadastral Commissions and courts). The absence of a basis in Law for the Authority also raises the question of its constitutionality.</p>	<p>The NALDR “has jurisdiction over cases which are beyond the jurisdiction of the CC, or the courts” (NGO Forum, Cambodia, 2013, p.5).</p> <p>Among its duties are to ‘Receive complaints, which are beyond the competency of the National Cadastral Commission, to receive complaints from everywhere involving land disputes’, and also to ‘Monitor the resolution of land disputes by the Cadastral Commissions and the competent authorities of all levels’.</p> <p>High profile cases are mostly referred</p>

Institution	Mandate (formal and informal)	Duties and Regulations (Comments)
	<p>According to this Royal Decree, the NARLD serves a complementary function to the CC.</p> <p>The NALDR acts primarily as an administrative shop front, assisting the Council of Ministers, and particularly the Prime Minister to resolve disputes and by allowing greater central government control of other institutions involved in land management.</p> <p>The Prime Minister retains a key role in determining disputes under the draft sub-decree Land Acquisition and Addressing Socio- Economic Impacts Caused by State Development Projects.</p> <p>The sub-decree provides that anyone not satisfied with a decision in relation to a state development project can complain to the Prime Minister, through the NALDR.</p> <p>Nevertheless, provincial and municipal authorities must report the status of conciliation complaints to the NALDR „so that the National Authority can report further to the Head of Government.“</p> <p>The NALDR is given the power „if necessary“ to inspect the conciliation of any complaints to determine if any „irregularities are found.“</p>	<p>to NALDR, which is chaired by the deputy prime minister, and has 26 Ministries and Authorities as members. Being made up of high ranking officials, including senior police and military officials, the NALDR is a government body rather unsuited for resolving politically sensitive cases;</p> <p>The power of NALDR is a quite common example of the way the regulatory framework is drafted with the effect of blurring who holds final adjudicatory power (the courts or executive) and also highlights the continuing power of the Prime Minister to oversee disputes, even when a specific body (the NALDR) has been created to deal with them.</p>
<b>Courts</b>	<p>Three levels of courts exist:</p> <p>Courts of First Instance, Appeal Courts and the Supreme Courts.</p> <p>Have the mandate to resolve disputes over titled (registered) lands, as well as disputes related to forced evictions.</p> <p>According to Governmental Order No.01</p>	

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	(May 10, 2006) the court plays the final adjudicatory role in cases dealing with the reclamation of forested land.	



## Response matrix

For comments provided on the DRAFT report  
 “Towards the design of a REDD+ grievance system in Cambodia”

Comments received	Actions/responses taken to address or disregard these comments
Add a list of abbreviations	Added.
Provide a short explanation in the executive summary: <ul style="list-style-type: none"> <li>• Definition of grievance</li> <li>• Categorization of types of disputes</li> <li>• Explanation of types of resolution measures (e.g. mediation, negotiations)</li> <li>• Formal and informal institutions</li> </ul>	Done.
Elaborate what special support and provisions for Indigenous groups mean?	Incorporated.
Focus on key messages to the extent necessary	Shortened by ... pages. Detailed information on conflicts and institutions is moved to annex.
Specify the kinds of disputes that REDD+ activities are likely to trigger.	Beyond the scope of this assignment. To be addressed through further follow-up preparatory works on GRM.
Specify what kinds of actors may be involved in each type of disputes	Done to the extent possible.
Specify what kinds of mechanisms that may be available to redress each type of these disputes.	Beyond the scope of this assignment. To be addressed through further follow-up preparatory works on GRM.
Some of the conclusions and recommendations such as insufficiency of a reactive GRM, are self-evident, and unnecessary for a consultant to point that out.	The issue of re-active or pro-active GRM was included in the original ToR for this consultancy:  <i>“In identifying options for strengthening REDD+/forest sector dispute prevention and resolution mechanisms, the scoping mission report noted that REDD+ grievance and dispute resolution mechanisms are intended primarily as “reactive” tools to respond to concerns raised by REDD+ stakeholders. However, there are important opportunities for proactive dispute prevention for the pilot sites, and for Cambodia as a whole. These opportunities should be actively considered, in order to address longstanding issues and reduce the demand on grievance mechanisms” (ToR, page 2).</i>

	<p>However, in the process of clarifying the assignment, the consultant has been asked specifically NOT to focus on conflict preventive aspects for the following reasons:</p> <p><i>“I recognize the importance of land use planning, zoning, and demarcation as tools that will contribute to reducing conflicts and thereby grievances, but this is an ongoing process in Cambodia that is also beyond our control. ... FA recognizes this adequately and the NFP prioritizes demarcation. The PA strategy finding endorses this; and the EU FLEGT study on timber flow (being released today) highlights the need for classification and demarcation.</i></p> <p><i>I am proposing that we request Antonia to direct her energy more on giving us an improved understanding of the kind and classification of grievances, existing institutional mechanisms, outline likely REDD+ actions that could cause grievances, benchmark and analyse, and identify gaps and an approach for a grievance mechanism”.</i> (Above quote has been copied from an email exchange with UNDP, Cambodia)</p> <p>Against this background, it does not seem too far-fetched to raise the issue of the GRM being designed as a pro-active or re-active GRM in the report. The purpose of raising this point is to alert readers of the report towards the fact that there is a management decision to be made by REDD+ stakeholders in Cambodia.</p>
<p>While the report contains useful background information, there is very little in there that adds value to the findings and recommendations from the scoping mission. It does confirm these earlier findings and recommendations which is useful in itself, but very minimal beyond that.</p>	<p>The scoping mission report has provided an assessment how forest sector disputes and conflicts appear in the REDD+ pilot projects. The previous consultant had not been asked to, and as a consequence, did not say anything about the frequency and scope of disputes, nor about the effectiveness of the current dispute resolution system.</p> <p>The scoping mission report had furthermore carried out an initial assessment of current mechanisms and practices for dispute resolution, which consists of a summary description how disputes are handled by institutions at various levels of forest governance, e.g. Community Forest Management Committees; at the <i>Divisional level</i> of FA; at the <i>provincial level</i> by the office of the Provincial Governor (supported by Commune Councils); and at the <i>national level</i> by FA and GDANCP.</p>

	<p>This report found that RGC through its local agency staff has limited possibilities to resolve disputes, because local agency staff is involved in many disputes with local communities, and hence rather a party to the dispute. As such, local agency staff is NOT perceived as fair and impartial by others.</p> <p>This report also found forest boundaries are often disputed, or are at least legally ambiguous as they span over different types of land. Therefore REDD relevant disputes occur not only over forest land, but also over agricultural land (farmland and rice land), residential areas and other types such as wetlands, footpaths and flooded forest land.</p> <p>Against this background, the value added of this report is that it looks beyond the forestry sector in assessing scope and frequency of REDD relevant disputes, as well as the effectiveness of all existing dispute resolution mechanism institutions in Cambodia.</p> <p>This report points out reasons for low resolution rates, makes suggestions how to overcome obstacles of the current system, and provides recommendations how to make a Grievance Response Mechanism accessible to all Cambodians, including the most vulnerable groups.</p>
<p>What should be the backbone of the report is missing: options to strengthen the current mechanism and practices at provincial and national levels on page 48.</p>	<p>i) While the need of developing such options is fully acknowledged, there are clear reservations regarding the feasibility of this demand at this point, given the circumstances for this consultancy.</p> <p>ii) This viewpoint of what should be the backbone of this report is to be compared with what has been described by UNDP, Cambodia to be the focus of the report.</p> <p>iii) Given the various other tasks of the new ToR, it had not been possible to develop options within just 5 working days in the country;</p> <p>iv) It was clearly stated in the draft report, that the development of options was not possible because of the delay in translating the respective documents. The consultant has still not received these materials and hence feels unable to further elaborate the options.</p>
<p>The \$200,000 funding from FCPF is intended to ensure a GRM is strengthened and ready for operations by the end of the readiness phase (or at the end of the FCPF Program). That means Cambodia needs to focus more on testing/piloting/implementing a mechanism that will ensure it has a</p>	<p>Given the current shortcomings of the present dispute resolution system as well as the data gaps (i.e. uncertainties related to national level), it will take some time before Cambodia can do testing /piloting /implementing of a GRM. Before further analysis is required to understand what political and institutional changes are required for the current mechanism to better perform their role.</p>

<p>GRM in place that works and is nationally owned/supported. While some form of studies may be useful, these cannot be the main focus for the funding.</p>	
<p>Inclusion or mention of the Provincial Community Forestry Coordination Committee (PCFPCC).</p>	<p>Integrated, however, no additional information on the PCFPCC was available. It is suspected that the lacking document was about the same Committee and would have provided further information.</p>