



# គណៈកម្មាធិការអង្គការមិនមែនរដ្ឋាភិបាល ដើម្បីតាមដានទូទៅ

## សន្ទស្សន៍របស់កិច្ចប្រជុំពិគ្រោះយោបល់

NGO Committee for the Monitoring of CG Indicators

### NGO Committee

Phnom Penh. June 7, 2006



**ធួន សារាយ**  
Thun Saray  
ADHOC  
President

## NGO Statement on the Monitoring of CG Indicators

*NGOs look forward to the adoption of an Anti Corruption Law that meets International Standards*



**ចារ៉ូល ត្រីក្លឺរ**  
Carol Strickler  
CCC  
Executive Director



**គល់ បញ្ញា**  
Koul Panha  
COMFREL  
Executive Director

### Table of Contents



**លេខាធិការរដ្ឋាន**  
Secretariat  
CHRAC

Introduction.....	1
The Anti-corruption Law .....	3
Legal and Judicial Framework.....	5
The NSDP Monitoring Framework .....	7
Improve Livelihoods of the Rural Poor .....	8
Sustainable use of natural Resources .....	10
Decentralization and Deconcentration Reform.....	14
Socially cohesive, educationally advanced, and culturally vibrant society .....	15
Public Financial Management Reform Programme.....	17
<b>Annex</b> Case Study on Eviction of Residents of Village 14, Tonle Bassac, Phnom Penh .....	<i>(to be distributed as soon as finalized)</i>



**សេង ធួរី**  
Seng Theary  
CSD  
President



**រស់ សុភោធា**  
Ros Sopheap  
GAD/C  
Executive Director

### Introduction



**ម៉ាក់ សិទ្ធិរិទ្ធ**  
Mak Sithirith  
FACT  
Executive Director

NGOs welcome next week's quarterly meeting of the Government-Donor Coordination Committee as an important opportunity to monitor progress on Joint Monitoring Indicators (JMIs) agreed at last March's Consultative Group (CG) meeting. NGOs appreciate their inclusion in many of the Technical Working Groups that have been helping to monitor progress, and agree to abide by the principles of these groups.



**ស៊ីន សុំមុនី**  
Sin Somuny  
MEDICAM  
Executive Director

The Royal Government of Cambodia (RGC) has made positive steps in the first three months after the CG meeting towards achieving its targets, including progress related to moving forward with the Civil Code, the Criminal Procedure Code, State Land Management, Indigenous Land Rights and Community Forestry.



**សេង ហុង**  
Seng Hong  
NEP  
Executive Director

NGOs observe that Government has enough time to meet the deadline and pass the Anti Corruption Law before the end of June, however it is strongly felt that the current version of the draft does not meet international standards as agreed during the Consultative Group meeting in March. The necessity of passing an Anti Corruption Law that meets international standards is very clear at this time of alleged irregularities in World Bank supported projects. NGOs welcome the early notification of the alleged irregularities to the Royal Government and would like to see a transparent process put in place for follow up on allegations of misuse of World Bank funds



**ឈឹត សំអាត**  
Chhith Sam Ath  
NGO Forum  
Executive Director



**កឺត ម៉ាកឡេដឺ**  
Kurt A. MacLeod  
Pact  
Asia Regional Dir



**ល្បីក សារិន**  
Nhek Sarin  
Star Kampuchea  
Executive Director

NGOs note that the first drafts of Organic Laws (4) have been prepared by the consulting team and submitted to Government for review which are intended to be submitted for consideration to the National Assembly before the end of the calendar year. Since there has been no further discussion of the process for review and consultation, the NGOs wish to recommend that the draft organic laws will be subject to a broad review process prior to the finalization and submission to the National Assembly.

NGOs welcome efforts by the RGC to improve the livelihoods of the rural poor and ensure sustainable use of natural resources by building and enhancing the legal framework related to the use and management of land and forests. Against the background of tenure insecurities, increasing conflicts over land and resource capture, NGOs would like to see a stronger focus on the actual implementation of laws and policies. In order to achieve effective implementation, NGOs recommend the harmonization of interlinked processes, including the identification and mapping of state land, demarcation of forest and protected areas and the registration of the collective lands of indigenous communities.

NGOs express their concerns regarding specific land use decisions involving relocations of the urban poor. The recent eviction of residents of Village 14 in the Tonle Bassac illustrates a non-transparent decision making process and ultimate solution that leaves hundreds of families unable to meet their basic human needs. This particular situation needs to be remedied quickly, and serves as an example of how not to implement future land use decisions. The details of this situation will be set forth in a forthcoming annex to this report, to be distributed prior to the GDCC meeting.

NGOs reconfirm their commitment to engage with the Royal Government and the donor community in a constructive way, helping to bring the voice of the communities we serve to the policy-makers and implementers of Cambodia's reform agenda.

## The Anti-corruption Law

### i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
3. Combat corruption	3.1 Finalize and approve Anti-corruption Law, based on best international practices	MNASRI Leads, COM	End June 2006
	3.2 Disseminate information on reported cases on corruption and conviction on semi-annual basis.	MNASRI Leads, COM	On-going

### ii) Monitored progress on Actions Needed

3.1 The draft Anti-Corruption Law (ACL) was submitted to the Council of Ministers (CoM) in December 2005 and it is still at the COM as of today although it is said to have been reviewed by the Council of Jurists and the OBSESS. According to the legislative procedure, the draft would have to go through another review mechanism at the COM, the Inter-Ministerial Meeting. As far as the time frame is concerned, the draft is to be approved by the end of June, and it is expected that the Government still has enough time to meet the deadline. However, it is unlikely that the draft law will comply with international best practices, as so far, neither has many changes been made to the earlier draft nor has the Government made a lot of effort to try to bring the draft ACL up to international standards. It is seen by International Advisers as still below international standards. So, the conclusion is that no progress has been made in terms of improving the quality the draft ACL, despite continued recommendations by International Advisers and the civil society.

There seems to be confusion or lack of clarity, particularly between the MONASRI and the MOJ, over who should be the major player in the last stage of drafting of the ACL when it comes to the issue of harmonization between the ACL and the Criminal Procedure Code. This constitutes a major constraint to the progress of the legislation, as it makes it impossible for experts and civil society to help improving and expediting the process.

3.3 No information on reported cases of corruption and conviction on semi-annual basis have been made available by Government. About two months ago, there was a reported case of embezzlement within the Ministry of Land Management Urban Planning and Construction (MLMUPC) which was investigated by the National Audit Authority. However, no more information has been provided since then about who are involved and whether there has been any prosecution or conviction. While there have been some removals of Government officials on alleged bad performance and corruption, evidence has not been provided, and it is seen by many as politically motivated.

### iii) Recommendations:

- NGOs would like to urge that the Government adheres to the terms in the JMIs to approve the Draft Anti-Corruption Law that meets international best practices, taking into accounts the recommendations by International Advisers and the civil society.
- NGOs would like to see no more impunity particularly for those who are found committing corruption, as in the case mentioned in section 3.3 above. This means that the Government shall not only pay back donor's money in any cases of discovered corruption, but also bring the people accountable to court for conviction.

- NGOs would like to urge that this kind of action be taken also with regard to any other acts of corruption and not only cases that deal with foreign aid.
- NGOs support the Prime Minister's comments that corruption shall be fought even before we have an Anti-Corruption Law. In that case, NGOs urge that the existing legislation be used to prosecute any acts of corruption uncovered.

## Legal and Judicial Framework

### i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
4. Establish a well functioning, transparent and accountable legal and judicial system that protects individual rights as defined in the Constitution.	4.1 Develop a clear policy framework on access to information	MNASRI Leads	Dec. 2006
	4.2 Complete the drafting and approval of the remaining fundamental Laws (Penal Procedure Code, Penal Code, Civil Code, Law on the Statue of the Judges, Law on Court organization and Functioning).	MOJ Leads	To be agreed by L&J TWG
	4.5 While the priority setting process is being put in place, priority will be given to:		
	b. Complete and adopt a National Plan to enforce the Law on Domestic Violence and Protection of the victims.	MOWA Lead	June 2006
	c. Complete preparation of regulations to enforce State Land Management Sub-Decree.	MLMUPC	June 2006
d. Elaborate and Implement Article 18 of the Land Law.	MLMUPC/CLP	November 2006	
e. Adopt RGC's strategy and regulations for the indigenous people	CLP	November 2006	

### ii) Monitored progress on Actions Needed

- 4.1 The MoNASRI, which was assigned at the CG meeting to take lead on this issue, has not taken any serious action yet, as they said they still have to discuss and officially be given the assignment from the Council of Ministers. As of today, it remains unclear as to whether it is really the MoNASRI or any other government agency that would be responsible.
- 4.2 The MOJ has been moving forward with the Civil Code, and had made a lot of progress with the Criminal Procedure Code which will likely come to the National Assembly soon, according to the MOJ representatives who reported to the NA session during the debate on the Civil Procedure Code.
- 4.5b NGOs appreciate the efforts that have been made by the MOWA in establishing four committees (1) Education (2) Raise Awareness (3) Social Protection and (4) Legal Protection. However, the National Plan to enforce the Law on Domestic Violence and Protection is moving very slowly. Sub-decrees which are important in providing guidelines for the preparation of the National Plan have not been issued. Work on these sub-decrees is in progress; however, the timeline for these sub-decrees is not clear.
- 4.5c NGOs welcome the recent adoption of implementing legislation related to the identification and mapping of state land and state land classification. It is hoped that the demarcation of state land will put an end to illegal land acquisition by local and international opportunists and that the currently prevailing attitude favoring short-term gains will shift towards long-term sustainable use and management of natural state assets with meaningful participation of resource-dependent local people and the general public. NGOs are concerned, however, that the identification and mapping of state land is not sufficiently linked to other mapping processes, such as forest cover mapping, locally developed participatory land use plans and the mapping of the collective lands of indigenous communities.

4.5d Regarding attempts by the Royal Government of Cambodia to reclaim authority over land transactions involving state land, NGOs welcome efforts by the Ministry of Land Management Urban Planning and Construction (MLMUPC) to clarify scope and implementation of Article 18 of the Land Law. Action is urgently needed, since indigenous peoples, in particular, are facing severe hardship as a consequence of increasing land alienation within their communities.

4.5e In this context, NGOs welcome the joint effort of the Ministry of Interior (MoI) and MLMUPC to develop a strategy and regulations for the registration of the lands of indigenous communities. The registration of two pilot communities in Ratanakiri as legal entities is near completion and the Department of Local Administration at MoI has expressed its commitment to soon finalize another pilot community in Mondulkiri.

### **iii) Recommendations:**

- (4.1) In order to help with the fight against corruption, the Government should move fast with the establishment of a legal framework on access to information as stated in the CG JMIs.
- (4.5c) NGOs are concerned that the identification and mapping of state land is not sufficiently linked to other mapping processes, such as demarcation of forest land and protected areas, locally developed participatory land use plans and the mapping of the collective lands of indigenous communities. District/Khan Land Working Groups moreover need to be given sufficient financial and technical support in order to fulfill their role and mandate in the process of state land mapping and identification.
- (4.5d) Prior to the full implementation of Article 18, there is an urgent need for the Royal Government of Cambodia to publicly state that all land transactions in indigenous areas are illegal and that buyers will not receive ownership titles to illegally acquired land.
- (4.5e) In the light of rapidly increasing land alienation, NGOs would like to see the implementation of a mainstreamed process for the legal recognition of indigenous communities as the first necessary step towards the registration of their collective lands.
- (4.5e) With regards to international standards and fundamental rights of indigenous peoples, NGOs however feel that further improvements of the by-laws are necessary. Before proceeding with by-laws for a third community in Mondulkiri, NGOs therefore suggest a review process with the participation of indigenous representatives and civil society organizations,

NGOs also hope that the procedures for registration will be clearly outlined in a comprehensive strategy paper on indigenous land registration, currently being developed by the General Secretariat of the Council of Land Policy and MLMUPC. Building upon the experience from consultations on the sub-decrees on State Land Management and Economic Land Concessions, NGOs stand ready to support the Ministry in organizing public discussion on the strategy paper with indigenous communities and civil society.

## The NSDP Monitoring Framework

### i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
1. NSDP monitored annually	1.1 Develop and implement a framework to monitor the implementation of the NSDP and prepare an annual progress review of NSDP implementation.	MOP (Lead), MEF and CDC	End June 2006

### ii) Monitored progress on Actions Needed

1.1 The NGOs welcome the continued opportunity to participate in the Technical Working Group on Planning and Poverty Reduction (TWG-PPR) and as core-members of the TWG-PPR the NGOs are committed to positively contribute to the group's objectives. The NGOs welcome the efforts from the Ministry of Planning in developing a framework for monitoring of the NSDP. However, it is noted that the monitoring framework is not yet complete as it currently lacks input / output indicators that have to be developed by the line ministries as requested by the Ministry of Planning in their letters to the Line Ministries.

### iii) Concerns

- During the last TWG PPR meeting in April, it was made clear that no updated version of the NSDP would be produced by June 2006 as scheduled. Without this "preliminary review" of the NSDP important gaps of the current version persist. Two main concerns of the NGOs are the lack of incorporation of detailed sectoral and sub-national plans and the lack of linkages between the NSDP and links to the PIP 2007-2009, MTEF 2007-2011, and the annual budget 2007.
- With the exception of the Ministries of Health and Education, sectoral plans that should operationalize the NSDP are either non-existent or not shared with the donor and NGO community. A comprehensive monitoring framework for the NSDP can only be derived from these sectoral plans, which is unlikely to be realized before the end of June. The deadline for the Line Ministries to finalize their plans is not clear.
- The NSDP secretariat has no overview of the stage of development of sectoral plans by the different line ministries. If the TWGs in the different sectors need to facilitate the development of these plans they would benefit from some guidance from the MoP on possible formats of the plans and criteria for the selection of indicators.

### iv) Recommendations

- The Ministry of Planning needs follow-up with the line ministries to find out the status of development of the sectoral plans. Subsequently the MoP needs to work with the donors to fill possible identified capacity gaps.
- With agriculture and rural development being priority sectors, these plans need to be prepared within the next three months in order to have an effect on allocations in the 2007 National Budget and the PIP 2007-2009.
- The Sectoral Plans should be openly discussed within the Technical Working Groups.

## Improve Livelihoods of the Rural Poor

### i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
8. Improve livelihoods of the rural poor, reduce poverty in particular in rural areas, and enhance food security and nutrition based on priorities outlined in the National Strategic Development Plan for 2006-2010.	8.2 Establish a mechanism and periodically disseminate information on economic land concessions in accordance with the notice issued by the Prime Minister on 30 June 2005.	MAFF	2 <sup>nd</sup> Quarter 2006
	8.3 Take appropriate action to reflect the priorities of the Fisheries sector to improve the livelihoods of rural communities in commune, district and provincial development plans as well as donor funding levels.	MAFF(Lead)/ Local Authority	4th Quarter 2006
	8.4 To improve the livelihoods of the rural poor, 500 eligible households are settled on social land concessions with livelihood support and at least 10,000 hectares of suitable land confirmed as available for social land concessions.	CLP and MLMUCP	2006

### ii) Monitored progress on Actions Needed

8.2 NGOs welcome the publicizing of information on Economic Land Concessions (ELCs) on the website of MAFF as an important step to increase transparency related to the use and management of state owned natural assets. However, NGOs also note that the information is incomplete and that the website has not been updated since its inception. Only a little information is available regarding concessions that have not yet signed a contract with MAFF. NGOs are also concerned about the quality of the coordinates provided since it is not specified what datum was used in generating the information.

8.3 NGOs welcome the adoption of the new Fisheries law, signed by the King on May 24.

8.4 NGOs welcome steps taken by the National Preparation Team for the Land Allocation for Social and Economic Development Project to involve NGOs and civil society in the implementation of the two pilots on social land concessions in Kampong Cham and Kratie province. It is hope that this cooperation will continue in future. However, NGOs are generally concerned about the process of making land available for social land concessions and the selection of beneficiaries.

### iii) Recommendations:

- (8.2) The coordinates provided for ELCs need to be standardized and the boundaries of concessions should be integrated into a comprehensive map that also includes information on mining concessions, military development zones and other concessions allocated by the RGC. Complete text inspection reports, E/SIAs, and employment and social commitments for ELCs should be immediately disclosed.

In accordance with JMI 4.5d and working upon the success of last year's JMI regarding passage of key land legislation (2005 Cross-cutting indicators for Agriculture and Natural Resources Management: Indicator 1), NGOs urge donors and RGC to immediately review disclosed ELCs for compliance with the law, and implement all measures accordingly.

- (8.3) NGOs would like to call upon all concerned donors and the Department of Fisheries to coordinate Fisheries law dissemination activities in order to avoid duplication of activities (and funding). Coordination planning should also be conducted to start drafting all the necessary parkas/sub decree essential to the effective implementation of the new law.

- (8.4) Simple and effective grievance mechanisms need to be in place that ensure that social land concessions will indeed benefit landless and land-poor farming families. NGOs would also like to reiterate the recommendation from the NGO Statement to the 2006 CG Meeting that only vacant and non-forested land should be allocated as social land concessions.

## Sustainable use of natural Resources

### i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
<b>11.</b> Ensure sustainable use of the natural resources taking into consideration the issues of livelihood and needs of the rural communities	11.1 Develop and implement National Forest Program, by initial focus on:		
	a. Strengthening the enforcement of the Forestry Law, especially combating forest land clearing and encroachment;	FA/MAFF/MoE	Qrtly Report
	b. Rationalizing and reclassify national forest lands to ensure sustainable use of these resources by further forest demarcation/demarcation of protected areas ;	FA/MAFF/MoE	4th Qrt GDCC
	c. Completing Forest Cover Assessment 2005/2006.	FA / MAFF	---,---
	d. implementing Community Forestry program and develop Community Forestry	FA / MAFF	Qrterly
e. Implementing capacity building for forestry sector program/tree planting for socio-economic purposes.	FA / MAFF	Qrterly	
f. Independent Monitoring in the forestry sector (Subject to donor grant funding)		To be determ.	
	11.2 Strengthen transparency by disseminating all relevant sector information on the activities of government agencies, including information on mining concession and military development zones, as well as donors and NGOs by periodically postings on TWG-F&E website.	All stakeholder	4th Quarter GDCC 06
	11.3 Develop and implement a Land Management Policy and associated legal framework to improve sustainable utilization of land resources.	MLMUPC	2006
	11.4 Strengthen and expand the scope of land registration by:		
	a. Issuing 300,000 land title certificates in 2006;	MLMUPC	Dec.06
	b. Increasing the percentage of cases successfully resolved by the cadastral commission: 450 cases successfully resolved out of 800 cases handled in 2006;	MLMUPC	Dec.06
	c. Revision of cadastral service fee structure, especially for sporadic and subsequent registration, public dissemination of the new fee structure and stamp duty for subsequent registration.	MLMUPC & MEF	Jun 06
	d. State land mapping conducted in five districts and results placed in a publicly accessible state land data-base. cc	MLMUPC	Nov 06

### ii) Monitored progress on Actions Needed

11.1 Overall there seems to be little progress regarding the development and implementation of a National Forest Program.

11.1a NGOs welcome Order No. 1 on Prevention of Clearance of State Forestland of All Types For Ownership signed by the Prime Minister in May 2006. Enforcement of the Forestry law has so far mainly targeted local, forest-dependent people and authorities have often turned a blind eye to violations by powerful and well-connected elites.

11.1b Recent mapping and demarcation activities in the Central Cardamoms Protected Forest, jointly implemented by Forest Administration (FA) and Conservation International (CI), have demonstrated the importance of forest land demarcation to diffuse conflicts and protect valuable natural resources. NGOs are concerned however, that forest demarcation in other parts of the

country progresses only slowly, leaving large areas vulnerable to illegal operations and grabbing of forest land. NGOs also note that the Draft Protected Area Law submitted to the National Assembly in October 2005 has still not been passed.

11.1c NGOs welcome the commitment by government and donors to undertake a new Forest Cover Assessment, but are unaware of any progress towards this objective. Given the problems associated with the previous survey published in 2003, NGOs welcome the announcement by FA that the methodology for the assessment will include ground-truthing and the participation of communities and local authorities.

11.1d The National Community Forestry Programme (NCFP) was finalized and officially launched at the Technical Working Group on Forestry and Environment (TWG F&E). FA also recently launched the Community Forestry (CF) database on the internet, publicly sharing information on 264 CF sites around the country. NGOs also welcome the cooperation of FA officials in some provinces in actively establishing CF. On the other hand, the CF Prakas has still not been passed by MAFF, although it is under review.

11.1e NGOs are encouraged that the World Bank has sent a team to Cambodia to examine the scope for future independent monitoring. In particular, the team's willingness to address the connection between logging operations and money laundering by powerful individuals responsible is welcome. However there has been little visible follow-up to this visit and some concern that momentum generated may now be lost.

11.2 There remains a disturbing lack of transparency in the process of allocating annual coupes and gaps in the regulatory framework regarding their management. NGOs call on government and donors to ensure that existing loopholes in the law are closed. Companies seeking to exploit annual coupes must be held to the same standards of bidding, planning and operation laid out in the existing sub-decree on forest concession management. NGOs also recommend that all forestry and plantation operations in future should follow Forest Stewardship Council (FSC) standards, with broad involvement of and consultation with affected communities, in line with international best practice. .

11.4 NGOs hope that government agencies will meet the targets stipulated in the JMI on land registration. With the resources available, NGOs are not in a position to monitor the specific quantified outputs. This raises a general concern if the mainly quantitative outputs for actions needed are indeed relevant indicators for progress related to land registration.

11.4b NGOs welcome the progress made by the RGC in the last few months to find mechanisms to solve land disputes throughout the country. All levels of government administration, from communes to provincial offices show great commitment in finding solutions to bring long term unsolved land related cases to an end. The adoption in April of the sub-decree #34 on the organization and functioning of the Cadastral Commission has considerably smoothed the procedure by integrating District Governors as chiefs of district Cadastral Commissions. The creation of the National Authority on Land Dispute Resolution (NALDR) is also very encouraging, in so far as it will be a complementary institution to the courts and Cadastral Commissions that will help to resolve complex land disputes.

### **iii) Concerns**

- (11.1a) NGOs observe with concern that powerful perpetrators of large-scale forest crimes and related abuses are not being held accountable to the law. The activities of the Seng Keang Company in Tumring, Kompong Thom are notable in this regard, especially the use of extreme violence against local people by this group's on site representative. The recent move by MAFF to cancel this company's sawmill permit is welcome but insufficient and has in any case not been

properly enforced. NGOs call on the government to prioritize the investigation and prosecution of those responsible for the serious human rights abuses and large-scale illegal logging that have occurred in this area.

- (11.1a) Official reports on compliance with prime ministerial orders such as PM Order No.1 frequently only focus on the number of confiscations and cases referred to the court.
- (11.1d) The Prakas on Community Forestry is needed to provide the official procedures for CF establishment and approval. There are many conflicts and illegal activities impacting on community forestry, and government action is needed to solve them effectively.
- (11.4) In general, NGOs are concerned about the effectiveness of some donor-funded projects in land. One example is of a donor-funded PLUP process in Koh Kong. A thorough process of land mapping has been implemented, but this has not prevented 20,000 ha of land already mapped via a PLUP process from being grabbed from villagers by Ly Umpath for a sugar cane plantation and factory.
- (11.4 a) NGOs have repeatedly called attention to problems related to the implementation of systematic land registration, including the lack of transparency and accountability. Both remain to be problems, impeding the full participation of beneficiaries and stakeholders.
- (11.4b) The Cadastral Commission offices throughout the country are generally weak and severely lack in resources (financial, human resources, equipment, etc.), preventing them to address all land dispute cases. The re-organization of the structure of the Cadastral Commission seems to have been successful in releasing tensions amongst government officials and useful in solving small cases. It is, however, not very successful in addressing more complicated cases that involve powerful people because of the pressure and threats it becomes subject to when dealing with such cases. NGOs are concerned that no law enforcement mechanism is being envisaged that protects the Cadastral Commission in the role of monitoring the implementation of Cadastral Commission and court decisions once a case is settled.
- (11.4b) NGOs furthermore observe that the mandates and terms of cooperation between the NALDR and the Cadastral Commissions are unclear. The composition of the NALDR suggests undue executive control over areas already contained within the jurisdiction of Cadastral Commissions and courts. This raises the concern, inter alia, of undermining the capacity of existing judicial institutions mandated to resolve land disputes. Given past actions by the executive branch regarding large land disputes, NGOs do not have full confidence that NALDR will act in a transparent and judicious manner.

#### **iv) Recommendations:**

- (11.1a) It is essential that PM Order No 1 will be fully implemented regardless of the social status of the violator. Official reports on compliance with prime ministerial orders such as this one frequently only focus on the number of confiscations and cases referred to the court. NGOs therefore suggest that the RGC and its development partners should measure progress according to the following criteria: a) cases in which there has been a full prosecution and imposition of penalties as opposed simply to a referral to the court; b) the number of cases in which such prosecutions are brought against individuals with official rank or public profile; c) enforcement of existing law that targets corruption, particularly Article 100 and Article 101 of the Forest Law.
- (11.1a) NGOs further recommend that efforts reclaiming forest land need to be harmonized with the implementation of Article 18 of the Land Law.

- (11.1b) As stated above, harmonization is needed between the processes of demarcation of forest land and protected areas, the identification and mapping of state land and the registration of the lands of indigenous communities. Forest land demarcation furthermore needs the active participation of all stakeholders, including local communities, provincial authorities and civil society organizations. NGOs therefore request the government to give a clear account of the methodology it intends to use for demarcating the forest reserve, what steps it will take to consult local inhabitants living close to the boundaries and the measures it will take to inform the general public of the boundaries once the exercise is completed. NGOs call on the government and donors to expedite this process without delay in order to counter the current rush of illegitimate claims by land concession holders and others to areas of forest not yet demarcated. Finally, the government should give a clear public undertaking that the demarcation process will not override the prior claims (as enshrined in the Land Law) of indigenous people to forest areas that they use for traditional agricultural practices.
- (11.1c) NGOs would welcome a clarification from the TWG F&E on the timetable for the forest cover assessment 2005/2006.
- (11.1d) There is an urgent need to pass the Prakas on Community Forestry. CF furthermore requires higher prioritization and more support for implementation (financial, training, etc.)
- (11.2) MIME needs to find a mechanism to make the information on mining concessions available to the general public and to ensure regular updates of the information. NGOs would like to urge other stakeholders to follow the example of MIME and provide information on their activities. This includes information on military development zones (MOMD) and maps, ESIA's and management plans of annual bidding coupes allocated for 2006 (FA).

NGOs also recommend that all forestry and plantation operations in future should follow Forest Stewardship Council (FSC) standards, with broad involvement of and consultation with affected communities, in line with international best practice.

- (11.4) NGOs would like to see a transparent process that follows up on allegations related to the misuse of World Bank funds for the LMAP.
- (11.4a) In order to improve the process of systematic land registration and increase the number of issued land certificates, NGOs recommend a) an increase in public awareness activities and b) the strengthening of conflict resolution mechanisms available to local people.
- (11.4b) It seems like a certain number of land conflict cases have been submitted to the NALDR. There has however not been much communication on the handling of these cases. NGOs would welcome greater openness in the activities of the NALDR. Information on NALDR decisions needs to be provided to development partners and the media at the conclusion of each NALDR meeting and information on NALDR proceedings needs to be made available for the public record. It is moreover hoped that the NALDR will focus on big and complex land conflict cases involving well-connected elites, and work to complement and strengthen existing legal institutions.

## Decentralization and Deconcentration Reform

### i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
6. The RGC's Strategic Framework for Decentralization and Deconcentration (D&D) reforms developed and initial preparation made for full implementation.	6.1 Preparation, Consultation and submission for approval by the National Assembly a set of the organic Laws on democratic development at Sub-national levels.	IMC	First draft by end March 06
	6.2 D&D and organic law implementation framework/outline prepared (preliminary provisional pending the enactment-approval by the Nat. Assembly of the organic laws)	IMC	First and Second Quarter 06
	6.3 Review and formulate D&D support program for reform and Investment for Local Development	IMC	3rd quarter 06

### ii) Monitored progress on Actions Needed

- 6.1 NGOs welcome the fact that the first drafts of Organic Laws (4) have been prepared under the auspices of the Inter-Ministerial Committee (IMC) and submitted to Government for review. Government has indicated to the donor community that it intends to submit final versions of the D&D organic laws to the National Assembly for consideration before the end of the calendar year. There has been no public discussion of the process for review and consultation on draft organic laws prior to finalization and submission to the National Assembly.
- 6.2 Government has indicated to the donor community that an implementation strategy covering 2006-2007 will be finalized during 2006, although a draft covering 2006 is expected shortly. Verbal presentations by government suggest a three-phased implementation time-line, divided into a preparatory stage (2006); an initial phase (2007-2009), a transition phase (2009-2012). As yet, no draft is available for review and comment.
- 6.3 Draft Independent study of Donor Support for Decentralization and Deconcentration (D&D) submitted to IMC and donors for review.

### iii) Recommendations:

- The NGOs recommend that, in collaboration with the RGC, the draft organic laws be subject to a broad public review process involving stakeholders at both national and sub-national levels prior to their finalization and submission to the National Assembly.

## Socially cohesive, educationally advanced, and culturally vibrant society

### i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
<b>10.</b> Foster the development of a socially cohesive, educationally advanced, and culturally vibrant society that is free of illiteracy and disease and follow the RGC's Strategic Plan – Neary Rattanak (women are precious gems).	10.1 Increase the proportion of deliveries attended by skilled health personnel	MOH	On-going
	10.2 Increase the net enrolment in primary school (total, and by sex).	MOEYS	On-going
	10.3 Increase the survival rate from grades 1 to 6.	MOEYS	On-going

### ii) Monitored progress on Actions Needed

10.1 The progress of this indicator could be known through the report of Health System Information, Cambodia Demographic Health Survey, and Midwifery Review. The data collection and analysis of these surveys are now in progress. However, accomplishment of this important indicator (among many other outcome indicators in the health sector) very much depends on the progress of public administration reform to serve people better and to become an effective development partner. The Merit Based Payment Initiatives design is being developed and discussed by MoH, CAR and health partners, and preparatory activities to formulate a draft joint Government-Donor action plan for phasing out of salary supplements are on the way. (Also see section on Public Finance Management on funding for the health sector)

10.2 The net enrollment rate has increased from 76% in 2000-01 to 81% in 2004-05, and the percentage of girls' enrollment was 75% in 2000-01 and rose to 79.5% in 2004-05. (Also see section on Public Finance Management on funding for the education sector)

10.3 The primary survival rate rose from 61% in 2000-01 to 64.8% in 2004-05, but is still far behind the target of 90% stated in the ESSP for 2004-05. The dropout and repetition rates remain high in primary, and the LSS enrollment rates are far behind those in the region. At the present survival rate, we still have far to go to achieve the universal primary education that the Ministry hopes for and the country needs.

### iii) Recommendations:

- (10.1) To effectively increase the proportion of deliveries by skilled health personnel, the deployment of midwives in all the remote rural areas is required. NGOs welcome the fact that the Midwifery Review will be part of the Midterm Review so that the incentive to health professionals, particularly midwives should be resolved and moved forward soon.
- (10.2) The MoEYS needs to continue to emphasize the integration of girls, disabled children, and minority children into the education system and, in partnership with donors, to strengthen its efforts to make more schools and facilities available to all children. Efforts to abolish the informal

payments in school, recruit and pay more teachers and ensure the timely disbursement of PAP funds to the schools are also crucial to this effort.

- (10.2. 10.3) The Ministry needs to strengthen its monitoring system so that the education data upon which policy decisions are made is complete and reliable.

## Public Financial Management Reform Programme

### i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
<u>Z.</u> The RGC's Public Financial Management Reform Program Implemented	7.1 Continue implementing the RGC's PFM Reform Program (complete Stage1/Platform 1 and begin implementing the action plan for Stage 2) and monitor impact through the agreed PFM Performance Management Framework/Indicators.	MEF	On-going

### ii) Monitored progress on Actions Needed

#### Health

NGOs welcome the fact that cash disbursements to the health sector have been greatly improved, when comparing the first quarter of 2006 with the same quarter last year. Unfortunately, this improvement is seen mostly at the central level, but there has been very little progress at the provincial level. In reality, the cash disbursement is about 30% at the central level, but only approximately 2% at the provincial level. This continues to affect the health service delivery to the community.

The meetings between MoH, MoEYS, MEF, and partners regarding the disbursements have made good progress. NGOs would like to see this discussion continue until the cash release to the operational level is improved to all social sectors—health and education, in particular.

#### Education

Since the year 2000, the ESP/ESSP documents and the PAP funds have been essential tools in the effort to achieve universal primary education by 2015. In terms of funding, at the JTWG-Ed in May 2006, it was noted that 100% of the PAP funds for 2006 are still not disbursed, even though semester one is almost over.

### iii) Recommendations:

- (Health) NGOs active in Cambodia's Health Sector are pleased with the tremendous efforts and the progress that the RGC has made so far. We, however, would like to encourage all partners to move towards finalization of the Merit Based Payment Initiative design, to ensure that payments will be based on qualifications and experiences. Since this MBPI is at the moment focusing on the central ministries, NGOs would like to also encourage all partners to strengthen the incentives and performance at the service delivery level, especially in the rural areas.
- Education The NEP and EDUCAM, on behalf of their members, recommend that the Ministry of Education, Youth and Sport in close collaboration with the Ministry of Economy and Finance ensure the timely disbursement of PAP funds to the schools through a proper budget management system so that the education service will be healthier and will outreach to marginalized children in order to achieve the targets to which the government has committed itself.