



PARLIAMENTARY CENTRE OF ASIA
Strengthening Parliamentary Capacity

Summary Report

Commission 3 of the National Assembly of Cambodia

Legal Analysis of Mangrove Forests in Cambodia

May 2024

Researcher: Mr. Pen Ratana

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Executive Summary

This report reviews Cambodia's legal frameworks related to mangrove forest governance that drive mangrove tenure conflicts and mangrove loss in the country. This study highlighted that while the legal frameworks in Cambodia are sufficient to promote sustainable mangrove conservation, there are still gaps in the laws that contribute to uncertainty over mangrove tenure and overlapping jurisdiction among ministries, leading to contradictions that can hinder the smooth and efficient management of mangrove forests. These conflicting mandates can cause confusion and impede the effective management and governance of these vital ecosystems.

1. Introduction

Cambodia has faced notable mangrove forest loss and tenure conflicts primarily due to human factors. The largest losses occurred in Koh Kong and Sihanoukville. In response, Cambodia has implemented various legal frameworks aiming at mangrove protection. These include the Law on Environmental Protection and Natural Resource Management, the Law on Fisheries, and the Law on Natural Protected Areas. These laws collectively aim to protect mangrove ecosystems by regulating activities that could damage these critical habitats. The Ministry of Agriculture, Forestry and Fisheries, and the Ministry of Environment share responsibilities for mangrove management, with specific provisions to prevent activities harmful to mangroves and promote their conservation.

Despite these efforts, governance challenges persist due to overlapping mandates between different ministries, unclear zoning of protected areas, and inadequate community participation in mangrove management. This report highlights the legislative gaps that drive these challenges. This underscores the complexity of environmental governance, where legal and institutional frameworks must continuously evolve to address emerging challenges and effectively conserve critical ecosystems like mangroves.

2. Objectives

This paper undertakes a legal analysis to identify gaps and overlaps within the existing laws and legal frameworks to determine their effectiveness in supporting sustainable mangrove conservation and upholding community rights to mangrove forests in Cambodia.

The ultimate goal is to provide informed suggestions to the Parliaments of Cambodia to enhance legal frameworks and ensure they align with the objectives of sustainable environmental management and community empowerment.

3. Key findings

3.1 Legislative Frameworks on Mangrove Governance in Cambodia

Cambodia has a comprehensive legislative and policy framework enforced by various ministries and government bodies to manage and conserve mangrove ecosystems. The framework covers aspects of environmental governance aimed at ensuring the sustainable use and protection of mangroves and related natural resources. Ministries such as Agriculture, Forestry and Fisheries; Economy and Finance; Environment; Land Management, Urban Planning and Construction; and Interior enforce the regulations. The legal framework provides strong protection to mangrove forests in Cambodia, which are critical for preserving biodiversity, preventing coastal erosion, and supporting local economies through sustainable fisheries practices.

The Fisheries Law 2006 provides a framework for the management and conservation of marine and brackish water ecosystems, including mangrove forests. The Environmental Protection and Natural Resource Management Law 1996 mandates the Ministry of Environment to create National Environmental Projects and conduct environmental impact assessments. The Natural Protected Areas Law 2008 establishes a legal framework for establishing, modifying, and zoning

protected areas in Cambodia aimed at conserving biodiversity, including mangrove forests. The Law on Forestry 2002 provides for the management, use, harvesting, conservation, and development of all forests within the Kingdom of Cambodia, but it does not apply to the mangrove forests.

The Environment and Natural Resource Code of 2023 applies the Coastal, Island, and Marine in Book 4, Content 3, from Article 625 to Article 633. The Land Law 2001, while not explicitly addressing the management and conservation of mangroves, does encompass land use and management governance, potentially including areas where mangroves are located. The Management, Usage, and Handling State Properties Law 2020 promotes accountability, transparency, and integrity in managing state property. The Water Resources Management Law 2007 defines the terms "banks" and "shore" as they relate to various bodies of water, including rivers, tributaries, streams, canals, lakes, reservoirs, and seas. Other relevant legal frameworks include the National Committee on Coastal Area Management and Development (NCCMD), the "Circular on Development of Cambodian Coastal Areas", "Cabinet Decision No. 45 on Regulations on Creation, Conservation, and Supervision of Marine Resources", and the "Declaration of the Royal Government on Land Policy". The summary of each law can be found in the Annex.

Table 1: List of ministries, other legislation and policies relevant to mangroves

Ministries	Laws/Decrees and Sub-Decrees
Ministry of Agriculture, Forestry and Fisheries	<ul style="list-style-type: none"> ▪ Fisheries Law 2006 and Law on Fisheries Law amendment in 2017 <ul style="list-style-type: none"> ○ Sub-decree No. 25 on Community Fisheries Management 2007 ▪ Forestry Law 2002 <ul style="list-style-type: none"> ○ Sub-decree No. 79 on Community Forestry 2003 ▪ Draft new fisheries law 2024
Ministry of Environment	<ul style="list-style-type: none"> ▪ Law on Environmental Protection and Natural Resource Management 1996 ▪ Law on Natural Protected Areas 2008 ▪ Sub-Decree on Environmental Impact Assessment 1999 ▪ Sub-decree on Water Pollution Control 1999 ▪ Sub-Decree on Solid Waste Management 1999 ▪ Cambodia’s Shoreline Management Strategy (2006) ▪ Zoning guidelines for the protected areas in Cambodia 2017
Ministry of Land Management, Urban Planning and Construction	<ul style="list-style-type: none"> ▪ Land Law 2001
Ministry of Economy and Finance	<ul style="list-style-type: none"> ▪ Law on management, usage and handling state properties 2020 ▪ Sub-decree No. 146 on Economic Land Concessions 2005 ▪ Sub-decree No.148 on the Establishment and Management of the Special Economic Zone 2005

Ministry of Interior	<ul style="list-style-type: none"> ▪ Sub-decree No. 182 on the Functions and Structure of Municipal Administration 2019 ▪ Sub-decree No. 184 on the Functions and Structure of District Administrations 2019
Ministry of Water Resources and Meteorology	<ul style="list-style-type: none"> ▪ Law on Water Resources Management 2007
National Committee on Coastal Area Management and Development	<ul style="list-style-type: none"> ▪ Royal Decree No. 079 on the Law on the Establishment of the National Committee on Coastal Area Management and Development 2012 ▪ Sub-decree No. 171 on Organization and Functioning of General Secretariat of National Committee on Coastal Area Management and Development 2012
Royal Government of Cambodia	<ul style="list-style-type: none"> ▪ Circular No. 001 on Development of Cambodia Coastal Areas 2012 ▪ Cabinet Decision No. 45 on Regulations on Creation, Conservation and Supervision of Marine Resources 2013 ▪ Cabinet Decision No. 64 on the Establishment of a Committee to prepare an amendment to revise the legal framework related to the Management of Forest, Fisheries and Protected Areas 2014, ▪ Circular No. 05 on Necessary Measures to Strengthen Natural Resource Management 2016 ▪ Cabinet Decision No. 127 on the Establishment of the National Committee for the Prevention and Suppression of Natural Resource Crimes 2016 ▪ Cabinet Sor Chor Nor No. 124 on the progress of preparing the Draft Law on Forestry, the Draft Law on Fisheries and the Draft Law on Protected Areas 2023

3.2 Tenure of Mangroves

According to Article 58 of the Cambodian Constitution and Article 12 of the Land Law 2001, the state owns all property in Cambodian territory. Article 13 allows public institutions and any legal persons or entities recognized as such by public law to be owners of immovable property within the conditions determined by this article. This allows the responsible ministries or entities/bodies to exercise their rights to manage the state public and state private property according to Article 8 of the Law on Management, Usage and Handling State Properties 2020.

Through the support of these legal frameworks, the ministries responsible for the management and conservation of mangrove forests can claim authority based on the laws. Based on the Fisheries Law 2006 and Natural Protected Area Law 2008, there are two main ministries which have the right to fully manage the mangrove forests in Cambodia's coastal areas: the Ministry of

Agriculture, Forestry and Fisheries (MAFF) and the Ministry of Environment (MoE). According to the Fisheries Law 2006, MAFF has the right to manage the mangrove forests located in the Marine Fisheries Domain (Article 11) and extend the enforcement of fisheries offences over MoE's Protected Areas (Article 3).

According to the Fisheries Administration of MAFF Annual Report 2023 [1], coral reefs, seagrass, and mangroves in four provinces in Cambodia—Koh Kong, Preah Sihanouk, Kampot, and Kep—cover 75,586 hectares (2023). The majority of mangroves are under the management of MoE as they are located in the protected area. However, there is currently no publicly available data specifying how many hectares of these mangroves have been registered in the MAFF or MoE Inventory list.

Under MAFF, the management and conservation of Mangrove Forests are categorized as Marine Fisheries Management Areas and Community Fisheries (CFis) (Articles 59 through 61 of Fisheries Law 2006), while under the MoE, they are classified as Protected Areas (Wildlife Sanctuary and National Park) and Community Protected Areas (CPAs) (Articles 4 and 21 to 26 of the Protected Area Law). There are 20 CPAs located in the three coastal provinces, most of them are in Koh Kong Province (with 15 CPAs), followed by Preah Sihanouk Province with 3 CPAs, and Kampot with 2 CPAs [2]. Currently, there are 516 CFis across the country, of which 475 are inland fishery communities and the remaining 41 are coastal [1].

Even though most coastal areas where the mangrove forests are located are classified under the management of the MoE and the MAFF, some areas have been converted to private land, and state private land under the concession scheme. Due to the lack of information, land registration data (based on the Land Law 2001), and coordination among MAFF, MoE and MLMUPC, many mangrove forest areas have not been properly demarcated and are under the threat of encroachment, clearance and reclamation [3].

Under the MoE's jurisdiction, some mangrove forests have been granted or converted to state private land through a number of sub-decree(s) on the conversion of state public property to state private property as ecotourism and Special Economic Zones [4].

3.3 Legislative Gaps in Jurisdiction over Mangrove Conservation and Management

Article 3 and 11 of the Fisheries Law (2006) vs. Article 2 and 7 of Natural Protected Areas Law 2008

MAFF is tasked with managing marine and brackish water ecosystems, which include mangrove forests, under the Fisheries Law 2006 (Articles 3 and 11). Also, the Ministry of Environment (MoE) is responsible for managing natural protected areas, which may also encompass mangrove forests, under the PA Law 2008 (Articles 2 and 07). It is important to note that this overlap in jurisdiction can sometimes lead to confusion and conflicts between the two ministries. It must be carefully managed to ensure the effective protection and management of these important natural resources.

In 2016, the government issued Sub-Decree No. 34 on the Arrangement of Duties and Responsibilities of the Ministry of Environment and of the Ministry of Agriculture, Forestry, and Fisheries in relation to the Jurisdiction and Management of Economic Land Concession Areas, Management and Jurisdiction over the Protected Areas, and Conservation of Forestry and Fisheries (2016). Despite the jurisdictional shift that occurred in 2016 between the Ministry of Environment (MoE) and the Fisheries Administration (FiA) under MAFF, the Fisheries Law 2006 provisions that were applicable to fisheries management under the FiA's jurisdiction at MAFF remain in effect. These provisions will continue to apply until they are specifically repealed or overridden by alternative legislation. For instance, the Fisheries Law 2006 still governs the law enforcement of illegal fishing in any protected area (PA) that falls under MoE jurisdiction. This provision is widely considered to be applicable at present, and it retains the permitting power with the FiA, regardless of whether the illegal fishing activities that occurred are subject to FiA jurisdiction.

Land Law 2001, vs Article 7 of Natural Protected Areas Law 2008 vs. Article 11 of Fisheries Law 2006

MLMUPC is responsible for managing land use and policy, including areas that may contain mangroves. Under the environmental protection laws, the Ministry of Environment is also mandated to govern land use, with a focus on the conservation and sustainable management of natural resources found in any designated Protected Areas (Article 7 of the PA Law 2008). Meanwhile, MAFF oversees areas classified as marine fisheries domains (Article 11 of the Fisheries Law 2006).

Sub-decree No. 171 on NCCMD function vs. Natural Protected Areas Law 2008 vs. Fisheries Law 2006

NCCMD is designed to coordinate between various national and provincial ministries for the management of coastal areas, including mangroves. However, its role can sometimes overlap with direct actions taken by individual ministries, leading to potential duplication of efforts or contradictory policies. As seen in the NCCMD organogram, the chair of the NCCMD is the Minister of MLMUPC, the Minister of MoE is a vice chair, and the MoT is a permanent vice chair. There is no crucial role for the Minister of MAFF, which is responsible for governing another part of mangrove forest under MAFF's jurisdiction. Strategic initiatives or development plans from NCCMD may not always align perfectly with the specific conservation laws and policies enforced by MoE or the fisheries management strategies employed by MAFF, causing inconsistencies in policy implementation and management practices.

Article 2 of Water Resource Management Law 2007 vs. Fisheries Law 2006

MOWRAM's mandate under the Water Resources Management Law involves the management of all water bodies and adjacent areas, potentially including mangrove ecosystems, which are crucial for water quality and flood control (Article 2 of Water Resource Management Law 2007). Meanwhile, MAFF's management of fisheries directly impacts the health of mangrove forests, which are essential habitats for many fishery species. Water resource development projects, such as dam or irrigation systems planned by MOWRAM, could disrupt the natural water flow essential

for mangrove ecosystems, thereby conflicting with the conservation efforts under MAFF's fisheries management.

Article 11 of Natural Protected Areas Law 2008 vs. Sub-Decree on Community Fisheries 2006

In areas where mangrove forests are both a critical marine habitat and part of a protected area, there is potential for conflict. For instance, mangrove conservation strategies under the MoE provide a different approach to fisheries management and conservation, especially in zones designated for both conservation and sustainable use. The Community Zone and Sustainable Use Zone may allow resource user groups, particularly the Community Protected Areas (CPAs), to access and utilize the resources in these areas (Article 11 of Protected Area Law 2008).

CFi is under the MAFF (Sub-Decree on Community 2006), aiming to support the community in alleviating poverty through accessing fishery resources but not allowing engagement with the private sector in terms of leasing or renting. CFi could not do commercial fishing activities (medium scale). The draft new fisheries law still does not allow CFi to enter into an agreement with the private sector.

3.4 Legal Analysis on Community Rights to Mangroves

Article 59-63 of the Fisheries Law 2006 vs. Sub-decree on Community Fisheries 2006

In the year 2000, the Community Fisheries (CFis) were instituted as a part of the fisheries reform that was taking place at the time. They were established with the primary goal of ensuring sustainable management of fisheries resources while ensuring equitable distribution of benefits. A further objective of CFis was to increase awareness among local communities about the significance of fisheries resources and to improve the standard of living of local fishing communities by reducing poverty. The Fisheries Law of 2006 is a crucial piece of legislation that supports the establishment of CFis. The Minister of MAFF issued a Praka on Community Fisheries Establishment Guidelines 2007 to support the process of establishing CFis. Currently, there are a total of 516 CFis across the country, of which 475 are inland fishery communities and the remaining 41 coastal [1].

Chapter 11 of the Fisheries Law 2006 provides a legal framework for community fisheries. Articles 59 through 61 detail the rights of Cambodian citizens to voluntarily form community fisheries within their locations, with the procedural guidelines for such formations dictated by a sub-decree (sub-decree no. 25 issued in 2006), and the allocation of specific parts of the fishery domain by the Minister of Agriculture, Forestry and Fisheries. These community fishing areas are determined and periodically reassessed by the Fisheries Administration to ensure they meet the ecological needs and support the traditional practices of the community, with explicit provisions for creating clear boundaries and suitable areas that align with sustainable practices.

Articles 62 and 63 emphasize the operational and management aspects of these community fisheries, specifically how they must adhere to management plans that are subject to approval and regular review by the Fisheries Administration. These plans are crucial for maintaining the ecological balance within mangrove forests, as they regulate fishing activities and prevent habitat degradation. The legislation strictly prohibits the commercialization of these areas (e.g., selling,

exchanging, hiring), ensuring that the community fisheries focus solely on sustainable usage and conservation. Additionally, the Minister holds the power to abolish a community fishing area if it conflicts with public benefits, although this is intended as a measure of last resort. These articles collectively enforce a structured approach to environmental and mangrove protection, integrating local community involvement with national conservation efforts to enhance the sustainability of marine and mangrove ecosystems.

Article 21-26 of Natural Protected Areas Law 2008 vs. Prakas on Guidelines, Procedures and Processes of Community Protected Areas, 2017

Following Article 25 of the Protected Areas Law 2008, the Minister of Environment issued Prakas on the Guidelines on Procedures and Processes of Community Protected Areas (CPAs) Establishment in 2017. In support of the establishment of CPAs, Article 4 specifies that management must ensure the participation rights of local communities, indigenous ethnic minorities, and the public in decision-making processes concerning the sustainable management and conservation of biodiversity.

The PA Law of 2008, Article 25, provides the right for local communities to establish Community Protected Areas in protected areas. This enables local communities and indigenous ethnic minorities to participate in the management and sustainable utilization of natural resources within specified areas of the protected zone. The primary objective of providing this right is to enhance the living conditions of these communities and promote their well-being.

Article 21 stresses the importance of involving local communities, indigenous groups, the public, and civil society in accessing information and participating in conservation efforts for sustainable mangrove management. Articles 22 through 26 detail these communities' specific rights and responsibilities within the conservation framework. The State secures the rights of these groups to engage in traditional uses of natural resources within sustainable use and conservation zones under guidelines that ensure these activities do not adversely impact the mangrove ecosystems (Article 22). Article 23 specifies that the utilization of natural resources by communities must comply with management plans and technical guidelines to sustain the health of the mangroves. Additionally, traditional swidden agriculture is restricted within core and conservation zones to protect these sensitive areas from degradation (Article 24).

Article 44 of Cambodia's Constitution and Article 4 of the Land Law 2001

Article 44 of Cambodia's Constitution recognizes the right of ownership of all immovable properties in the country (Article 4 of Land Law 2001). No one can be deprived of ownership except in the public interest (Article 5), and legal possession is necessary to achieve ownership (Article 6). The State may provide ownership of its immovable property to individuals or legal entities of Khmer nationality, but only within the limits specified by law. All transfers or changes of ownership rights must conform to the general rules for sales, succession, exchange, gift, or court decision as required by law. According to the National Report on Demographic and Socio-economic Situation of Indigenous Peoples in Cambodia 2019, only 255 people claimed to be indigenous people living in the four coastal provinces (15 villages) [5]. The titling of state property after being listed as state public property by responsible ministries or entities has not covered all

state public or state private property. For instance, all the CFis [1] and CPAs managed areas granted by Prakas of the MAFF or the MoE Ministers are yet to receive hard titles. Therefore, the potential of transferring or converting the management rights over the community area located in the mangrove forests might be insecure by converting public state property to state private property law (Article 16) in condition of losing their public interest use.

3.5 Legal Analysis of Conflict Resolution Mechanisms

Article 20 of the Natural Protected Areas Law 2008 vs. Article 14 and Article 72 of the Fisheries Law 2006

The Protected Areas Law 2008, Article 20 describes the conflict resolution process through the establishment of a National Committee for Conflict Resolution on Protected Area Management (NCRPAM), chaired by the Minister of Environment with participation by relevant ministries and institutions as members. It was established to assist in the discussion, consultation and conflict resolution of the protected area.

The Fisheries Law 2006 did not provide a specific article to deal with conflict resolution, but Article 72 allows Fisheries Officials who have become judicial police officers have the power to receive and file complaints, investigate, control, prevent and protect any violation related to fisheries offences. However, Article 14 of the Fisheries Law 2006 lists the conflict resolution principle as a key principle for developing the National Fisheries Management Plan. MAFF did not produce the National Fisheries Management Plan as set out in Article 14, but it implements the Strategic Planning Framework for Fisheries (SPF): Update for 2015-2024 to guide national sectoral document [6].

Article 47 & 237 of the Land Law 2001

In accordance with Article 47 of the Land Law 2001, any disagreement arising between possessors regarding an immovable property must be addressed by following specific procedures for investigation and resolution. The findings of the investigation will be presented to the Cadastral Commission, which is established at the MLMUPC, for making the final decision. If the disputants are not satisfied with the decision, they may take the matter to court. A sub-decree will specify the organization and operational procedures of this Commission. Article 237 states that during cadastral survey operations, any disputes about land parcel measurement or ownership should be resolved by inviting the parties to reconcile. If there is a dispute during the delivery of the title, the Cadastral Administration will only consider the registered owner's name and will not change or deliver the title to anyone else.

In Cambodia, resolving land disputes, particularly for titled or registered properties, incorporates diverse mechanisms, as detailed in a 2016 report by The NGO Forum on Cambodia. These mechanisms are structured to accommodate land conflicts' specific characteristics and complexities. They encompass local governing bodies such as the Commune/Sangkat Council and extend to specialized bodies, including the Cadastral and Administrative Commission.

Furthermore, the National Authority for Land Dispute Resolution and a Special Unit for Dealing with Land Disputes is under the Ministry of Land Management, Urban Planning and Construction (MLMUPC). The legal system, represented by the courts, is crucial in resolving more complex disputes. This multi-tiered approach ensures that land disputes can be addressed at various levels depending on the specific needs and legal frameworks involved.

According to the NGO Forum on Cambodia report published in 2016 [7], there are six formal conflict resolution mechanisms in Cambodia.

- **Commune/Sangkat Council:** Situated at the foundational level of conflict resolution, the Commune/Sangkat Council plays a pivotal role in mediating community disputes, despite lacking formal decision-making authority. Most land conflict cases begin at this council, even though there are no formalized procedures for resolution.
- **Cadastral Commission:** This body handles conflicts related to untitled land and operates at three levels: district/khan, provincial/municipal, and national. A case that remains unresolved at the district level after three attempts is escalated to the provincial level and, if necessary, to the national level.
- **Administrative Commission:** This ad hoc commission is crucial during the Systematic Land Registration (SLR) process, specifically tasked with resolving disputes within SLR adjudication areas. Cases that cannot be settled by this commission are referred to the National Cadastral Commission.
- **National Authority for Land Dispute Resolution (NALDR):** Led by a Deputy Prime Minister, the NALDR addresses complex land disputes that exceed the jurisdiction of the National Cadastral Commission. It includes 26 institutions, with a general secretariat led by a minister and a secretary-general.
- **Working Group for Dealing with Land Disputes under the Ministry of Land Management:** Established in May 2016, this unit focuses on urgent land disputes across provinces, emphasizing reconciliation between disputing parties. Five MLMUPC staff members manage each case.
- **Court:** Cambodian courts are responsible for handling conflicts over titled land. They allow disputes to be escalated through three levels: First Instance, Appeal, and Supreme Courts. However, the process is often criticized for being costly and less accessible to the general populace.

3.6 Progress of Relevant Legislative Reforms to Date

In 2014, The Council of Ministers issued Cabinet Decision No. 64, issued in 2014 [8], which established a committee to amend and revise the legal framework governing forest, fisheries, and protected areas management, reflecting the government's recognition of the need for comprehensive reform in these sectors to ensure effective governance and sustainable resource management which led by the National Committee for Sub-national Democratic Development

(NCDD). The Chairperson of NCDD is the Minister of Interior. In 2022, the NCDD Secretariat, following cabinet decision no. 64 in 2014, sent a detailed letter to the Deputy Prime Minister and Minister of Interior, providing an update on the progress of drafting laws related to forestry, fisheries, and protected areas. The letter emphasized that the draft laws were being carefully adjusted based on high-level directives to ensure their effectiveness and compliance with legal and regulatory requirements. The process involved the active participation of highly qualified technical officers from the Mol, MAFF, and MoE, who were working together to create laws that would promote sustainable development and effective management of natural resources in the country. Later in 2023, there was another announcement, the Sor Chor Nor #124 document from the Office of the Council of Ministers, dated 27 January 2023 [9], which communicates significant decisions concerning the development of new draft laws on forestry, fisheries, and protected areas in Cambodia. The key information in the letter was:

1. **New Legislation:** *The Royal Government has agreed to prepare new laws for forestry, fisheries, and protected areas, rather than amending existing ones. This decision underscores the government's commitment to comprehensive updates in these sectors.*
2. **Roles of Sub-National Administrations:** *These new laws will clearly define the responsibilities of Sub-National Administrations for managing, conserving, and developing forest resources, fisheries, and protected areas within their jurisdictions. The laws will outline the specific functions and responsibilities that are to be transferred to these local authorities, with provisions for the government to issue sub-decrees to formalize these transfers.*
3. **Preparation for Implementation:** *A draft sub-decree concerning the transfer of natural resource management functions and responsibilities to Sub-National Administrations will be prepared. This sub-decree will be ready for submission to the Prime Minister for review and decision immediately after the new laws are promulgated and come into effect upon signing.*

For the Protected Areas Law 2008 and Environmental Protection and Natural Resource Management Law 1996, the Environment and Natural Resource Code 2023 will revoke this law (Article 864).

4. Conclusion and Suggestions

This paper shows that although the current legal frameworks are comprehensive enough to support sustainable mangrove conservation in Cambodia, there remain gaps in the existing laws that drive mangrove tenure insecurity and overlapping jurisdictions between ministries, hence leading to contradictions, which can hinder the smooth and efficient management of mangrove forests. The existence of conflicting mandates can create confusion and impede the effective management and governance of these crucial ecosystems.

These overlapping jurisdictions and conflicts are particularly evident between the Ministry of Agriculture, Forestry and Fisheries (MAFF) and the Ministry of Environment (MoE), as well as other significant bodies such as the Ministry of Land Management, Urban Planning, and Construction (MLMUPC) and the Ministry of Water Resources and Meteorology (MOWRAM).

These conflicts highlight the complexities of managing ecosystems that intersect with multiple regulatory frameworks.

MAFF manages marine and brackish water ecosystems, including mangrove forests, under the Fisheries Law 2006 (Articles 3 and 6). The MoE manages natural protected areas, including marine protected areas and mangrove forests, under the PA Law 2008 (Articles 2 and 7). Despite the 2016 jurisdictional shift between MoE and MAFF, the Fisheries Law 2006 provisions applicable to fisheries management under FiA's jurisdiction at MAFF remain in effect. These provisions will continue unless repealed or overridden by alternative legislation. The MoE has the power to exercise their authority to manage within the Protected Areas by using Fisheries Law for illegal fishing activities with the cooperation of the Judicial Fisheries Officers of MAFF. The coordination of law enforcement among the inter-ministerial committees have been established by the government through Circular No. 05 on Necessary Measures to Strengthen Natural Resource Management in 2016 and the Cabinet Decision No. 127 on the Establishment of the National Committee for the Prevention and Suppression of Natural Resource Crimes in 2016 (see detail in the annex).

The MLMUPC is in charge of managing land use and policies, which includes areas that have mangrove forests. According to the Management, Usage, and Handling State Properties Law 2020 (Article 08) and Land Law 2001 (Articles 03, 16, and 17), most mangrove forests have not yet been officially registered as state public property. The registration process will occur after the mangrove forests are demarcated and recognized as a state public property under the Ministry of Environment (MoE) as a protected area (Wildlife Sanctuary or National Park, etc.). This can also be done for mangrove forest areas through a sub-decree on marine fisheries management areas (including mangrove forest areas), which is defined by Articles 11 and 12 of the Fisheries Law 2006¹. This also impacts CFis and CPAs, whose management areas are located in these areas.

Several mangrove forest areas are threatened due to a lack of information on land registration data (based on Article 3 of the Land Law 2001, and Article 14 of the Protected Areas Law 2008), and coordination among MAFF, MoE, and MLMUPC. These areas have not been properly demarcated, which has led to encroachment, clearance, and reclamation. Unfortunately, the law enforcement system is not strong enough to prevent illegal activities and protect the mangrove forests. Some areas have been converted to state private land under the concession scheme or private land due to the lack of demarcation and registration data available at the sub-national level. Some of the mangrove forests that fall under the jurisdiction of the MoE have been converted into state private land as part of ecotourism projects and Special Economic Zones. This was done through several sub-decrees on the conversion of state public property to state private property. One of the largest ecotourism projects in the country is the Union Development project in Koh Kong province, as well as four Special Economic Zones located in the same province.

¹ There is no Sub-Decree on establishment of marine fisheries management area within mangrove forest area.

To deal with this problem, the government established the National Committee on Coastal Area Management and Development in 2012 to manage coastal resources sustainably followed by Cabinet Decision No. 45, Circular No. 05 and Cabinet Decision No. 127 which were issued in 2016 to prevent illegal activities and enhance the effectiveness of law enforcement across various sectors, including forestry, fisheries, and wildlife protection. Despite its strong legal foundations and coordination among inter-ministerial committees, mangrove forest management in Cambodia faces significant challenges, particularly with conflicts over the management and use of resources among stakeholders and public information availability for any development projects.

The competition between tourist expansion, aquaculture development, urbanization, and other developments is destroying mangrove forests [10]. The available development projects have not been distributed to the local communities on time². This is not in compliance with Article 4 of the Forestry Law 2001, Article 28 of the Fisheries Law 2006, the Environment and Natural Resource Protection Law 1996, and Sub-Decree on EIA 1999.

Cambodia is in the process of renewing the four existing laws, which could be an opportunity for the country to align its legislation, particularly the specific articles that contradict each other, aiming to find consistency and harmonization. The Environment and Natural Resources Code 2023 revokes the Protected Areas Law 2008. The draft new land law is being consulted at the inter-ministerial level and with the wider stakeholders at national and sub-national levels.

Besides the improvement at the legislative level, there remain underlying issues that need to be addressed at the implementation level and the role of parliaments are required to help oversee and monitor the progress of the implementation. Those underlying issues that need to be addressed are as follows:

- **Clear Demarcation of Responsibilities:** It is suggested to develop a more detailed and clear demarcation of responsibilities and jurisdictions for mangrove management among the various ministries. This would involve defining the roles and responsibilities of each ministry involved in the management of mangroves and clearly outlining their respective jurisdictions. This would ensure that there is no overlap of responsibilities and that everyone is aware of their specific roles and duties.
- **Integrated Management Plans:** It is suggested to encourage the development of integrated coastal zone management plans that involve all stakeholders to ensure that all activities are harmonized and support mangrove conservation. This would involve bringing together all stakeholders, including government agencies, NGOs, local communities, and the private sector, to work collaboratively towards the conservation and

² There have been incidents where local communities and authorities were not notified about development projects taking place in their vicinity. For example, there was an occurrence of dumping waste in mangrove forests for constructing roads in Prek Thnout village, Prek Thnout commune, Teuk Chhou district, Kampot, and another incident of dumping sand in the Peam Krasaop Wildlife Century in Mondol Seima district, Koh Kong. The local communities and authorities were not informed about the approval and execution of these projects [11], [12].

sustainable management of mangroves. Such plans would incorporate all aspects of mangrove management, including zoning, restoration, and protection.

- **Inter-ministerial Coordination Committee:** It is encouraged to create or reinforce an inter-ministerial coordination committee that can supervise and resolve disagreements between different ministries, i.e. NCCMD. This committee would be in charge of coordinating the activities of all the ministries involved in managing mangroves and settling any conflicts that may occur. It would also ensure that there is consistency in policy implementation across different jurisdictions.
- **Budget Allocation:** MAFF, MoE, and NCCMD have not received adequate funds to support the conservation and management of mangrove forests [13]. Therefore, it is suggested that the budget allocation for mangrove conservation and management be increased and that the funds be utilized effectively and efficiently. Additionally, exploring alternative funding sources such as private-sector partnerships and international aid may also be considered. This will help to enhance the conservation and management of mangrove forests.

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Annex: Summary of Relevant Legal Frameworks regarding Mangroves in Cambodia

Law on Fisheries 2006

The Fisheries Law 2006 in Cambodia provides a comprehensive framework for the management and conservation of marine and brackish water ecosystems, including specific provisions for mangrove forests. According to Article 11, the Marine Fisheries Domain is categorized into distinct zones ranging from inshore to offshore areas. Notably, it includes "mangrove forest areas including mangrove and forest zones, which are important feeding and breeding habitats for aquatic animals and protected inundated areas" (Fisheries Law, 2006). Article 18 designates mangrove forests as protected conservation areas within Fisheries Management Areas to sustain fisheries resources.

Chapter 6 of the Fisheries Law of 2006 focuses exclusively on the management and conservation of mangroves and inundated forests. Article 26 states, "Setting fires in the inundated forest and mangrove areas is prohibited," except when executed by the Fishery Administration for ecological management purposes such as silviculture or hygiene (Fisheries Law, 2006). Further, the protective measures set out in Article 28 prohibit a variety of harmful activities within mangrove and inundated forest areas. It explicitly bans "Expanding agriculture lands or using lands which are protected by the provisions of this law for other purposes other than development of fisheries in the inundated areas" and "***Cutting, reclaiming, digging out, clearing, burning or occupying flooded forests and mangroves***" among other restrictions.

Law on Environmental Protection and Natural Resource Management 1996

According to the 1996 Law on Environmental Protection and Natural Resource Management, the Ministry of Environment is responsible for creating National Environmental Projects and conducting Environmental Impact Assessments. The ministry's primary duty is to ensure the preservation, development, and sustainable management of natural resources. To achieve this, it must work together with other relevant ministries and conduct joint research and assessments to evaluate the environmental impacts of any conservation, development, and management initiatives. Additionally, the Ministry of Environment has the authority to inform the respective ministries if it determines that natural resources are being used or managed in an unsustainable or imprudent manner. Other ministries' conservation, development, and management initiatives must also receive approval from the Ministry of Environment (Article 10).

In 1999, the government issued three sub-decrees that addressed different environmental concerns. The first sub-decree focused on Environmental Impact Assessment [14], which is a process that evaluates the potential environmental impacts of a proposed project or development. The second sub-decree concerned Water Pollution Control [15], which aimed to regulate and mitigate the discharge of pollutants into bodies of water. Finally, the third sub-decree dealt with Solid Waste Management [16], which aimed to establish guidelines and regulations for proper waste disposal and management. These sub-decrees were important steps towards protecting the environment and ensuring sustainable development in the country.

Law on Natural Protected Areas 2008

The Law on Natural Protected Areas of 2008 (PA Law 2008) establishes a comprehensive legal framework for the establishment, modification, and zoning of protected areas in Cambodia aimed at conserving biodiversity, including mangrove forests. Protected areas are designated as National Parks, Wildlife Sanctuaries, Protected Landscapes, Multiple Use Areas, Ramsar Sites, Biosphere Reserves, Natural Heritage Sites, and Marine Parks (*Marine Protected Areas*), each defined and governed by specific sub-decrees (Article 7).

Under Chapter IV of the PA Law of 2008, Zoning within these protected areas is categorized into four distinct types: Core Zone, Conservation Zone, Sustainable Use Zone, and Community Zone, each with specific management objectives and allowed activities to balance conservation with local community needs (Article 11). Articles 12 to 14 outline the operational details for effective natural resource management, including the Mangrove Forest: zoning criteria based on ecological capacity and management objectives that ensure natural resources are utilized sustainably. Article 13 allows for adaptive zoning modifications in response to ecological changes or new scientific data, ensuring that mangrove protection measures remain effective and aligned with broader conservation strategies. Article 14 mandates formal mapping and collaborative boundary demarcation involving various stakeholders, which is crucial for clearly defining mangrove conservation areas and ensuring compliance with environmental standards.

Law on Forestry 2002

Article 10 of Forestry Law 2002 provides for the management, use, harvesting, conservation, and development of all forests (planted or natural) within the Kingdom of Cambodia, rather than on planted and natural terrestrial forests within the Cambodia (Article 3). Article 3 also stated that the State delegates management of protected areas to the Ministry of Environment as provided for in the Environmental Protection and Natural Resources Management Law 1996 and the Royal Decree on the establishment and designation of Natural Protected areas 1993 and other legislation.

Environment and Natural Resource Code 2023

The Environment and Natural Resource Code of 2023 (ENR Code 2023) deals with the coastal, island, and marine in Book 4, Content 3, from Article 625 to Article 633, which in total is 9 articles. The ENR Code consists of 12 books and 865 articles. The mangrove management authority in the context of national and sub-national administrations is outlined under Articles 627 and 628 of the Coast Island and Marine Management ENR Code. The competent Ministry responsible for Environment and Natural Resources is primarily responsible for managing, protecting, and conserving natural resources in coastal, island, and marine areas, including mangroves. This includes drafting national policies and strategies, implementing conservation measures, and monitoring the impact of various activities on these ecosystems. At the sub-national level, local administrations are tasked with supporting these efforts by adhering to national guidelines and cooperating with the Ministry to manage and restore mangrove forests and other natural resources effectively.

Law on Land 2001

The Land Law of 2001 does not explicitly address the management and conservation of mangroves. However, it does encompass land use and management governance, potentially including areas where mangroves are located. This inference is drawn from several articles within the law that detail aspects of public and private land ownership, along with specific provisions that dictate different types of land use. These sections suggest that while direct mention of mangroves is absent, the broader regulatory framework could indirectly influence how mangrove areas are managed and conserved under the law.

State property is divided into State Public Land and State Private Land (Articles 16 and 17). According to Article 3, the MLMUPC is responsible for managing the cadastral administration of state-owned immovable property and issuing titles related to immovable property in all regions of Cambodia.

Article 2 defines immovable property into three categories:

- Immovable property includes natural land (e.g., forests, cleared land, cultivated land, fallow or uncultivated land, and land submerged by stagnant or running waters) and man-made structures firmly affixed to a specific place;
- Immovable property by purpose means things fixed to the ground or incorporated into the constructions and which cannot be separated therefrom without damaging them or altering them, such as trees, and decorative attachments, as well; and
- Immovable property by law means all rights in rem over immovable and movable properties that are defined by law as immovable property.

Law on Management, Usage and Handling State Properties 2020

The Law on Management, Usage, and Handling State Properties was approved by the National Assembly on 6 October 2020. This law was created with the objective of promoting accountability, transparency, and integrity in the management of state assets. It aims to align its management with the broader goals of the nation's economic, social, environmental, and cultural development. The law applies to all state properties and seeks to optimize their contribution to the national interest within the legal and regulatory framework. The Ministry of Economy and Finance (MEF) is responsible for overseeing the management, utilization, and allocation of these resources, ensuring that they are managed efficiently and sustainably (Article 15).

Public state properties are those utilized for public interest or services, while private state properties include assets that do not serve public services directly but are managed through various means, such as investments, acquisitions, or legal transfers (Article 8).

Law on Water Resources Management Law 2007

Under the Water Resources Management Law of 2007, Article 2 precisely defines the terms "banks" and "shore" as they relate to various bodies of water, including rivers, tributaries, streams, canals, lakes, reservoirs, and seas. According to the law, "banks" encompass the land

typically covered by water along with adjacent soil, rock, or other materials, excluding areas only occasionally inundated. Similarly, a "shore" is described as land usually covered by sand or soil that slopes towards a body of water and is sometimes flooded. Article 6 of the same law mandates that the Ministry of Water Resources and Meteorology (MOWRAM) develop and implement policies for the management, conservation, and development of water resources. These policies must consider the unique needs and demands of each region within Cambodia to ensure the sustainability of water resources and effective water utilization, thereby preventing disasters and resolving conflicts.

Although it does not specifically mention mangroves, this article underpins the necessity of tailored management strategies that would cover mangrove conservation to ensure the sustainability and effective utilization of water resources, thereby preventing ecological disasters and minimizing resource conflicts.

Other relevant legal frameworks

Cambodia's Royal Government has implemented other initiatives to enhance the management and conservation of coastal and marine resources. In 2012, it established the National Committee on Coastal Area Management and Development (NCCMD) to manage the country's coastal resources effectively based on Sub-decree No. 171 on Organization and Functioning of General Secretariat of National Committee on Coastal Area Management and Development.

The "Circular on Development of Cambodia Coastal Areas" sets out guidelines for sustainable development along Cambodia's coastlines, while "Cabinet Decision No. 45 on Regulations on the Creation, Conservation, and Supervision of Marine Resources" focuses on protecting marine environments from harm.

The government has taken steps to improve natural resource management and prevent illegal activities. Measures include "Circular No. 05" and "Cabinet Decision No. 127" both issued in 2016. The Circular calls for stronger law enforcement, inter-agency coordination, and community participation to tackle illegal activities like logging and wildlife trafficking. Cabinet Decision No. 127 establishes a national committee dedicated to preventing and suppressing crimes related to natural resources, aiming to increase the effectiveness of law enforcement across various sectors, including forestry, fisheries, and wildlife protection.

In 2005, the Cambodian government issued Sub-decree No. 146 on Economic Land Concessions, which established a legal and regulatory framework for the granting and management of land concessions for large-scale, market-oriented development. The decree requires the undertaking of public consultations and environmental and social impact assessments as part of the concession process.

Sub-decree No. 118 was created to manage land owned by the state. This law limits the allocation of Economic Land Concessions (ELCs) to state-owned private land only. If the land is classified as state public land, it must be reclassified as state private land before a concession can be granted.

In July 2009 the Royal Government of Cambodia issued a “Declaration of the Royal Government on Land Policy”. The vision of land policy, in Cambodia, is “to administer, manage, use and distribute land in an equitable, transparent, efficient, and sustainable manner in order to contribute to achieving national goals of poverty alleviation, ensuring food security, natural resources and environmental protection, national defense and socio-economic development in the context of market economy”.