



Social Assessment

28/03/2017

CEPF Grant n°66558

Vishnu Law Group

Cambodia

Grant Summary

1. Vishnu Law Group
2. Facilitating Civil Society Participation in the Implementation of Cambodia's Environmental Code
3. 66558
4. \$120000
5. April 1, 2017_to March 31, 2018.
6. Cambodia
7. March 28, 2017

8. Indigenous People affected: This section will describe the Indigenous People in the project area.

Our work will concern the Ethnic Pnong communities, located in two communes in Mondulakiri province: the Dak Dam commune, Pich Da district including Pu Les, Pu Chob, and Pu Treng village. And Busra commune, Ou Reang district including Pu Los and La Mes village.

9. Summary of the proposed project: This section will describe what you plan to do and how you plan to do it, with a particular focus on activities implemented in areas inhabited and/or used by Indigenous People.

Our project consists of the implementation of the Code and the development of the collaborative management. We are working with the Ministry of Environment to give new rights to Indigenous People and give them new tools to protect their natural resources.

The Code has the objective to improve Cambodia's ability to protect its environment and conserve its natural resources. The Code will furnish an integrated legal framework that applies across all levels and institutions of government principles, procedures and mechanisms that promote sustainable development.

The Ministry of Environment has recently increased its portfolio of conservation lands, but sorely lacks the resources and capacity to effectively manage it. Meanwhile, entrenched interests continue the destruction of dwindling natural resources, with no viable solution in sight. Indigenous Peoples living in the forest are on the front line. They are the first victims of the deforestation and they don't have sufficient legal rights and leverage to protect their resources. Collaborative management is our effort to respond to these dynamics. By genuinely empowering the Indigenous Peoples who rely most directly upon natural resources for their livelihoods, collaborative management has the potential to spur a commitment to conservation and improved natural resources management far beyond what is currently possible.

There are without question tremendous challenges with collaborative management: local community capacities, local authority intransigence, hierarchical power dynamics, just to name a few, but considering the current trajectory of natural resources destruction in Cambodia, collaborative management may well be the country's last, best chance to achieve some measure of sustainable conservation.

We have a step by step approach for this project. For the Code's enactment, we have carefully mapped out exactly what steps need to be taken, with which actors, and in what sequence. Our aim during each step of the process is to be as forthcoming as possible with context and information for all stakeholders, enabling them to be as informed as possible as they deliberate the Code's contents. At the same time, our parallel objective is to defend the key essence of the Code to the greatest extent possible in the face of whatever criticism we may

encounter during the overall process.

We recognize collaborative management as one of the most important innovations contained within the entire Code. Considering the keen interest in it that was generated during the process of creating the Code, early implementation is essential. The steps towards that end in the project are strategically designed to demonstrate collaborative management as on the one hand a viable and powerful innovation in natural resources management, yet on the other hand a logical developmental step building on existing experience in the country, particularly with the Community Protected Area system. Achieving these parallel aims will require delicate and considered planning and implementation.

10. Potential impacts: This section will assess expected project impacts (both positive and negative) on Indigenous Peoples.

Undoubtedly, our work on the Code and the collaborative management will have significant effects on the concerned Indigenous Peoples. Their day to day lives will change, they will interact with many new stakeholders and receive new rights and responsibilities. The challenge will be to ensure that this entire process provides real benefits in terms of their interactions with their natural resources.

While our intentions are good nevertheless we are aware of the fact that our action could disrupt Indigenous People because their daily routine will change and every life change is complicated. It will be hard sometimes to understand precisely their sensibility towards these changes. That's why it will be essential to do our best to understand the local communities and their feeling about the impact of our efforts in order to make it acceptable and useful for them.

11. Participatory preparation: This section will describe the participation of affected communities during the project design process (i.e. prior to submission of the full proposal), and explain how Free, Prior and Informed Consent was obtained.

Collaborative management is the key point of our strategy concerning this issue. Our goal is to give real powers to the local communities who rely most directly upon natural resources for their livelihoods. The Code dedicates an entire title to collaborative management. There is this idea to share roles and responsibilities between local and authorities in the use and management of natural resources. Indigenous will have the right and the responsibility to conduct the collaborative management. The code provides for them the possibility to have technical advices from technical partners in order to help to discuss the proposals, to emit critics and at the end to give informed and free consent. Our actions will make sense only if indigenous people will participate to it and accept it.

We have already been working in the past with the two communes concerned by the project. For two years we have been supporting these communities' efforts to resolve a dispute with a nearby economic land concession. Vishnu worked closely with its partner CEDT and also with local NGOs to understand the communities' internal dynamics and use of land and help them in their communication with the company and local authorities. During this time we discussed with the communities about the opportunity to implement

collaborative management, and they were strongly interested about it. We have created a trusting relationship with the communities that will help us for the pursuit of this project.

Specifically on this point, since 2015, Vishnu and CEDT have been working with American University in Washington, D.C. and other regional partners on a project funded by the U.S. State Department Democracy, Rights and Labor office (DRL) to create an innovative model of resolving land disputes in Cambodia. After careful assessment, we selected the area of Dak Dam and Busra communes to be the pilot site for implementation. CEDT has since that time led interactions with the local communities, supporting the community to make local maps and develop its strategy for resolving its land dispute with the Malaysian company Megafirst, which has a concession on traditional village lands.

While in the process of implementing this work CEDT also conducted extensive research and training for local communities in other parts of the country on collaborative management under separate funding, becoming one of the leading groups in Cambodia in terms of understanding the significance of collaborative management. Meanwhile, Vishnu and CEDT, in the course of implementing the DRL project in Dak Dam and Busra communes, recognized these communities' significant commitment and motivation to manage their resources. Informal conversations ensued regarding collaborative management. Community leaders were quite interested, and the conversations became more detailed, so much so that at this point the Dak Dam and Busra communities have perhaps the best understanding of the specifics of collaborative management among local communities within Cambodia.

The communities have directly expressed a strong and repeated interest in being an early pilot site. Vishnu and CEDT perceive this as very genuine commitment, since during the entire course of discussions about collaborative management there had been no offer of funding or project benefits to the community (indeed, until now no funding has been in place). The relative lack of outside donor engagement in the Busra and Dak Dam area, along with the informal manner in which the topic was first raised (instead of being a concrete offer for project collaboration, along with the pressure that such dynamics often bring) has in fact created positive dynamics in which the community has been able to more clearly understand the significance of collaborative management and assess the merits of engaging in it.

12. Mitigation strategies: This section will outline measures to avoid adverse impacts and provide culturally appropriate benefits.

Collaborative management will have for function to ensure the avoiding of adverse impacts. By their inclusion in the discussion and in the process of decision-making, the Indigenous People will be able to avoid adverse impacts and choose the best approach for themselves.

The goal is to establish a real partnership approach with the communities. First, we must take time to explain clearly the rationale and benefits of our work. We must also be sure to genuinely provide the Indigenous People with full rights and opportunity to discuss, criticise, and raise suggestions, allowing them to clearly express their vision and preferences. Working in this way we will together be able to find the best approach for them and for environment protection.

13. Monitoring and evaluation: This section will explain how compliance with the safeguard policy on Indigenous Peoples will be monitored, and reported to CEPF and/or the Regional Implementation Team. Monitoring and evaluation methodologies should be adapted to the local context, indicators, and capacity.

The entire project team will be specially trained on safeguard policy before the beginning of the project. There then will be internal follow up discussions every three months in order to get feedback about impact of the project on the Indigenous Peoples. Furthermore we will conduct periodic discussions with other independent research teams working with Indigenous People in the same area to gain their insights as to the benefits and impacts of the project on the affected communities.

14. Grievance mechanism: All projects that trigger a safeguard are required to provide local communities and other interested stakeholders with means by which they may raise a grievance with the grantee, the relevant Regional Implementation Team, the CEPF Secretariat or the World Bank. Affected local communities should be informed of the objectives of the grant and the existence of a grievance mechanism. Contact information of the grantee, the Regional Implementation Team and the CEPF Grant Director should be made publicly available, through posters, signboards, public notices or other appropriate means in local language(s). Grievances raised with the grantee should be communicated to the Regional Implementation Team and the CEPF Grant Director within 15 days, together with a proposed response. If the claimant is still not satisfied following the response, the grievance may be submitted directly to the CEPF Executive Director via the dedicated email account (cepfexecutive@conservation.org) or by mail. If the claimant is not satisfied with the response from the CEPF Secretariat, the grievance may be submitted to the World Bank at the local World Bank office. Please describe the grievance mechanism that you will use for your project, and how you will ensure that stakeholders are aware of it.

In order to effectively implement the responsibilities defined in the Code, we have established adequate grievance mechanisms to provide the appropriate remedies for potential breaches of the Code and potential breaches to indigenous people's rights.

The Code contemplates four types of environmental complaints: civil, criminal, administrative, and public interest. It gives latitude to locals to find the best way to fight an illegal decision or action which contravenes their rights.

The Code sets also out-of-court mechanisms for the resolution of disputes relevant to it taking the form of mediation committees. The code provides for a new national level mediation committee and broadens the responsibilities of the existing commune/sangkat level to mediate local disputes to account for the expertise required for environmental concerns. It is another way for indigenous to protect their right outside usual courts.

Furthermore as environmental and natural resource complaints require unique knowledge and expertise, a national/provincial court of first instance specialized in environment with specialized procedures is envisioned to be developed.

Also the Code defines precisely many procedural elements, including investigation, preservative relief, and evidence, in order to help people without judicial knowledge such as the indigenous people to learn how to protect their rights.

Public participation is emphasized. Public interest complaints may be filed by an organization and these complaints have protection against strategic litigation to deter public participation. Those kinds of complaints can be useful for the protection of Indigenous people's rights.

We will be sure to spend sufficient time to provide information about the grievance mechanisms. We will take care to ensure full understanding of those mechanisms. It will be essential to make sure that the communities know their rights and how to defend them.

We will also provide full information about the special CEPF grievance mechanism. This information will be provided during the course of regular meetings that we will conduct with the community members about the implementation of the project. We will also develop a simple poster for the communities to display. We may request further information from CEPF for this purpose, including a model poster in Khmer language and details of the grievance mechanism so that we can properly explain all details to the community members.

- 15. Budget:** This section will summarize dedicated costs related to compliance with the safeguard policy on Indigenous Peoples. These costs should be incorporated into the budget of the CEPF grant and/or covered by co-financing.

All costs related to compliance with the safeguard policy on Indigenous peoples are already incorporated into our budget through activities including close work with local communities. We do not expect additional costs.