



Food and Agriculture  
Organization of the  
United Nations

# CLIMATE CHANGE AND TENURE RIGHTS

Interlinked challenges in Cambodia



---

Policy brief



# CLIMATE CHANGE AND TENURE RIGHTS

## Interlinked challenges in Cambodia

---

### Policy brief

Fabiano de Andrade Correa and Louisa J.M. Jansen

Food and Agriculture Organization of the United Nations  
Rome, 2022

Required citation:

de Andrade Correa, F. and Jansen, L.J.M. 2022. *Climate change and tenure rights: Interlinked challenges in Cambodia – Policy brief*. Rome. FAO.  
<https://doi.org/10.4060/cb8144en>

The designations employed and the presentation of material in this information product do not imply the expression of any opinion whatsoever on the part of the Food and Agriculture Organization of the United Nations (FAO) concerning the legal or development status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. The mention of specific companies or products of manufacturers, whether or not these have been patented, does not imply that these have been endorsed or recommended by FAO in preference to others of a similar nature that are not mentioned.

The views expressed in this information product are those of the author(s) and do not necessarily reflect the views or policies of FAO.

ISBN 978-92-5-135558-9

© FAO, 2022



Some rights reserved. This work is made available under the Creative Commons Attribution-NonCommercial-ShareAlike 3.0 IGO licence (CC BY-NC-SA 3.0 IGO; <https://creativecommons.org/licenses/by-nc-sa/3.0/igo/legalcode>).

Under the terms of this licence, this work may be copied, redistributed and adapted for non-commercial purposes, provided that the work is appropriately cited. In any use of this work, there should be no suggestion that FAO endorses any specific organization, products or services. The use of the FAO logo is not permitted. If the work is adapted, then it must be licensed under the same or equivalent Creative Commons licence. If a translation of this work is created, it must include the following disclaimer along with the required citation: "This translation was not created by the Food and Agriculture Organization of the United Nations (FAO). FAO is not responsible for the content or accuracy of this translation. The original [Language] edition shall be the authoritative edition."

Disputes arising under the licence that cannot be settled amicably will be resolved by mediation and arbitration as described in Article 8 of the licence except as otherwise provided herein. The applicable mediation rules will be the mediation rules of the World Intellectual Property Organization <http://www.wipo.int/amc/en/mediation/rules> and any arbitration will be conducted in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

**Third-party materials.** Users wishing to reuse material from this work that is attributed to a third party, such as tables, figures or images, are responsible for determining whether permission is needed for that reuse and for obtaining permission from the copyright holder. The risk of claims resulting from infringement of any third-party-owned component in the work rests solely with the user.

**Sales, rights and licensing.** FAO information products are available on the FAO website ([www.fao.org/publications](http://www.fao.org/publications)) and can be purchased through [publications-sales@fao.org](mailto:publications-sales@fao.org). Requests for commercial use should be submitted via: [www.fao.org/contact-us/licence-request](http://www.fao.org/contact-us/licence-request). Queries regarding rights and licensing should be submitted to: [copyright@fao.org](mailto:copyright@fao.org).

# Contents

Acknowledgements	iv
1. Introduction: unpacking the interlinkages between climate change and tenure rights	1
2. Climate change and tenure in Cambodia	4
3. Challenges and opportunities	10
4. Recommendations	13
References	14
Laws and policies	16

## Acknowledgements

This policy brief was prepared by Fabiano de Andrade Correa and Louisa J.M. Jansen, and has benefited from the review and inputs of (in alphabetical order) Safia Aggarwal, Marianna Bicchieri, Mohamed Langston Diagne, Liva Kaugure, Proyuth Ly, Kosal Oum, Ratana Pen, Mathieu van Rijn, Puthsodary Tat, Chann Tet, Anneleen Van Uffelen and Margret Vidar. The final technical review and editing was done by Louisa J.M. Jansen.

The policy brief was edited by Kim Des Rochers, and laid out by Maria Guardia Marin based on the original designs and illustrations prepared by Luca Feliziani.

FAO wishes to express its appreciation to the Government of Switzerland (Swiss Agency for Development and Cooperation) for the financial contribution that made this publication possible, and to all the individuals named here for their valuable time and expertise.





# Introduction: unpacking the interlinkages between climate change and tenure rights

This policy brief sheds light on the challenges imposed on rural land tenure security by the risks and impacts from climate change, and enables a meaningful policy dialogue on pathways and opportunities to strengthen the protection of legitimate<sup>1</sup> tenure rights in the context of climate change in Cambodia. The brief's objectives are to: 1) provide a broad overview of the major issues involved in the intersection between climate change and land tenure; 2) engage policy-makers and other relevant stakeholders at national and international levels in an informed discussion; and 3) inform further analytical work on these matters. The brief builds on a series of policy briefs aimed at strengthening the recognition and legal protection of customary tenure systems in countries of the Mekong region (FAO and MRLG, 2019), in line with the “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security” (VGGT) (FAO, 2012).

Land use and management (including land tenure rights) and climate change are intrinsically linked. While land provides the basis for human livelihoods and plays a key role in the regulation of the climate system, human use has directly changed

more than 70 percent of the ice-free land surface of our planet causing significant environmental impacts (IPCC, 2020). Further, approximately 23 percent of total anthropogenic greenhouse gas emissions (GHG) that lead to climate change derive from activities in the sectors of agriculture, forestry and other land-use practices. Importantly, emissions from agricultural production will likely increase due to projections of population and income growth and changes in consumption patterns around the globe in the coming decades (IPCC, 2020).

Conversely, climate change has an increasing impact on land and terrestrial ecosystems, with important consequences on the way land can be used and, consequently, on land tenure rights. The 2020 Special Report on Climate Change and Land of the Intergovernmental Panel on Climate Change (IPCC, 2020) noted that climate change poses severe risks to human populations and ecosystems due to increases in global mean surface temperature, leading to desertification (e.g. decreased rainfall), land degradation (e.g. soil erosion, vegetation loss), wildfires, permafrost thaw, and challenges to food security (e.g. decrease in crop yields and food supply instabilities). The report further highlights that the most severe projections are focused on tropical regions, including Asia and Africa, with the highest numbers of vulnerable people, and where warming is projected to result in unprecedented climatic conditions by the mid- to late twenty-first century. Impacts include high risks of soil erosion, declines in crop yields, sea-level rise and more extreme events. Such factors put at risk the livelihoods of farmers and small-scale food producers, foresters and fisherfolk who depend on land and natural resources. This in turn leads to increased displacement and induced migration, both within countries and across borders, disrupted food chains, and enhanced conflicts. Vulnerable groups such as Indigenous Peoples and local

<sup>1</sup> Of note, the concept of “legitimate tenure rights” is a fundamental part of the VGGT, and includes both legally recognized and socially recognized tenure rights, departing from the vision, which only recognizes statutory rights as being legitimate.

communities, women, youth, disabled, elderly and poor are considered among those most at risk.

These grave projections also have important consequences for land and resource governance and associated rights across different landscapes. Changing climate conditions can alter how land and natural resources are accessed and used because they imply geographic shifts in resource productivity, resource scarcity, and land-use patterns. Climate change is also considered both a cause and a consequence of land inequality, which has become a growing phenomenon worldwide. Climate change may reduce agricultural yields and force people off the land, and the more sustainable land practices of small-scale farmers and Indigenous Peoples are threatened by increased pressure on water and other natural resources due to large-scale, environmentally damaging monocultures, which are contributors to climate change (International Land Coalition, 2020). In addition, ethically and gender discriminative, insecure land and resource tenure rights often disincentivize rural people from investing in sustainable land management practices and forest conservation, ultimately leading to poor mitigation and adaptation outcomes in the face of climate variability (Quan and Dyer, 2008).

The VGGT emphasize the importance of respecting and protecting, as well as safeguarding, promoting and facilitating the enjoyment of legitimate tenure rights of those likely to be affected by climate change, particularly farmers, small-scale food producers and other marginalized Indigenous Peoples and local communities (e.g. indigenous and local communities), and groups (e.g. ethnic minorities, women and youth) (VGGT para. 23), and highlight the need to address tenure concerns caused by climate change or natural disasters (VGGT paras. 24 and 25). Important enabling elements in this regard include:

- The recognition and security of all legitimate tenure rights, especially considering that millions of smallholder farmers worldwide hold land under customary tenure systems, enjoying socially recognized tenure rights but frequently lacking legally recognized tenure rights; and the mainstreaming of climate change considerations and responses into land administration and management frameworks (FAO, 2020).
- Tenure security, also considered a direct investment in disaster recovery ability and resilience, as secure tenure rights and systems render land users less vulnerable for eviction or loss of livelihoods in the case of disasters. Accurate and secure land records offer important protection for tenure rights when populations are displaced by climate hazards and disasters (World Bank, 2020a).
- Land and geospatial systems and the data they contain are critical, but also vulnerable to natural hazards and human interference. Relevant strategies to face this include ensuring resilience of land and geospatial information systems by providing digitalized and electronically stored land records; and sharing this information with disaster risk management agencies and the stakeholders, to enable the use of this valuable data in planning and operations (World Bank, 2020b).
- Measures and policies can achieve positive adaptation and mitigation outcomes, while generating revenue and encouraging the rehabilitation of degraded lands. These actions include: a) land-use zoning, spatial planning, and integrated landscape planning; b) degradation neutrality; c) land valuation, as a basis for climate disaster-related insurance and compensation schemes; d) securing Indigenous Peoples and customary land tenure regimes, and validating their practices for restoring ecosystems, as much of the world's carbon is stored in the biomass and soil on the territories of customary land users, including Indigenous Peoples; and e)



incentives, such as payment for ecosystem services, standards and certification for sustainable production, the use of scientific, local and indigenous knowledge, and collective action can achieve positive adaptation and mitigation outcomes, all of which can achieve positive adaptation and mitigation outcomes (IPCC, 2020).

“Climate-proofing” land policies and legislation is important for assessing their ability to address impacts and risks from climate change on tenure governance (Land Portal, 2020). This includes assessing legal and policy frameworks, with a view to:

- identifying how existing land and resource governance regimes – in particular, types of production systems – will be affected by various climate change scenarios, to strengthen tenure security, especially in climate change “hotspots”;
- mainstreaming climate change considerations and responsiveness in the mandate of land-related institutions, while also enhancing cross-sectoral coordination between land (use planning and management) and climate change;
- adjusting national land administration and spatial planning systems to have the resources, tools and data to adequately predict climate change risks, respond to (potential and estimated) climate impacts, and report on climate change adaptation and mitigation actions;
- using new digital technologies and resilient land and geospatial information systems (e.g. electronic land records to enhance tenure security in the face of hazards and disasters), and reducing related threats to paper records, and targeting land registration efforts to disaster prone areas;
- applying a climate lens analysis to the landscape level to clarify how tenure regimes are affected by climate change and enable holistic approaches in response;
- promoting interlinked sustainable land management and climate change adaptation and mitigation actions (e.g.

removing barriers to freedom of crop choice by farmers and promoting resilient crop alternatives, which can enhance adaptation and resilience);

- identifying approaches to address socio-economic dimensions of climate change regarding land rights and access, such as tenure rights of displaced people, and the gender gap in tenure rights and access, which further aggravates the impacts of climate change on women; and
- ensuring that mitigation actions do not threaten tenure security: for example, the growing interest in “nature-based solutions” in the land sector, in view of the Paris Agreement’s emissions neutrality target, might mean more opportunities for sustainable land and natural resources management, while potentially leading to challenges such as increased land value and pressures on tenure security (see Borrás *et al.*, 2020 for a broader discussion of this issue).

Building on the elements outlined above, this brief aims to analyze the potential climate risks posed to rural tenure rights in Cambodia, and to assess the national legal framework’s preparedness to cope with such changes, risks and opportunities for adaptation and mitigation actions.

## 2. Climate change and tenure rights in Cambodia

### 2.1. Climate change risks and challenges in Cambodia

Asia and Pacific, home to one quarter of The Asia and Pacific region is home to one-quarter of the global population, including China, Cambodia, Lao People's Democratic Republic, Myanmar and Viet Nam. This region has the highest proportion of weather-related disasters worldwide, experiencing more than 70 percent of all storms and half of all floods globally (Saghir *et al.*, 2020). Such climate change-related vulnerabilities pose significant threats to agriculture and food security, including drier conditions, higher temperatures, flooding and sea-level rise, and make adaptation a high priority for the region (Saghir *et al.*, 2020). This is particularly relevant as Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam are predominantly rural countries, with rural populations representing 75.8, 63.7, 68.9 and 62.7 percent, respectively, of each country's total (2020 estimates) (CIA, 2020), which are also heavily dependent on agriculture and strongly based on customary land tenure systems.

In this already challenging context, Cambodia has been ranked the fourteenth-most vulnerable country to extreme weather events in the Global Climate Risk Index, based on a 2000–2019 dataset (GermanWatch, 2021). Furthermore, Cambodia is highly susceptible to the negative effects of climate change, including: 1) floods, with the southwest monsoon season ranging from May to October and bringing over three-quarters

of the country's annual rainfall during that period, resulting in frequent floods along the Mekong River (home to 80 percent of the country's population) and the Tonle Sap Lake, which lead to major disasters; 2) droughts, especially in Svay Rieng Province, one of the most drought-prone provinces in the country, where projected rising temperatures could exacerbate an already vulnerable situation, pushing communities in the area beyond coping range; and 3) sea-level rise, which poses significant threats to marine coastal areas that already suffer from storm surges and high tides, and to low-lying areas such as mangrove forests (World Bank, 2021). As an example, adverse climate impacts in Cambodia in 2015 resulted in losses of approximately USD 1.5 billion, equivalent to 10 percent of the country's annual GDP (ClimateLinks, 2019). In addition to extreme weather events, climate change also causes slow-onset events (i.e. events that emerge gradually over time) that pose significant risks, particularly to those who are most vulnerable.

Indeed, climate change acts as a threat multiplier, especially given the limited adaptive capacity of Cambodia's population due to socio-economic challenges such as poverty, malnutrition, agricultural dependence, settlements in flood-prone areas, and public health challenges (Cambodia's NDC 2020). A large portion of Cambodia's rural poor rely on natural resources such as land, fisheries, forests and clean rivers for their livelihoods. A vulnerability assessment in 2014 found that over 17 percent of Cambodia's communities were highly vulnerable, and that more than 31 percent were quite vulnerable to multi-climate-related risks (GSSD, 2017). It is estimated that climate change could reduce GDP by 2.5 percent by 2030 and by 9.8 percent by 2050. This trend would delay Cambodia's accession to upper-middle-income status (UNDP, 2018).

Climate change also poses a significant threat to agriculture, which plays a key role in Cambodia's economy, with around 61 percent of the population living in rural areas (Inter-Censal Agricultural Survey, 2019) and 40 percent working in this sector, though the percentage of the agriculture work force has been halved in past decades (farming was the source of livelihoods for about 80 percent of the population in 1993). About 90 percent of Cambodia's poor and near-poor people live in rural areas (World Bank, 2021b). Agriculture accounts for nearly 21 percent of Cambodia's GDP, and the agriculture sector represents over 1.7 million household agricultural holdings, with an estimated 50 percent of all households in Cambodia involved in agricultural production (Inter-Censal Agricultural Survey, 2019). Family farmers and smallholders represent an important share of Cambodia's agriculture, with an average area of households' agricultural holdings around 1.55 hectares with about 2.2 parcels. Agricultural production is predominantly done at the household level, and as of 2019, among households with agricultural holdings, 61 percent were engaged in subsistence agriculture (Inter-Censal Agricultural Survey, 2019). At the same time, recent government policies focusing on large-scale development, hydropower and protected areas placed limitations on land use and tenure security for smallholder farmers (Diepart, 2018). This profile makes the risks posed by climate change to the agriculture sector even more relevant, given the vulnerability of an important share of the population and the country's prosperity.

Rice is the main staple crop in Cambodia, representing 74 percent of the total cultivated area, particularly in lowland regions (Diepart, 2018). At the same time, over 91 percent of the area cultivated by smallholders is dedicated to more than 100 types of annual crops. This crop diversification might be an important tool to increase resilience

to the effects of climate change. However, important variations are observed between provinces. Lowland rice plains, already more vulnerable to disasters, are also less diversified while agricultural systems in upland provinces have more greater diversity (Diepart, 2018). Studies suggest that failure to provide adaptation measures in face of shifting climatic conditions could result in up to 9.9 percent losses of rice yields in the rainy season and 7.7 percent loss in the dry season yields by 2050, respectively (ClimateLinks, 2019). The poorest farmers (most of whom lack irrigation) are particularly vulnerable to shifts in the timing, frequency, and/or intensity of precipitation. In addition, projections suggest that more frequent flooding in and around the Tonle Sap and the floodplain zones of the Mekong could increase agricultural losses, which are already estimated to be USD 100–170 million per year. In addition, changing climatic conditions further expose crop production to increased outbreaks of agricultural pests and diseases (ClimateLinks, 2019).

Impacts of climate change might also exacerbate ongoing internal migrations. Over the past 15 years, not only has Cambodia seen a rural exodus to cities, but also significant movements from one rural area to another, mostly from lowland to upland regions. This rural migration represents nearly twice the rural-to-urban migration rate (representing over 58 percent versus 24 percent of the total number of migrants) largely representing smallholders' response to rural poverty and landlessness, which is particularly high in lowland regions (Diepart, 2018). As climatic conditions continue to deteriorate – along with major impacts on the availability of arable land, changes in agriculture patterns, and loss of agricultural land due to climate hazards – these migrations will most likely pose significant challenges to tenure security, which should be duly taken into account in spatial planning and land management decisions.

## 2.2. Cambodia's regulatory framework

### 2.2.1. Legal and policy framework on land and forests

The 1993 Constitution of Cambodia established that all persons, individually or collectively, have the right to ownership of land, which will be protected by law (art. 44). The Ministry of Land Management, Urban Planning and Construction (MLMUPC) has primary responsibility for land management, including policy and coordination of land registration and administration, land-use planning, cadastral surveying, mapping, and property valuation. MLMUPC is represented at the provincial level by the Department of Land Management, Urban Planning and Construction. Other ministries involved in land administration include the Ministry of Agriculture, Forestry and Fisheries, and the Ministry of Environment. The Council for Land Policy promotes and monitors the implementation of the 2008 Land Policy Declaration and coordinates land administration, land management, and land distribution to strengthen the implementation of the Land Law and other legislation related to the environment, forests, fisheries, water resources, and decentralization (LandLinks, 2011).

Land management and administration in Cambodia are governed by the 2001 Land Law, which is primarily based on the provisions of the 1993 Constitution and defines the scope of ownership of immovable properties, such as land, trees and fixed structures. The 2001 Land Law states that the state will protect and determine plans for the management of land and natural resources. Further, the 2001 Land Law establishes three main categories of land and tenure rights:

- State land, which can be subdivided into “state public land” (land with public interest value, such as mountains, parks) that cannot be sold or granted in concession, but can be leased for up to 15

years (art. 15); and “state private land”, which can be sold or leased, including long-term leases and land concessions for agro-industrial businesses (art. 17).

- Collective property, which can be granted with regards to monastery lands and indigenous community lands (arts. 20–25).
- Private land, legally owned or possessed by persons or a company (art. 10). While land can only be owned by national citizens, the use of land by national and foreign investors, including through concessions, long and short-term leases, is permitted (Investment Law, art. 16).

The 2001 Land Law also provides that landless people may apply for land for residential and subsistence farming purposes at no cost, as part of a social land concessions scheme (arts. 50 and 51). The beneficiaries may obtain land ownership after fulfilling conditions set out in the 2003 sub-decree on social land concessions, which provides allocations to landless people of state lands for free for residential or family farming purposes, including the provision of replacement land lost in cases of involuntary resettlement.

Spatial planning provisions are envisioned in a separate instrument, the 1994 Law on Land Use Planning, Urbanization and Construction (LLUPUC), which regulates land use nationwide. The LLUPUC sets out the details for the preparation of development and land-use master-plans for the organization and development of cities, provinces and municipalities, which are approved by the National Committee for Land Management, Urban Planning and Construction. The committee was established in 2012 through the Royal Decree NS/RKT/0512/463, as the inter-ministerial and prime institution to direct spatial planning in Cambodia. Further, the LLUPUC is under revision in order to provide a more comprehensive and detailed legal basis for land management and urban planning (MLMUPC, 2016). Considering



the challenges and risks related to climate change (outlined in the section above), it would be of great importance to consider climate change as a key element in land-use planning policies.

Tenure insecurity is often linked to disputes over ownership, and several low-income households live on land where ownership is not recorded in the national land registration system. In these cases, households are protected under possession rights (*paukeas*) instead of the stronger legal category of ownership rights (*kamaset*). Reports suggest that landlessness among rural populations is at 20 percent, and that 40 percent of households have less than 0.5 hectares of farm land (OpenDevelopment Cambodia, 2019a). Certificates of land title can be granted by the local Cadastral Administration Office, although the process of obtaining a land title is lengthy and often includes delays. Beginning in 2002, the Government of Cambodia started efforts to systematically classify and register all land parcels according to the categories detailed in the 2001 Land Law. A Cadastral Commission was created to resolve disputes arising during the course of land registration. The Rectangular Strategy for Growth, Employment, Equity and Efficiency in Cambodia included commitments to step up the distribution of land to the poor and to provide titles to secure legal ownership. In April 2019, approximately 5.2 million land parcels were registered, accounting for 74 percent of the total 7 million land parcels. MLMUPC's plan was reported to have nation-wide land registration, including indigenous communal land registration, completed by 2021 (LandPortal, 2021).

Cambodia's total forest area is 8.5 million hectares, which includes 0.1 million hectares of "other wooded land", it covers over 46 percent of the country's total territory (Ministry of Environment, 2018). Given that a large proportion of the population is rural, forests play

an important role in many people's lives as a source of food, medicine and building products, and as a source of materials and goods for small business ventures. Beyond issues of livelihood, forests also have heritage, cultural and spiritual importance for many people (OpenDevelopment Cambodia, 2019b). Over 84 percent of Cambodian households meet their energy needs through firewood sourced from nearby forests. Since 2000, however, approximately 2 million hectares (equivalent to 23 percent of Cambodia's forests) have been lost due to the expansion of industrial agriculture, mining, illegal logging, firewood collecting and charcoal production. Increased temperatures and changes in precipitation patterns have the potential to influence and degrade the composition of forests and reduce overall forest productivity. In upland forest systems, changes in rainfall patterns and increased temperatures could accelerate degradation caused by agricultural expansion, illegal logging and charcoal production. Extreme weather events, such as heavy rainfall or stronger tropical storms, combined with upland deforestation, could result in increased sedimentation of surface water bodies downslope, and/or increased risk of landslides for downslope populations (ClimateLinks, 2019).

The Ministry of Environment has responsibility for environmental protection (including for conservation of protected areas such as forests and mangroves), environmental quality, environmental impact assessments, and rational use and management of natural resources. Other aspects of environmental and natural resource management are covered by the mandates of other ministries, for example management and conservation of forests outside protected areas are the responsibilities of the Ministry of Agriculture, Forests and Fisheries. The legal framework for the forest sector includes the 2002 Forestry Law, the 2008 Law on

Protected Areas, and the 2006 Guidelines on Community Forestry. The National Policy on Development of Indigenous People, the Policy on the Registration and Right to Use of Land of Indigenous Communities, and the Sub-decree on the Procedure of Registration of Land of Indigenous Communities are also relevant. The 2006 Guidelines on Community Forestry provide a legal basis to grant community management over certain areas of national forests, but the scale of community forestry in Cambodia is still considered low as most forests are under government administration. Both the Forestry Law and the Guidelines on Community Forestry lack legal frameworks to support forest-based community enterprises and the livelihoods of local people.

Overall, weaknesses are pointed out in current policies and legislation in Cambodia in terms of strengthening tenure for forest-dependent communities and individual households. Further, the implementation of such instruments has faced difficulties due to weak institutional capacity, lack of commitment and limited or no resources (Yasmi *et al.*, 2017). Climate change might pose different types of impacts on forests and its uses by different groups, such as degradation and loss of biodiversity and natural resources, with impacts on uses and products, including forest and non-forest ones, which might push populations off their land. In addition, the implementation of carbon markets, which are growing worldwide as approaches to climate change mitigation, have important implications related to the definition of carbon rights. In all of these challenges, land tenure security plays a key role, and should therefore be strengthened.

### **2.2.2. Legal and policy framework on climate change**

The MoE is the focal point for the United Nations Framework Convention on Climate Change through its Climate Change Department, whose responsibilities include: 1) implementing climate change agreements

and other climate change-related tasks; 2) advising the government on climate change negotiation positions; and 3) establishing national climate change policies, plans and legal instruments. The National Council for Sustainable Development (NCSD) was created in 2015 to oversee and manage the preparation, coordination, implementation and monitoring of policies, strategies, plans and programmes related to climate change. The NCSD, chaired by MoE, developed the Climate Change Action Plan 2014–2018 and created the Climate Change Financing Framework to apportion funds specifically for addressing issues related to climate change. Additionally, the Cambodia Climate Change Strategic Plan 2013–2023 provides an overall framework for climate change response and the integration of climate change issues into development planning at national and sectoral levels. Further, the most recent Nationally Determined Contribution (NDC), submitted to the United Nations Framework Convention on Climate Change in 2020, as required by the Paris Agreement, includes several adaptation and mitigation measures that relate to agriculture, forestry and land-use measures. The NDC lists among the proposed mitigation actions to strengthen management of forest conservation areas (e.g. protected areas and flooded and mangrove conservation areas); promote forest land tenure security through forest land classification, zoning, demarcation and registration; and strengthen law enforcement activities.

The relevant legal framework in this area includes the 1996 Environmental Protection Law<sup>2</sup>, which provides for the sustainable use and protection of Cambodia's natural resources, including land, with a leading role

<sup>2</sup> A new Environment and Natural Resources Code is currently in final draft form, and contains many more comprehensive provisions than the one in force. However, at the time of writing this brief, the process has reportedly been stalled since 2017. See: <https://news.mongabay.com/2020/08/in-cambodia-a-sweeping-new-environment-code-languishes-in-legal-limbo/>  
A draft of the code can be found at: <https://data.opendevdevelopmentmekong.net/dataset/eedccd06-df86-45d2-8e96-72afe074284b/resource/adbd2e13-ffbb-43d9-8b73-00bbe837e8e5/download/enr-code-draft-9.1-in-english-25.07.2017.pdf>



envisioned for MoE for its implementation. Moreover, the 2015 Law on Disaster Management has created a framework for disaster prevention, emergency response and post-disaster recovery. Relevant provisions include the development of early warning systems and hazard reports, as well as a post-disaster relief mechanism, including recognition of the rights of all individuals to the protection of life, dignity, property and relief aid during and after disasters. Established in 1995, the National Committee on Disaster Management, functions as a coordination mechanism. A Strategic National Action Plan for Disaster Risk Reduction 2008–2013 was developed along with the integration of disaster management into the National Strategic Development Plan for 2009–2013 and 2014–2018. These mechanisms are key to offering protection of tenure rights in areas likely or actually affected by climate change.





### 3. Challenges and opportunities

Some of the challenges in land governance might be exacerbated due to climate change.

Women's rights and access to land tenure is another important matter to be considered with regards to climate change. The 2001 Land Law ensures equal rights to land for men and women in Cambodia. Gender inequality is also addressed through the Gender Mainstreaming Action Plan and the Ministry of Women's Affairs. There has been a recent change in the land titling process, which is under the responsibility of MLMUPC, to provide registration in the names of both spouses, which has strengthened women's access to land tenure. About 63 percent of all land titles are "conjugal", 18 percent of all titles belong to women only, and 11 percent to men only (Diepart, 2018). Several challenges in implementing these rules persist, however, with female-headed households and women in male-headed households still facing barriers to access land titles. In addition, customary practices undermine principles of joint land ownership, and gender-biased norms often prevent women from exercising or claiming their rights (Land Portal, 2021). In the face of risks and challenges of climate hazards and disruptions, overcoming such challenges becomes even more critical.

Another topic of concern is the need to proactively upgrade the national land administration system to face climate change challenges and risks. Two major aspects are relevant in this regard: 1) access to data on climate change and its likely impacts, as a basis for improved decision-making; and 2) the existence of an accurate and reliable land information system, including a transition into a digital



system of land records to avoid physical records being destroyed by the increasing occurrence of natural disasters (Land Portal, 2020). Integrated land information systems become even more relevant in the context of preventing and managing climate risks as well as implementing, monitoring and reporting adaptation and mitigation actions. They are also useful for forestry inventories, GHG inventories and reporting under the Enhanced Transparency Framework of the Paris Agreement, under the Sustainable Development Goals and the Sendai Framework on Disaster Risk Reduction.

In Cambodia, there is only one cadastral (title registration) system that supports legal land parcel identification of public and private lands. The cadastral system is operated by the district offices of MLMUPC. Out of the estimated 7 million parcels in Cambodia, however, the cadastre covers only 4 million, including privately owned land, indigenous communal land and state land. (Cadastral Template, 2015). Efforts to increase land titling have been made in recent years, with MLMUPC data from 2017 indicating that 4,881,063 titles have been granted to urban and rural families, about 66 percent of the total estimated number of land parcels to be titled. Of these, 3,626,158 titles were granted under a systematic land registration scheme. A considerable number of private land titles have been delivered through a second form of titling called “sporadic land registration” (Diepart, 2018). MLMUPC has started to streamline and unify its land registry under the new Cambodian Cadastral Information System, which will, for the first time, provide timely and accurate information on all registered lands at the central level (FAO and MRLG, 2019). Enhancing the land titling and registration system, including the development of an electronic form of land title, would enhance tenure security of rural populations, especially in the face of climate risks and hazards.

Despite such efforts to title and register land, tenure insecurity remains high, particularly among the poor, women, youth and indigenous groups. In addition, landlessness in rural areas is reported at about 20 percent, with another 40 percent of rural households owning less than 0.5 hectares. Improving land administration and enforcing existing laws will be critical for Cambodia in order to sustain its development path, and to face challenges exacerbated by climate change, including displacements and loss of land, and adequate farming conditions of land that might put rural populations in a situation of tenure and food insecurity. One potential mechanism to face this could be to use social land concessions, which are meant to provide land to landless citizens in order to resettle those displaced by climate change. SLCs constitute a legal mechanism to transfer private state land (for social purposes) to the poor who lack land for residential and/or family farming purposes, including land to resettle families displaced by natural disasters (art. 3.4). Full ownership rights to SLC lands are acquired after five years and full occupation and use of the allocated land. However, according to MLMUPC, as of June 2014, recipients of SLCs included 12,374 families with 113,167 hectares of registered land (for settlement, infrastructure and agriculture), representing 5 percent of the total area granted as economic land concessions (Diepart, 2018). Further, SLCs are considered difficult to implement due to the increase in land prices as a result of land competition by private developers, and a loss of concession land for other purposes, which could decrease state public land available for SLCs in the near future (Thiel, 2013). Overcoming such shortcomings in SLC implementation might provide an important mechanism to enhance and restore tenure security to those affected by climate change.

The legal framework on disaster management is another important area



requiring attention. The 2015 Disaster Management Law, while providing an innovative framework for the country, is considered an “umbrella” type of legislation that relies on subsidiary legislation to be adopted by the executive branch. As such, it requires a decree to establish key operational matters, including the national mobilization procedure after a disaster is declared. The task of drafting such decrees, along with guidelines specified in the Disaster Management Law, is now a priority for full implementation of this law (UNDP, 2017).

New laws are being designed, such as a draft Environmental Code, which will provide a framework and foundation for improved land-use management systems and prevent environmental degradation. A revised Forestry Law, a revised Fishery Law, and an updated Protected Areas Law are under development. The 1994 Land Management and Urban Planning Law is also being revised, and the National Environment Strategy and Action Plan is also being updated and a co-management policy is being developed. These instruments touch on important aspects of traditional, collective land use, and could enhance tenure security, including customary use of natural resources and tenure rights for rural communities (FAO and MRLG, 2019). It is crucial to duly consider and integrate climate change risks and related challenges in such legal revision processes.







## 4. Recommendations

In view of the above, the following recommendations can be made:

- Incorporate climate change risks and impacts in the ongoing revisions of land and climate change legislation, including the 2001 Land Law, and the Land Management and Urban Planning Law. In particular, give due consideration to spatial planning and climate change in view of predicted impacts on land use and related changes for land tenure.
- Finalize the adoption of legislation currently under consideration, such as the Environment Code, and subsidiary legislation on disaster management, which would provide important rules related to protecting land and natural resources.
- Due to the risks posed by climate change (e.g. increased floods and storms), it is important to finalize land registration and titling, and to consider a digital land information system in order to reduce risks associated with loss or damage of land-use records and to improve tenure security in the face of climate change displacements and loss of land. Further, enhancing geospatial systems would provide better and more accurate information on land uses, which can be instrumental in land-use planning that considers climate change risks.
- Enhance the recognition and protection of women's land tenure rights, especially in the implementation of related laws, as climate change might exacerbate already-existing challenges faced by women with tenure insecurity.
- Make use of the legal provisions for social land concessions, including enhancing their implementation, and ensuring spatial planning that guarantees sufficient state public land for such processes, in view of risks of displacements and loss of arable land due to climate change.

- Prevent land degradation and increase land productivity through the establishment of a policy framework and relevant legal documents of climate change and land tenure, and improve the conservation of Cambodia's farm lands (MAFF and FAO, 2021).

## References

- Borras, S., Franco, J.C. & Nam, Z.** 2020. Climate change and land: Insights from Myanmar. *World Development*, volume 129, 104864. <https://doi.org/10.1016/j.worlddev.2019.104864>
- Cadastral Template.** 2015. Country profile: Cambodia. In: *Cadastral Template 2.0* [online]. [Cited 1 April 2021]. <http://cadastraltemplate.org/cambodia.php>
- CIA (Central Intelligence Agency of the United States).** 2020. *World Factbook – People and society*. Washington, D.C. (also available at <https://www.cia.gov/the-world-factbook/countries/>).
- ClimateLinks.** 2019. Climate risk profile: Cambodia. In: *ClimateLinks* [online]. Washington, D.C. [Cited 1 April 2021]. [https://www.climatelinks.org/sites/default/files/asset/document/2019\\_USAID\\_Cambodia percent20CRP.pdf](https://www.climatelinks.org/sites/default/files/asset/document/2019_USAID_Cambodia_percent20CRP.pdf)
- Diepart, J.C.** 2018. State of land in Cambodia: marginalizing or centering smallholder farmers? In: M.L. Ingalls & J.C. Diepart. eds. *State of land in the Mekong Region*. pp. 67–86. Centre for Development and Environment, University of Bern, Switzerland, and Mekong Region Land Governance. Vientiane, Lao PDR with Bern Publishing. Available at: <https://www.mrlg.org/wp-content/uploads/2019/07/Mekong-State-of-Land-May2019-with-New-map-MQ.pdf>
- FAO.** 2012. *Voluntary guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security*. Rome, FAO. 40 pp.
- FAO.** 2020. *Agriculture and climate change: law and governance in support of climate smart agriculture and international climate change goals*. Rome, FAO. 356 pp. (also available at: <http://www.fao.org/documents/card/en/c/cb1593en>).
- FAO and MRLG.** 2019. *Challenges and opportunities of recognizing and protecting customary tenure systems in Cambodia*. Bangkok, FAO. 16 pp. (also available at: <http://www.fao.org/3/CA1034EN/ca1034en.pdf>).



**GermanWatch.** 2021. Global Climate Risk Index 2020: Who suffers most from extreme weather events? In: *GermanWatch* [online]. Berlin, Germany. [Cited 8 April 2021]. <https://www.germanwatch.org/en/19777>

**General Secretariat of the National Council for Sustainable Development (GSSD).** 2017. National Adaptation Plan Process in Cambodia. General Secretariat of the National Council for Sustainable Development/Ministry of Environment. Kingdom of Cambodia, Phnom Penh. Available at: <https://ncsd.moe.gov.kh/sites/default/files/phocadownload/POLICYFRAMEWORK/FINANCING/cambodia%20nap%20process%20document.pdf>

**Inter-Censal Agriculture Survey.** 2019. Final report: National Institute of Statistics, Ministry of Planning in collaboration with Ministry of Agriculture, Forestry and Fisheries. [https://www.nis.gov.kh/nis/Agriculture/CIAS2019/CIAS%202019%20report\\_FINAL\\_EN.pdf](https://www.nis.gov.kh/nis/Agriculture/CIAS2019/CIAS%202019%20report_FINAL_EN.pdf)

**Intergovernmental Panel on Climate Change (IPCC).** 2020. *Climate change and land. A special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems.* Summary for policymakers. Geneva, Switzerland. World Meteorological Organization and United Nations Environment Programme. 36 pp. (also available at <https://www.ipcc.ch/srccl/>).

**International Land Coalition.** 2020. *Land inequality at the heart of unequal societies: research findings from the Land Inequality Initiative* [online]. Rome. [Cited 8 April 2020]. [https://d3o3cb4w253x5q.cloudfront.net/media/documents/2020\\_11\\_land\\_inequality\\_synthesis\\_report\\_uneven\\_ground\\_summary\\_en\\_single\\_page.pdf](https://d3o3cb4w253x5q.cloudfront.net/media/documents/2020_11_land_inequality_synthesis_report_uneven_ground_summary_en_single_page.pdf)

**LandLinks.** 2011. Country profiles: Cambodia. In: *LandLinks* [online]. Washington, D.C. [Cited 1 March 2021]. <https://www.land-links.org/country-profile/cambodia/#1528825062668-7f28c4da-960d>

**Land Portal.** 2020. Land, climate change and environment recounted. In: *Land Portal* [online]. Amersfoort, Netherlands. [Cited 1 January 2021]. <https://www.landportal.org/book/thematic/narrative-land-climate-change-environment>

**Land Portal.** 2021. Cambodia – Context and land governance. In: *Land Portal* [online]. Amersfoort, Netherlands. [Cited 1 March 2021]. <https://landportal.org/book/narratives/2021/cambodia#ref19>

**MAFF and FAO.** 2021. Agricultural development policy, 2021–2030 (forthcoming).

**Ministry of Environment.** 2018. Cambodia forest cover. Phnom Penh, Kingdom of Cambodia. Available at: [https://data.opendevdevelopmentcambodia.net/en/dataset/2ff73b76-1ccd-4d3f-bc6b-bf1edf801a8d/resource/f8ae592c-32ba-496d-818f-470981ef1810/download/cambodia\\_forest\\_cover\\_2018\\_\\_07.12.2020.pdf](https://data.opendevdevelopmentcambodia.net/en/dataset/2ff73b76-1ccd-4d3f-bc6b-bf1edf801a8d/resource/f8ae592c-32ba-496d-818f-470981ef1810/download/cambodia_forest_cover_2018__07.12.2020.pdf)

**Ministry of Land Management, Urban Planning and Construction (MLMUPC).** 2016. Introduction to the Cambodian spatial planning system. Phnom Penh, Ministry of Land Management, Urban Planning and Construction, General Department of Land Management. Available at: [https://orbi.uliege.be/bitstream/2268/199639/1/MLMUPC\\_2016\\_Introduction-Spatial-Planning-Handbook\\_ENG\\_Lowres.pdf](https://orbi.uliege.be/bitstream/2268/199639/1/MLMUPC_2016_Introduction-Spatial-Planning-Handbook_ENG_Lowres.pdf)

**OpenDevelopment Cambodia.** 2019a. Forests and Forestry. In: Open Development Mekong [online]. [accessed 1 April 2021]. <https://opendevdevelopmentcambodia.net/topics/forests-and-forestry/>

**OpenDevelopment Cambodia.** 2019b. Land. In: Open Development Mekong [online]. [Cited accessed 1 April 2021]. <https://opendevdevelopmentcambodia.net/topics/land/>

**Quan, J. & Dyer, N.** 2008. Climate change and land tenure: the implications of climate change for land tenure and land policy. FAO Land Tenure Working Paper 2. Available at: [http://www.fao.org/nr/lt/en/abt/lt\\_en\\_081101\\_en.htm](http://www.fao.org/nr/lt/en/abt/lt_en_081101_en.htm)

**Saghir, J., Schaeffer, M., Chen, A., Ijjasz-Vasquez, E.J., So, J. & Mena Carrasco, M.** 2020. State and trends on adaptation report 2020. In: Global Center on Adaptation [online]. Available at <https://gca.org/reports/state-and-trends-in-adaptation-report-2020/>

**Thiel, F.** 2013. Land law and planning in Cambodia: problems and perspectives. Available at: [https://www.researchgate.net/publication/295967862\\_Land\\_law\\_and\\_planning\\_law\\_in\\_Cambodia\\_problems\\_and\\_perspectives](https://www.researchgate.net/publication/295967862_Land_law_and_planning_law_in_Cambodia_problems_and_perspectives)

**United Nations Development Programme (UNDP).** 2017. Implementing the law on disaster management in Cambodia – Developing subsidiary legislation. New York, New York. (also available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/Cambodia%20DM%20Subsidiary%20Legislation%20Report%20LR.PDF>).

**United Nations Development Programme (UNDP).** 2018. Modelling of climate change impacts on growth. In: UNDP [online]. New York, New York. [Cited 1 June 2021]. [https://www.kh.undp.org/content/cambodia/en/home/library/environment\\_energy/modelling-of-climate-change-impacts-on-growth.html](https://www.kh.undp.org/content/cambodia/en/home/library/environment_energy/modelling-of-climate-change-impacts-on-growth.html)

**World Bank.** 2020a. Understanding poverty: Land. In: World Bank [online]. Washington, D.C. <https://www.worldbank.org/en/topic/land>

**World Bank.** 2020b. Solid ground: increasing community resilience through improved land administration and geospatial information systems. Global Facility for Disaster Reduction and Recovery. Washington, D.C. [Cited 8 April 2021]. <https://documents1.worldbank.org/curated/en/654251588799969067/pdf/Solid-Ground-Increasing-Community-Resilience-Through-Improved-Land-Administration-and-Geospatial-Information-Systems.pdf>

**World Bank.** 2021a. Climate Change Knowledge Portal. In: World Bank [online]. Washington, D.C. <https://climateknowledgeportal.worldbank.org/country/cambodia>

**World Bank.** 2021b. Cambodia. In: World Bank [online]. Washington, D.C. <https://www.worldbank.org/en/country/cambodia/overview>

**Yasmi, Y., Dahal, G.R. & De Bruyn, T.** 2017. Forest tenure in Cambodia, Nepal and Viet Nam. Bangkok, FAO. 95 pp. (also available at: <http://www.fao.org/3/i7667e/i7667e.pdf>).

## Laws and policies

**Climate-Smart Agriculture Strategy.** 2015. Ministry of Agriculture and Irrigation, available at: <http://extwprlegs1.fao.org/docs/pdf/mya169583.pdf>.

**Community Forest Instruction,** Ministry of Natural Resources and Environmental Conservation, Office of the Union Minister, Notification No. 69/2019 Nay Pyi Taw, the 13th Waxing Day of Kasone, 1381 M.E., 8th May, 2019.

**Constitution of the Republic of the Union of Myanmar,** 2008

**Environmental Conservation Law,** The Pyidaungsu Hluttaw Law No. 9/ 2012, the 8th Waxing Day of Tagu, 1373 M.E., 30th March, 2012.

**Farmland Law,** Pyidaungsu Hluttaw Law No.11 of 2012, Day of 8th Waxing of Tagu 1373 ME, 30th March, 2012 (2020 amendment).

**Forest Law,** The Pyidaungsu Hluttaw Law No. 29/2018, the 11th Waxing Day of Tawthalin, 1380 M.E, 20th September, 2018.

**Intended Nationally Determined Contribution.** 2015. The Republic of the Union of Myanmar, available at: <https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Myanmar%20First/Myanmar's%20INDC.pdf>.

**Land Acquisition, Resettlement and Rehabilitation Law,** Pyidaungsu Hluttaw Law No. 24, 4th Wanning Day of Wakhaung, 1381 M.E., 19th August, 2019.

**Law Amending the Vacant, Fallow and Virgin Lands Management Law** (2018), Pyidaungsu Hluttaw Law No. (24), the 2nd Waxing Day of Tawthalin, 1380, 11th September, 2018.

**Law on the Protection of the Rights of Ethnic Nationalities,** Pyidaungsu Hluttaw Law No. 8 of 2015, Day of 7th Waxing of Taboung 1373 ME, 24th February 2015.

**Myanmar Climate Change Master Plan** (2018-2030). 2019. MONREC,

**Myanmar Climate Change Policy.** 2019. The Republic of the Union of Myanmar, available at <https://unhabitat.org/myanmar-climate-change-policy>.



**Myanmar Climate Change Strategy and Action Plan**, 2019, Ministry of Natural Resources and Environmental Conservation (MONREC), available at [https://unhabitat.org.mm/wp-content/uploads/2019/06/MCCS\\_ENG\\_UNH-Website.pdf](https://unhabitat.org.mm/wp-content/uploads/2019/06/MCCS_ENG_UNH-Website.pdf).

**National Land Use Policy**, the Republic of the Union of Myanmar, 2016.

**Natural Disaster Management Law**, 2013, The Pyidaungsu Hluttaw Law No. 21, 2013, The 9th Waning of Waso, 1375, M.E., 31st July, 2013.









Inclusive Rural Transformation and  
Gender Equality Division - Economic  
and Social Development

FAO Regional Office for Asia  
and the Pacific  
39 Phra Athit Road, Phranakorn  
Bangkok 10200, Thailand

**Food and Agriculture Organization of the United Nations**  
Rome, Italy