

Land Reform in Cambodia

Sovann SAR, Cambodia

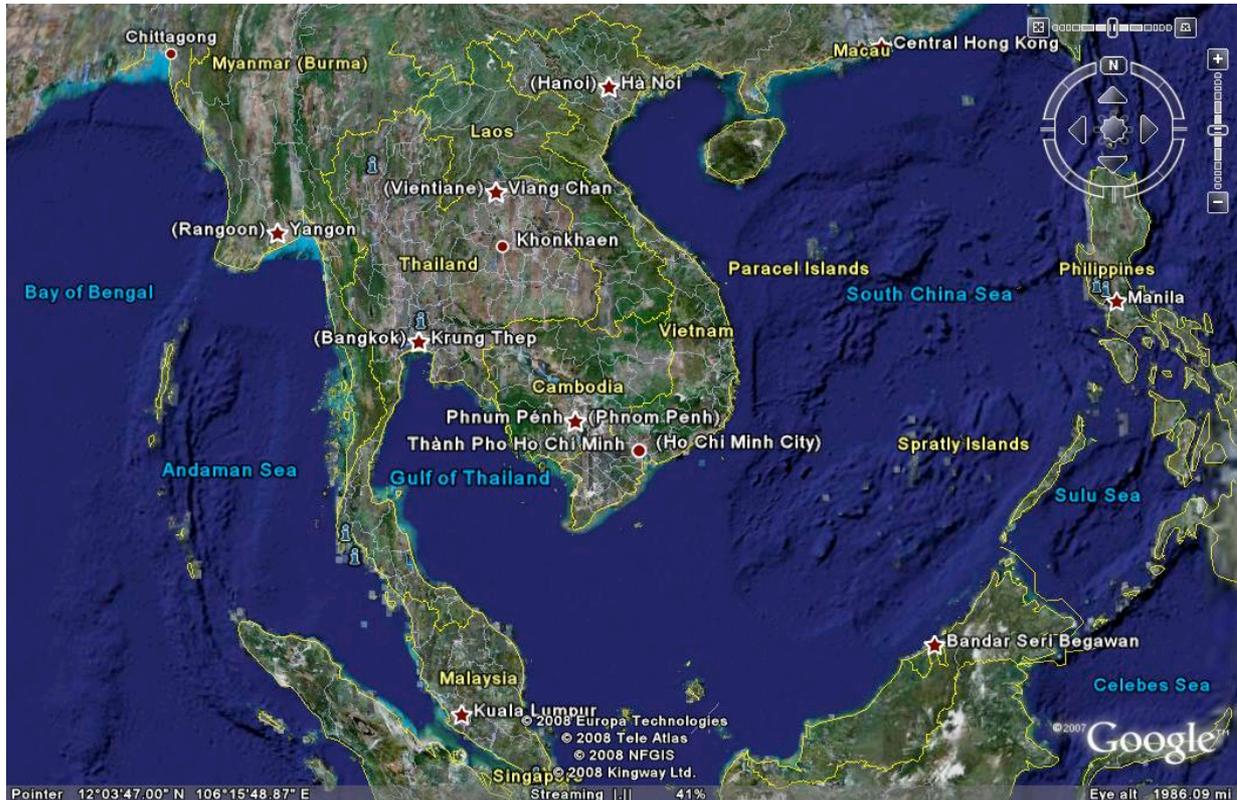
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SUMMARY

This paper aims to describe the status of land reform in Cambodia by looking at the background information, general approaches and basic types of land reform from the world's views and experience, and the efforts taken thus far on land reform in Cambodia. The paper also reflects on key elements, principles, good and bad experiences, innovations, achievements and challenges around the issues of Cambodia's land reform. It also touches on theories and practices of land reform, and provides future perspectives on Cambodia's land reform, such as Comprehensive Land Policy Framework, Spatial Planning Policy, Land Consolidation, etc. Last but not least, the paper also explains the different approaches for the Cambodian land sector reform.

1. BACKGROUND

The Kingdom of Cambodia lies in South-East Asia bordering with Thailand to the North and West, with Laos to the North, with Vietnam to the East and Siam Gulf to the South-West. It covers an area of 181,035 sq. km² with a current population of about 14 millions. Nearly 84% live in the rural areas and engage in agriculture, an important sector of the economy that contributes 40% to the Gross Domestic Product.



(World Political Map – Source: Google Earth)

Cambodia's territory consists of 1 capital city, 23 provinces, 26 municipalities, 159 districts, 1621 Communes, and 13827 villages. The main capital city is Phnom Penh. Khmer is a native language and officially used, followed by English and French.

The majority of population (about 90%) practices Buddhism and others are Islam and Christian. The country is fully independent with multi-party democracy, and reigned by His Majesty the King of the Kingdom of Cambodia under his sovereignty and led by the Prime Minister.

Overview and history of land tenure in Cambodia

Most land in the country has not yet been registered and titled at the parcel level. There are around 600,000 million certificates of land possession issued through sporadic land registration (out of an estimated 4.5 million applications) and around 1.2 million titles of ownership through systematic land registration for both private and state land in both rural and urban areas. The demarcations between land for different uses for forests, agriculture, urban areas etc. are still vague. As such, administrative boundaries of various districts, communes, and other administrative bodies still need to be demarcated.

Historical Changes in Cambodia's Land Tenure System

Land has always been a fundamental asset for the agriculturally-based society of Cambodia. Land rights and land management structures have changed significantly during successive historical periods, and often have been a central focus of government intervention. To understand the roots of current issues for land reform it is necessary to be aware of these historical changes.

Pre-French Colonisation (Pre-1863): Land belonged, technically, to the sovereign. In practical terms most people were able to freely sell their own land and could cultivate as much as they could. With a small population and the absence of a land market, the cultivating proprietor could move from one area to another and assume ownership. Owners had exclusive right to possess, use and inherit agricultural land, without having to fulfill any formalities.

French Colonial Period (1863-1953): After colonizing Cambodia in 1863, the French protectorate changed the traditional land use system in Cambodia by first promulgating a Land Act in 1884, which was not fully implemented before 1912 due to the resistance of Cambodian farmers. By 1930, most of the rice-growing fields were registered as private property and people were also freely allowed to sell their land. More importantly, all free areas or unoccupied land became available, leaving opportunities for those people who sold their land to move into the forests. By 1930, most of the land was divided into plots of less than 5 hectares and large plantations had been established.

Independent Period (1953-1975): After Cambodia gained full independence from France in 1953, the Western system of property ownership continued, with an increase in land transactions. The 1962 Census showed that out of 800,000 agricultural families, 84 percent were "owners only" (neither tenants nor share croppers). Landlessness increased as many deeply indebted, and land owners were forced to sell land to cover their debts.

Democratic Kampuchea (1975-1979): During the Democratic Kampuchea (Khmer Rouge) period, most of the land tenure and cadastral records were destroyed and private property was abolished. All land belonged to the State organization.

People's Republic of Kampuchea (1979-1989): After the downfall of the Khmer Rouge regime, all land belonged officially to the State and 3 kinds of collectives (*Krom Samiki*) were established which occupied and used land for agricultural and residential purposes. Because of around 3 million people killed by the Khmer Rouge, survivors forced to live and help each other, with collective groups composed of G.No.1 (of 30 households), G.No.2 (of 20 households), and G.No.3 (of 4-5 households) respectively. From January 1985, land reform started by keeping only collective group No 3 and the rest moved to individuals by share cropping.

Post 1989 (1989-present): By 1989 the inappropriateness of collectivization and the centrally-planned economic system for Cambodian conditions was fully recognized. The government began reforming the economy towards a free-market system. In addition to implementing major economic reforms, the government reintroduced private property rights in 1989. Instruction No. 3 on Land Management Policy established that all land rights established prior to 1979 were null and void, and that all land belonged to the State. It established the right to occupy and use land and to sell the land provided by the State for domicile and exploitation. It established three categories of land:

1. Land for domicile: To be provided for ownership (*kamaset*) by the provincial committee or municipality;
2. Cultivation land: State land allocated to farmers to manage (*krupkrong*) and for use (*praeprass*);
3. Concession lands: Greater than 5 ha.

Of these three land categories, private ownership rights could be only obtained on land for domicile (category.1); whereas categories 2 and 3, only possession and use rights and the right to exclusively occupy could be obtained.

On the basis of Instruction No. 3 and Sub-decree No. 25 land was redistributed to private households. Land distribution was fairly implemented by the local authorities with full participation by local communities. Only residential/housing land and productive land were redistributed to people to be owned and possessed. The remaining land was kept as State land for future developments.

The 1992 Land Law maintained the situation of rights of possession for agricultural the State continued to be the legal owner. It also created ownership rights for residential properties. Two types of State land are recognized: State public land and State private land. Only State private land can be released for concessions or alienations.

The 1992 Land Law did not provide a solid platform for full tenure security or for effective land management. Its contents did not fully reflect the 1993 Constitution, which recognizes land ownership rights in a broader sense. Nor did it provide a basis for a national program of systematic registration.

The 2001 Land Law incorporates a number of significant changes and enhancements and provides a better foundation for land administration, land management and distribution, especially once it is accompanied by other complementary legislations. Its reforms include

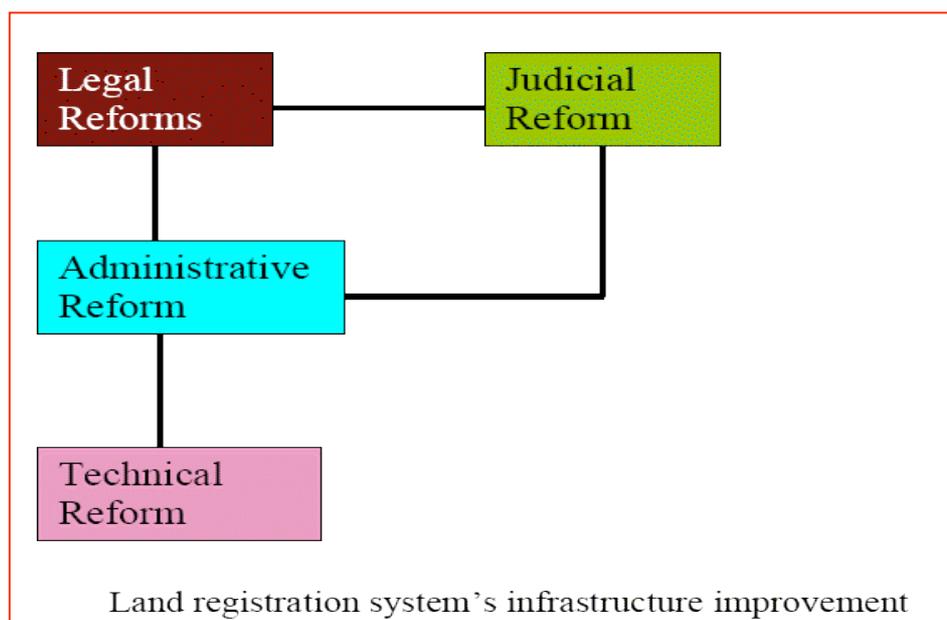
extending private ownership rights to both residential land and agricultural land and officially certifying ownership in a government document known as a title certificate. It enables delegation of land administration from the central to capital/provincial level and charges the land registries with responsibility for cadastral mapping and titling of all State and private land in the Kingdom. It also enables the creation of a single land registry authority with the duty of registering all land in the Kingdom.

2. LAND REFORM THEORIES AND PRACTICES N THE WORLD *(Peter F. DALE & Jonh D. MCLAUGHLIN)*

Based on international experience, there are two main approaches of land reform (i) revolution approach, and (ii) evolution approach.

There are 3 basic types of land reform:

Type 1: make the infrastructure work of land registration system more effectively and efficiently (for instance land consolidation, legislative or tax reform);



- **The legal reforms** have addressed the **modernization, standardization, and simplification** of legislation in relation to land and property registration. These include:

- simplifying the nature of title that can be registered, for instance reducing this to either freehold or leasehold;
 - reducing the number of overriding interests (eliminating rights that do not have a significant impact on the property);
 - making registration compulsory so that economies of scale apply and quality controls can be applied through the examination of abutting properties;
 - converting indexes based upon names into parcel-based indexes that undergo less frequent change;
 - introducing or restricting state guarantees on titles and on boundary records, based on risk management; and
 - coordinating registration law reform with other property-related legislation, for example that associated with physical planning and land use
- **Administrative reform includes:**
 - improving **record management** through **standardization** of procedures and minimizing **duplication**;
 - introducing **risk management principles** in the examination and handling of documents;
 - **capacity building** and advancing new **strategies and policies** for the efficient and **effective employment** of professional and support staff, including the use of the **private sector**;
 - developing ‘**one-stop shopping**’ facilities for the provision of public services, so that customers can obtain answers to their queries through one point of access into the system;
 - **decentralizing** selected operations to the **local community**.
 - **Technical reform** has largely been concerned with the **computerization** of the records, the provision of **on-line access** to databases for selected users, and **modernization of surveying practices** and technology.

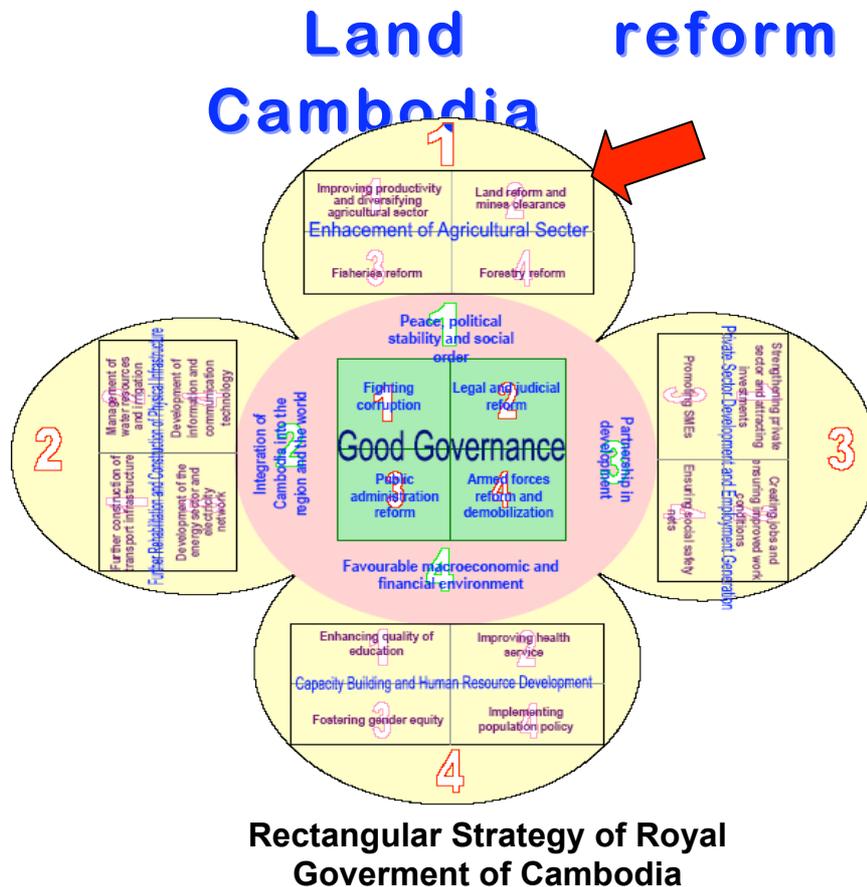
Type 2: Enhance tenure security and promote land market (such as property formalization programs);

Type 3: Promote equality of ownership (such as land redistribution or settlement)

3. LAND REFORM IN CAMBODIA

Land Reform (LR) in Cambodia has been implemented since January 1985, and the 3 key priority areas for land reform include:

1. Land Administration (LA)
2. Land Management (LM)
3. Land Distribution (LD)



*Rectangle 1: Enhancement of Agricultural Sector which covers: (1) improved productivity and diversification of agriculture; (2) **land reform and clearing of mines**; (3) fisheries reform; and (4) forestry reform.*

In order to achieve the directions and goals of the rectangular strategy of Royal Government of Cambodia, the Council for Land Policy has developed a land policy paper that consists of three pillars of the Land Sector Strategy as following:

1. Land Administration for tenure security through land titling and alternative land dispute resolution;
2. Land Management for sustainable development through land use planning; and

3. Land Distribution with equity through land allocation for social and economic purpose.

To convert the Visions into Actions, small projects have been integrated into a Multi-Development partner project namely as Land Management and Administration Project (LMAP) and just recently changed its name to Land Administration Sub-Sector Program (LASSP) with the main objectives of improving land tenure security and promoting the development of efficient land markets. These objectives are still relevant and project/ sub-sector program performance to-date indicates a very good progress towards achieving the objectives.

The following are LMAP/LASSP's components:

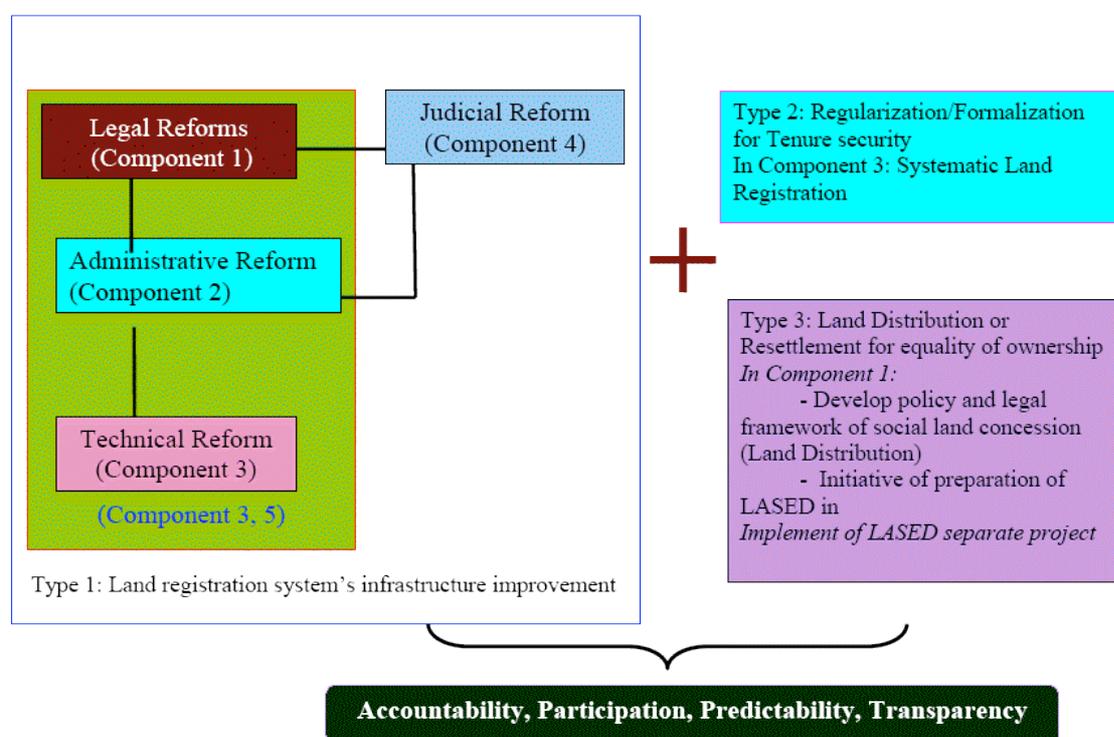
1. Development of land policy and legal framework
2. Development of institution
3. Land titling program and development a modern land registration system
4. Strengthening mechanisms for dispute resolution, and
5. Land valuation and land market development (Land management).

The Key Innovative Elements in LMAP/LASSP

- Council for Land Policy was established to develop the vision and the legal framework to assist the implementation of LMAP by sufficient institutional support and capacity building.
- LMAP was designed with long term vision considering the context, culture and the capacity of Cambodia. To materialize this vision, the RGC has shown its willingness and commitment into a solid action.
- LMAP has developed a road-map and strategy for capacity building, primarily suggested by evolving thinking and practice, in support of the land registration and all the components of LMAP.
- In early stages of LMAP, the project management concentrated on developing mutual trust, building team spirit and encouraged team work based on a transparent process among implementing staff.
- Project Management: Moving from donor-ship to ownership with improved capacity, no parallel structure against any existing government structure. The project management structure is performing a co-ordination function with matrix management arrangement at central level and driven management at provincial level.
- Quality Commitment: "Quality First" is assured by the commitment of LMAP Staff and accept the need to improve always. To achieve this LMAP established a quality commitment unit with a wider network of national, provincial, district level and LRT staff (volunteered) with competency in legal and technical aspects to improve product and services to satisfy the stakeholders with service standards, a feature of Total Quality Management.

- Monitoring and Evaluation System: Development of proper monitoring and evaluation systems, combined with regular reporting systems and independent reviews to report results, impacts and benefits to the stakeholders.
- LMAP has commenced the move from project to program
- Donor co-ordination and cooperation: As LMAP receives funds from various donors, the role and responsibilities of all development partners have been clearly defined to avoid double funding for single targets and any possible overlapping. Further LMAP management always ensures that the host country to lead and coordinate, in line with the national policy and strategy in order to improve aid effectiveness. The vision of cooperation is country- oriented, not donor oriented.

LMAP/LASSP analysis to reflect theories of land reform into practice:



Good Governance in action:

- Established code of conduct for LRTs,
- Complaint handing mechanism related to the ethical practice of the LRTs in place,
- Cadastral service delivery standards publicly informed.
- Public display of adjudication records (30 days provide the voice to voiceless)
- Policy and legal framework is always public consultation.

Progress and achievements:

- Development of Policy and Legal Framework
 - Land Law 2001
 - Interim paper on Land Policy and key policies related to land
 - Legal regulations
 - Declaration of land policy (July, 2009)
- Institutional Development
 - Trained more than 3, 700 staff on various fields (around 1,000 in land registration, 2697 in land dispute resolution),
 - Trained administration commission members more than 7000,
 - Established long-term education – FLMLA (150 BSc Degree & 198 undergraduates)
- Land Titling
 - Adjudicated 1.6 million land parcels and distributed 1.2 million titles (This is not include 80,000 from Pre-LMAP period) revenues from fees and tax around 60 million USD in the last five years. Expenditure below 10 USD/title (38 USD in planned)
- Land dispute resolution
 - Registered - 5,129 cases solved successfully – 17,82 rejected – 1338 ,
underway to be solved – 1,753, withdrawn – 256 cases
- Land Management
 - Land valuation: under development
 - Land management: Developed district strategic plans and PLUP
 - Land distribution: Developed LASED for implementation in three provinces

4. FUTURE PERSPECTIVES

Declaration of the RGC on Land Policy:

The vision of land policy is “to administer, manage, utilize, and distribute land in an equitable, transparent, and sustainable manner in order to contribute to achieving national goals of poverty alleviation, ensuring food security, natural resources and environmental protection, and socio-economic development orienting towards market economy”.

A. Land Administration Sub-Sector

- The objectives of land administration are to register ownership and other right, to prevent and resolve land disputes in order to strengthen land tenure security, and ensure reliability and efficiency of land market.
- Land registration shall comply with principles of good governance, transparency, D&D, and gender equity in order to develop a culture of land registration. This has to be simple, precise, accessible, and at low cost. It shall develop LIS to provide accurate information regarding immovable properties at a reasonable cost.

Field of activities for land administration

- To develop and strengthen the implementation of laws and regulations such as expropriation law, pre-emption law...
- To establish a clear and complete inventory of State immovable properties in a unified database system in order to enhance the efficiency of management;
- To conduct land registration throughout the country in a transparent and effective way for both State land, and individuals' private land.
- To develop a unified Geography Information System across the country
- To develop a participatory, transparent, and officially recognized Land Valuation System.
- To encourage participation of private sector in land surveying under the control of the cadastral administration;
- To continue land disputes resolution through administration commission, cadastral commission at all levels
- To develop self-financing system for land administration,

B. Land Management Sub-Sector

The objective of land management is to ensure administration, protection, and use of land and natural resources with transparency and efficiency in order to preserve environmental sustainability and equitable socio-economic development in rural and urban areas as well as to prevent disputes over land use by regulating land development, construction, resettlement in compliance with the law on land management, urban planning, and construction, decentralization, de-concentration, and good governance policies.

Field of activities for land management

- To Develop national policy and legal framework as well as appropriate procedures for land development in rural and urban areas including construction and resettlement;
- To develop Spatial Planning System indicating zone management or each location based on the need for equitable socio-economic development.
- All land use planning for priority areas
- To administer and control the use of land and natural resources through tools such as: Spatial Planning; Land Use Planning; Zoning...
- To foster land Use Planning at all level with the participation of stakeholders;
- To speed up to develop guidelines on local land use in order to support D&D
- To accelerate decentralization of land management.
- To introduce land readjustment to increase economic productivity and local development including village development.

C. Land Distribution Sub-Sector

The objective of land distribution is to provide clear direction for allocation and use of State land for public and private purposes in a transparent and equitable manner in response to the needs for land of the people, particularly the poor, disabled soldiers, and family of deceased soldiers who have no land or lack of land by implementing social land concession program.

Field of activities for land distribution

- To accelerate establishment of State land inventory list for reserving land being used and distributed with equity, transparency, and accountability;
- To develop and implement a medium and long-term strategies in order to use and distribute land for social and economic purposes in accordance planning with level by ensuring transparency and efficiency, and avoiding negative environmental and social impacts;
- To foster land distribution for social purposes in a timely manner in order to help tackle social problems and prevent illegal State land encroachment;
- To implement partnership among small and large-scale plantation holders, and corporations in agricultural production, and between economic land concession and social land concession with aiming at generating employment opportunity and creating market for local residents.

5. CONCLUSIONS

Cambodia has selected evolution approach and implemented all three basic types of land reform focusing on result-based management (RBM) and accountability with transparency and participation process supported by a predictable policy and legal framework.

In fact, land reform surely contributes to achieving national goals of poverty alleviation, ensuring food security, natural resources and environmental protection, and socio-economic development oriented towards free market economy”.

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BIOGRAPHICAL NOTES

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