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GENDER AND HYDROPOWER NATIONAL POLICY ASSESSMENT

CAMBODIA

2013



CGIAR Challenge Program on
WATER & FOOD
Andes • Ganges • Limpopo • Mekong • Nile • Volta



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CAMBODIA COUNTRY REPORT

The rivers of the world are coming under increasing pressure to provide for growing populations and economic development. At the same time, river management is becoming ever more politicised, as developments frequently redistribute the benefits of river use from riparian dweller to others. Hydropower is an example of a development that frequently benefits some at the expense of others, and gender is one such variable that is often overlooked.

GENDER AND HYDROPOWER IN CAMBODIA TODAY

In some instances hydropower development has made improvements in the lives of communities affected by dams, including women. Women's workloads can be lightened by new access to electricity, for example, or women might gain new rights to land in a resettlement process. In other instances, displacement and the loss of access to natural resources and livelihoods have far outweighed any positive benefits dam construction might have brought to local communities (World Commission on Dams, 2000). Overall, global research has shown that existing gender disparities are commonly aggravated by dam construction, meaning that benefits of hydropower accrue disproportionately to men, and the negative impacts to women (ibid).

Traditional views of gender roles in Cambodia stem from written, customary codes of conduct for men and women known as the Chbab Bros and Chbab Srey respectively. They are hundreds of years old, and although never turned into official statute law, they were both part of the national curriculum until recent years (CEDAW in Action website 2013). The Chbab Srey offers such instruction

as: a woman be patient and submissive within the family; serve and respect her husband at all times and above all else, even in the face of domestic violence; and stay in her place at home tending to her husband and children (ibid). Although attitudes are gradually changing — particularly in urban areas — these traditional ideas are deeply rooted in Cambodian society, and women continue to be regarded as generally inferior to men (CEDAW 2011). These perceptions of women make the achievement of gender equality in the social, economic and political sectors difficult, and women continue to be severely underrepresented in decision-making processes outside the household (ADB 2012). Overall Cambodia ranked 138 out of 186 countries in the UNDP's Gender Inequality Index¹ in 2012 (UNDP 2012).

This report reviews the policy and legislation framework which surrounds Cambodia's hydropower sector — national and international — and assesses the degree to which it supports or hinders gender justice in hydropower development. The method of research has been a wide-ranging desktop review of current national policy and legislation documents of two main types. The first are those specifically designed to guide hydropower development in the country, and these have been examined for clauses which support gender justice in projects. The second are other policy and legislation which include relevant commitments to gender equity or women's rights which could be assumed to remain applicable in the context of hydropower development. The report begins with international agreements or tools which address these same issues. Note that government agencies and structures have not been considered in this research.



1. Calculated based on a range of indicators based on empowerment, reproductive health and labour.

INTERNATIONAL AGREEMENTS AND ASSESSMENT TOOLS

Cambodia has ratified or acceded to the following international protocols which recognise the importance of gender equity:

- CEDAW: Convention on the Elimination of All Forms of Discrimination against Women (adopted on 18/12/1979). Signed 17 October 1980. Ratified 15 October 1992.
- CEDAW-OP: Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (adopted on 06/10/1999). Signed 11 November 2001. Ratified 13 October 2010.
- ICESCR: International Covenant on Economic, Social and Cultural Rights (adopted on 16/12/1966). Signed 17 October 1980. Acceded 26 May 1992.
- ICCPR: International Covenant on Civil and Political Rights (adopted on 16/12/1966). Signed 17 October 1980. Acceded 26 May 1992.
- Fourth World Conference on Women Beijing Declaration (1995)
- United Nations Declaration on the Rights of Indigenous Peoples (voted in favour at the UN General Assembly, 13 September 2007)

A variety of international tools and guidance exist to assist in the assessment and planning of hydropower projects, which recognise gender differentiated impacts to varying degrees:

- The 2011 Hydropower Sustainability Assessment Protocol (HSAP) regards gender as cross cutting at all stages of hydropower development and operation. It does not, however, provide guidelines for rigorous gender impact assessment, mitigation or monitoring and does not provide gender guidance to assessors .
- The Rapid Basin-wide Hydropower Sustainability Assessment Tool (RSAT) was developed in 2010 for application in the Mekong region by USAID, the Mekong River Commission, the World Wide Fund for Nature and the Asian Development Bank. The Tool provides guidance to the 'particular attention' of vulnerable groups including women, female headed households, Indigenous Peoples and those without legal title to land, but does not include guidelines on considering gender differentiated impacts.
- The Mekong River Commission (MRC), in 2009, produced a document entitled 'Preliminary Design Guidance for Proposed Mainstream Dams in the Lower Mekong Basin'. The guidelines encourage consideration of the livelihood and social impacts of dams, but do not raise gender as an issue for special attention.
- The MRCs 'Knowledge Base on Benefit Sharing', produced in 2011 as part of its Initiative on Sustainable Hydropower (ISH), can be used by governments looking to use hydropower investments to fuel local and regional development. It does not mention gender as a consideration.

- In 2012–13, the MRCs Initiative on Sustainable Hydropower and GIZ have initiated a scoping exercise with the aim to integrate gender sensitive activities in its work program, specifically to improve gender mainstreaming in the Lower Mekong Region's hydropower development.
- The MRCs Integrated Capacity Building Programme leads a gender mainstreaming program and provides toolkits; Toolkit #10 on gender and hydropower is currently under review.
- The World Commission on Dams Final Report (2000) recommended the integration of gender justice into hydropower development through special attention for women as recipients of legal and project information, and the inclusion of women's perspectives in the consultation phase.
- As a member of the World Bank and the Asian Development Bank, Cambodia is committed to meeting the provisions in the two Banks' Social Safeguard Policies, both of which include specific policies on gender and Indigenous People. The ADB also produces sector specific gender checklists — but not for hydropower.

NATIONAL POLICY FRAMEWORK

NATIONAL CONSTITUTION

The Constitution of the Kingdom of Cambodia (1993)

supports women and gender equality in several articles:

- Article 31 protects the rights before the law of all Khmer citizens, regardless of sex or other differences, and claims that the state shall recognize and respect human rights including women's and children's rights.
- Article 46 states that 'state and society shall provide opportunities to women, especially to those living in rural areas without adequate social support, so they can get employment, medical care, and send their children to school, and to have decent living conditions'.
- Article 73 commits the state to give full consideration to children and mothers, including nurseries, and other support as needed.
- Article 45 declares that 'all forms of discrimination against women shall be abolished', and that 'men and women are equal in all fields, especially in marriage and matters of the family'.

PROTECTION, RIGHTS, AND DEVELOPMENT OF WOMEN

Cambodia has no legislation dedicated to gender or women's issues, but does have a national women's development program of relevance:

- **Neary Rattanak² III (2009 – 2013)**, focuses on five strategic areas: economic empowerment of women; promotion of women and girls' education and attitude and behaviour change; legal protection of women and girls; promotion of health, nutrition and combating HIV/Aids among women and girls; and promotion of women's participation in decision-making in the public and political sector. Other foci of Neary Rattanak III include gender mainstreaming in national and sectoral policies and the implementation of international conventions.

“The legal framework does not require a Social Impact Assessment (SIA). These issues are instead overseen by the Inter-ministerial Resettlement Committee (IRC) of the Ministry of Economics and Finance (MEF), while line ministries and local authorities are responsible for approving resettlement action plans and compensation rates for projects requiring resettlement (Meach 2008). The fact that one of MEF's objectives is to minimize overall costs for the infrastructure project gives rise to inherent conflicts of interest. As a committee under MEF, IRC is expected to follow instructions from MEF and comply with MEF's project guidelines”. (Suhardiman et al 2011)

PROTECTION, RIGHTS, AND DEVELOPMENT OF INDIGENOUS PEOPLES AND ETHNIC MINORITIES

Ethnic minority women are not represented at the legislative and political level. However the following make provisions for ethnic minorities and Indigenous people in general:

- The **Law on Land (2001)** outlines the land rights of Indigenous peoples in Article 26, but also states 'the provisions of this article are not an obstacle to the undertaking of works done by the State that are required by the national interests...'
- **National Policy on the Development of Indigenous Peoples (NPDIP) (2009)**
- **Policy on Registration and Right to Use of Land of Indigenous Communities in Cambodia (2009).**

RIGHTS TO LAND AND NATURAL RESOURCES

The four documents listed below include gender content:

- Articles 32–34 of the **Marriage and Family Law (1989)** provide for equal gender rights in land ownership, joint or individual, and in inheritance.
- The **Land Law 2001** allows for husbands and wives to co-sign land titles.
- The **Sub-Decree on Social Land Concessions (2003)** guarantees female headed households rights to participate in a social land concession program³.
- The **National Water Resources Policy (2004)** describes a lack of information and coordination in the management of national water resources, and includes a commitment, in redressing these issues, to 'recognise the particular interests in water supply, food and hygiene that women have as the principal givers of care in most households'.

The following documents do not recognise gender as an issue:

- The **Law on Expropriation (2010)**
- The **Law on Forestry (2002)**
- The **Law on Environmental Protection and Natural Resources Management (1996)**
- The **Law on Water Resources Management (2007)**
- The **Draft Sub-Decree on River Basin Management (2011)** (although it does mention livelihoods and socio-economic development).

BROAD NATIONAL DEVELOPMENT PLANS

The following national plans include objectives for gender equity:

- The **National Strategic Development Plan Update 2009 – 2013** recognises that 'women are the backbone of the economy and society'. It contains a number of development objectives for women including employment, education, political participation and safety from violence. It includes a priority to enhance gender mainstreaming in the legal sector, 'by advocating for the development and adoption of any necessary legislation, regulations or law amendments to promote gender equality and protect women's rights'. It also states an aim to 'carry out research and promote dialogue to also promote improved access to legal protection including disabled women and indigenous and ethnic minority women.'
- The **National Program for Sub-National Democratic Development 2010 – 2019 (NP-SNDD)**. The NP-SNDD aims to create a sustainable governance system at sub-national levels which provides economic growth, equitable opportunity for all citizens to participate in community development, sustainable natural resource management and improved public service delivery – with a special emphasis on vulnerable groups including women and ethnic minorities.

2. Neary Rattanak translates as 'Women are precious gems' and is the Royal Government of Cambodia's Gender Equality and Empowerment Strategic Plan; prepared by the Ministry of Women's Affairs.

3. Social Land Concessions are the mechanism whereby land is granted to communities displaced by development

ENERGY SECTOR DEVELOPMENT AND NATIONAL INVESTMENT GUIDELINES

Laws and strategies which do, or may, impact on the development of hydropower in Cambodia include the following, however none make mention of gender considerations:

- The **Law on Electricity (2001)**
- The **Power System Development Plan (2007–2020)**
- The **Renewable Energy Action Plan (2003)**
- The **Sub-Decree on the EIA process, (1999)**
- The **Declaration on General Guidelines for Developing Initial and Full Environmental Impact Assessment Reports**
- The **Law on the Investment (1994).**

SUMMARY

Cambodia has relatively little legislation that is likely to protect or promote the rights of women impacted by hydropower. Several of the main laws either stipulate or assume gender equity, but there is no law that specifically promotes women's rights and development as a national priority. Further, specific laws on natural resources management, investment guidelines and social impact assessment are silent on women's unique concerns. As such, Cambodia has some way to go to translate the commitments made in international human rights treaties into national policy. Although multilateral bank social safeguards may provide binding measures in some cases, in instances of independent financing the degree of gender justice achieved in hydropower will presently be left to be determined on a project-by-project basis.

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NOTES



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