



SUZANNE KELLY

USAID REDUCING DEMAND FOR WILDLIFE

CIVIL SOCIETY AND SOCIAL INCLUSION ASSESSMENT

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Civil Society and Social Inclusion Assessment

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COR Name:	Craig Kirkpatrick
Submitted by:	Peter Collier, Chief of Party USAID Reducing Demand for Wildlife 142 Two Pacific Place, 23rd Floor, Unit 106-107 Sukhumvit Road, Khlongtoey, Bangkok 10110
Prepared by:	Solutions Lab, LLC
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LIST OF ABBREVIATIONS

ACSC	ASEAN Civil Society Conference
AIPP	Asia Indigenous Peoples Pact
AIT	Asian Institute of Technology
AIYP	Asian Indigenous Youth Platform
APF	ASEAN Peoples' Forum
ASEAN	Association of Southeast Asian Nations
CBD	Convention on Biological Diversity
CBO	Community Based Organization
CF	Community Forest
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COVID-19	Coronavirus Disease 2019
CPA	Community Protected Area
CSO	Civil Society Organization
CSSIA	Civil Society and Social Inclusion Analysis
CWT	Counter Wildlife Trafficking
FGD	Focus Group Discussion
FRC	Forest-Reliant Community
GESI	Gender Equality and Social Inclusion
ILO	International Labour Organization
IP	Indigenous Peoples
IPLC	Indigenous Peoples and Local Communities
IRELDI	International Rights, Equality, and Development Index
IWT	Illegal Wildlife Trafficking
LGBTQIA+	Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, and Asexual/Aromantic/Agender
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
LMS	Lower Mekong Subregion
MOE	Ministry of Environment
NCPO	National Council for Peace and Orders
NGO	Non-governmental Organization
NIPT	Network of Indigenous Peoples in Thailand
NRM	Natural Resource Management
PEA	Political Economy Analysis
PES	Payment for Ecosystem Services
PRO-IP	Policy on Promoting the Rights Of Indigenous Peoples

RDMA	USAID Regional Development Mission for Asia
RDW	Reducing Demand for Wildlife
RECOFTC	The Center for People and Forests
REDD	Reducing Emissions from Deforestation and forest Degradation in developing countries
SBCC	Social and Behavior Change Communication
TCM	Traditional Chinese Medicine
UNDRIP	United Nations Declaration on Indigenous Peoples
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
USAID	United States Agency for International Development
WWF	World Wildlife Fund

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The research team is also grateful to the many stakeholders in Cambodia, China, Lao PDR, Thailand, and Vietnam, who agreed to be consulted for this study. Despite continued coronavirus disease 2019 (COVID-19) restrictions, all found time for either in-person or virtual consultations.

Solutions Lab, LLC
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EXECUTIVE SUMMARY

The overarching aim of the Civil Society and Social Inclusion Assessment (CSSIA) is to help inform and achieve greater results and impacts through improved collaboration with civil society and the indigenous and marginalized groups, and to strengthen the mechanisms for participation and coordination in Counter Wildlife Trafficking (CWT) efforts. This CSSIA study is designed to complement the Reducing Demand for Wildlife (RDW) Gender Equality and Social Inclusion (GESI) Analysis, particularly with regard to indigenous peoples and to youth in the region.

The following overarching research questions were identified as the objective of the assessment:

1. What are examples of effective collaboration between communities, Civil Society Organizations (CSOs), donors, and/or local authorities in reducing the demand for wildlife?
2. What would be the most accessible and effective ‘handshake’ platform for communities and policy-makers?
3. Which regional CSO/non-governmental organization (NGO) or other networks could best be engaged and leveraged by the United States Agency for International Development (USAID) to advance CWT-related USAID Regional Development Mission for Asia (RDMA) Regional Development Cooperation Strategy goals?
4. To what degree are wildlife products accessed by frontline communities used for domestic or community use (e.g., food) vs. livelihoods (sale to tourists, middlemen, etc.)?
5. How might communities, specifically indigenous and forest-reliant communities (FRC), leverage traditional practices/beliefs to counter wildlife exploitation?

As the Mekong sub-region transforms from predominantly agriculture-based to industrialized economies, pressures on species and their habitats are increasing. Across the sub-region, infrastructure development is profoundly impacting the environment. The demand for energy locally as well as for export to China and other countries is driving hydro-power development. Planned ports and highway corridors will crisscross the Lower Mekong Subregion (LMS), connecting the region and combining with enhanced communications infrastructure to offer new economic opportunities. However, these projects are also serving as drivers of illegal logging and wildlife trafficking, threatening critical biodiverse landscapes upon which the indigenous people (IP) and the region’s FRCs rely. Since the 1980s, the accelerated flows of global investment and the trade of land-intensive commodities have contributed to growing Gross Domestic Product (GDP) and the enrichment of some societal actors, yet outcomes have been highly unequal; the benefits of development have largely accrued to the demographically smaller urban elite, while costs have largely been borne by the rural poor. This in turn has transformed rural land relations and presented new insecurities for land tenure of both IP and FRCs. These issues impact both indigenous and FRC populations with a fundamental distinction that IP communities frequently lack recognition of basic rights by the state. Despite the accelerated pre-pandemic economic growth of the last three decades, 60 percent of the LMS remains rural. The vast majority of these people are engaged in agriculture. This population not only continues to grow but is also disproportionately poor and reliant on land and forest resources. Due to the rapid growth of its agricultural sector, the Mekong region has become a global center of production and trade for agricultural commodities such as rubber, rice, cassava, wood, sugar cane, and oil palm. Each step forward also presents traffickers with new opportunities to connect with global criminal syndicates as communication and transportation improvements facilitate both legal and illegal trade. For example, when land is cleared for a palm oil plantation and new access roads are created, it eases access to otherwise protected habitats and can ease access to protected species. These developments are coupled with well-documented growing demand for wildlife products and rare wood products, both processed and

semi-processed, from the region's expanding middle class, and new wealth in China. Threats to wildlife and biodiversity are not limited to one landscape in the LMS but are found in the majority of the protected areas where many IP and FRCs live.

It is clear from primary and secondary research that the multi-faceted nature of exclusion is the paramount barrier to IP and FRC taking an active role in decision-making about the resources of their communities, including wildlife. A much greater effort to invite participation, dialogue, and invest in skill-building to support community and youth-led advocacy within regional fora is needed. Opportunities exist now for more imaginative partnerships with regional youth platforms such as the Asian Indigenous Youth Platform (AIYP) and its umbrella organization the Asian Indigenous Peoples Pact (AIPP) which already work cross-sectorally on rights advocacy, environmental justice, and climate change. Development partners can join a vibrant symphony underway but should not assume the conductor's baton. Instead, this study encourages USAID and its partners to enable a cross-sectoral and novel approach as it undertakes the design of future regional CWT programs to allow for existing IP, human rights-based, and biodiversity-focused coalitions to expand and mobilize efforts. USAID's own Indigenous Peoples policy encourages program units to "increase the integration of Indigenous Peoples' concerns across all sectors of USAID's portfolio of investments and promote cross-sectoral development approaches."¹

A hallmark of indigenous peoples in the region is that they confront shared challenges over how resources are managed, formal and informal exclusion from education, employment, and healthcare, and among youth - a desire for greater voice and participation in shaping both their communities and the region. To understand the regional implications of both challenges and opportunities for greater engagement with indigenous and youth groups in the region, this study underscores the centrality of the community as a microcosm within a multidimensional space in which local actions are linked to chains of activity that have regional and even global implications. Consideration of CWT is a strong example of how a local action such as subsistence hunting can inadvertently contribute to negative perceptions. Inaccurate narratives that place blame for systemic wildlife poaching on forest-reliant and indigenous groups are still perpetuated by local authorities and some development partners.

Notable efforts toward greater inclusion of FRC groups in community forest management by The Center for People and Forests (RECOFTC) provide a useful model of community-centered programming that could easily include CWT activities and be expanded and adapted on a regional basis. The study finds mixed results on community CSO interaction with positive views emphasizing opportunities for collaboration on community conservation efforts such as the turtle restoration initiative in Kratie Province, Cambodia, and on work with both World Wildlife Fund (WWF) and World Conservation Society (WCS) on livelihood activities that indirectly support CWT.

Conversely, interviews also reveal distance from consultation on key pieces of legislation in Thailand that some conservation organizations advocated for without inputs from impacted communities. Specifically, the Law on the Forest and Wildlife Laws are challenging for IP and FRCs. This is one example of the need for closer collaboration between IP and FRCs and with CSOs to avoid unintended consequences of laws and policies drafted without consultation. This will also require a greater focus on resource governance as the operating theater in which the illegal wildlife trade (IWT) takes place instead of narrowly focused programs on countering the wildlife trade so that USAID can achieve its policy objectives to, "foster an enabling environment for Indigenous Peoples to advocate for, and exercise, their rights."² In so doing, USAID can ensure that investment in CWT

¹ USAID Policy on Promoting the Rights of Indigenous Peoples. March 2020. Washington, DC. P. 3

² Ibid

programming is inclusive and mutually reinforces regional support for the rights of indigenous groups.

Working with IP and FRC by outside organizations presents many challenges, chief among them overcoming mistrust. For this reason, a combination of longer-term investments for small-scale efforts to serve as confidence-building measures may offer great longer-term benefits. Successful collaboration among large conservation organizations is possible and models exist in Cambodia, Madagascar, and elsewhere but they are often the exception and not the rule. At the regional level, USAID and its development partners may have a greater opportunity with existing youth networks such as those documented in this study, organizations such as RECOFTC, and, in partnership with USAID bilateral missions, NGOs that already work at the nexus of rights and environmental governance such as Education for Nature in Vietnam, and Mother Nature in Cambodia. RDMA has a unique role to play in its capacity to convene regional fora. As an apex organization in the region, RDMA can offer a safe space for local organizations that are otherwise embroiled in controversy or are the target of government scrutiny.

In this report, the questions of exclusion, participation, and representation are queried as what should be the prelude to a more fulsome study that can expand research to a greater number of IP and FRC groups throughout the Association of Southeast Asian Nations (ASEAN) region. This can build on research presented in this report with the aim of identifying common challenges and opportunities for greater participation in the design of inclusive CWT/IWT programs. The findings and recommendations reflect perspectives that value the inherent connection between nature and people. Harmony with nature ultimately hinges on the recognition of human rights and intergenerational equity over lands, territories, and resources. While these rights can be specific to a site - the broader consensus on valuation of nature is conjoined with a regional and global vision for conservation. To achieve a forward-looking conservation agenda, future actions and investments must recognize the conservation leadership of grassroots communities and place the advancement of their land tenure rights, cultural identities, and equitable governance as intrinsic to achieving regional parity. Understood in this way, transnational organized criminal wildlife networks that exploit forest resources and jeopardize community security are threats to the achievement of those communities' equity over local lands.

The sample for this study is inadequate to draw firm conclusions but it clearly raises questions that urge USAID to further investigate if IP and FRCs, and CSOs are to interact in mutually beneficial ways as they seek to address illegal wildlife trade in Southeast Asia.

HIGH-LEVEL FINDINGS

The points presented below are a distillation of some of the more pertinent and higher-level findings drawn from the team's research and are further elucidated throughout the body of the report.

I. Multi-faceted exclusion limits the inclusion of IPs and FRCs in CWT activities

Lack of citizenship and recognition by governments of IP and FRCs in the ASEAN region combined with unresolved or inadequate land tenure issues, lack of access to basic services including health care and education, and inadequate livelihood opportunities all act as barriers to participation in CWT efforts. Indigenous communities prioritize these challenges. Land rights in particular intersect with environmental stewardship and the opportunity to expand the role of IP and FRCs in CWT activities. Misperceptions about IP consumption of wild meat in particular contribute to negative stereotyping even among conservation and CSO partners. For example, some organizations express

views that conflate local, small-scale hunting for consumption with commercial, larger-scale snare catching for profit.

2. Galvanizing potential of existing IP youth networks and platforms

A positive finding is that existing regional IP networks, including youth and environment-focused groups, express interest and desire for more leadership and participation in all levels of policy dialogue. Opportunities for cooperation on CWT exist if woven into pre-existing areas of interest including climate change and biodiversity.

3. Awareness of laws and rights, particularly regarding land and forest resource use among youth and IP consulted

In Cambodia and Thailand, youth and IP community members expressed a high level of awareness of the laws that directly affect them. This knowledge transmission is taking place between local authorities and communities and through civil society intermediaries such as the WCS and WWF that are working toward greater social inclusion. This knowledge can allow for more constructive engagement with local authorities and encourages opportunities to work within the scope of the law and improve social inclusion.

4. Misalignment of the intended goals of conservation laws with actual outcomes as experienced by forest-reliant and indigenous communities contributes to exclusion

A key finding is that some of the important conservation-focused laws in the region have unintended consequences for IP and FRCs. Specifically, confusion over protected versus non-protected areas and who has authority over each of these designations emerges as an area of concern. In Thailand, the Forest Laws restrict access to protected areas where FRC and IP already live thus criminalizing land-use practices and legal hunting for food that has been established for generations. These conflicts might have been avoided with a more inclusive consultation and legislative review process.

5. Communities self-report little to no reliance on wildlife trade for livelihoods

There is a continued practice of hunting small animals for personal consumption in some places. Squirrel and bird hunting are cited more frequently and are cited as for food, as part of the hunting tradition that begins in childhood. Respondents make a clear distinction between subsistence hunting to eat and selling wild meat. They distinguish between low-level subsistence hunting and commercial extraction which they attribute to land developers and criminal networks as well as “outsiders” that are responsible for depleting the forests of resources. Yet respondents report being ‘blamed’ for large-scale poaching and forest extraction. Some respondents attribute this misperception to “othering” them which perpetuates bias and stereotyping of IP and FRC communities by majority groups.

6. Discrepancy in perception about ranger motivations concerning their relationship with IP and FRC communities

Rangers can play a constructive role as interlocutors with IP and FRCs. CSO and international non-governmental organizations (INGOs) repeatedly cite the wages of forest rangers as an invitation for local rent-seeking and a reason for uneven performance in carrying out their mandate. Findings for this study suggest that this is sometimes a misperception on the part of partners and enforcement agencies. While the coronavirus disease 2019 (COVID-19)-induced fiscal tightening across civil service impacts already underpaid rangers, CSOs report that salary reductions in the range of 40

percent to 60 percent required WWF to augment wages to avoid losing pre-pandemic CWT gains made in patrols and enforcement, among three different groups of rangers, this view could not be validated. Rangers self-reported having adequate salary and benefits even when probed. Instead, their reported viewpoints indicate that rangers perceive themselves as a bridge between the majority populations and FRC and IPs. Remarks suggest that rangers share in common a respect for wildlife and natural resources more akin to the views of IP and FRC than urban dwellers perhaps due to their proximity to forested areas.

7. Conservation and CWT efforts involving IP and FRC often undermined by exclusionary land, infrastructure, commercial agriculture development policies and practices

Legitimate preoccupation with the regional drivers of biodiversity loss—such as land clearing for commercial plantations, development of new roads and infrastructure for transportation corridors, and incursion of special economic zones for factories together with the designation of protected forest areas—present existential threats to many communities. An approach that integrates CWT with other regional drivers will be more effective.

8. Successful CSO/INGO cooperation where the community is centered in program design shows potential for engaging in conservation and improving social inclusion

Encouraging and successful examples of community-led collaboration between CSOs and communities on forest management and conservation can provide models for CWT-focused programming. Multi-dimensional community forest management initiatives such as those led by RECOFTC offer a hopeful blueprint for inclusion.

RECOMMENDATIONS

Recommendation 1: Support and amplify existing regional indigenous and youth networks such as AIYP, Asian Youth Indigenous Peoples Network, and AIPP in their advocacy for participation in regional and international fora to build alliances with CWT and biodiversity networks and catalyze the current momentum of these youth networks. Invest in the skill-building required to support their own advocacy efforts and capacity to share knowledge with other regional networks and youth coalitions.

Recommendation 2: Ensure future regional CWT programs and activities include meaningful participation by forest-reliant and indigenous communities through allocation of appropriate levels of funding for consultation, participation, and enhanced representation in activity planning. For example, contributing to environmental assessments and wildlife monitoring. Investment funding mechanisms for direct community planning and engagement in CWT activities such as community development funds, community credit mechanisms, and capacity building to access alternative livelihoods – including funding arts-related initiatives that build on cultural tradition are all possible activities. Pair funding with capacity building on participatory funding management skills.

Recommendation 3: Invest in the co-creation process to engage and partner with civil society groups such as local NGOs, IPs and FRCs and their subsets including religious leaders, indigenous youth, and women to collaboratively build campaigns that amplify IP traditional and sacred relationships with forests and wildlife and reduce urban demand for wildlife products. At the regional level this can take place through existing regional platforms detailed in the study.

Recommendation 4: Promote collaborations to develop and support meaningful alternative livelihood schemes (sustainable) including eco-tourism, payment for ecosystems services (PES), or

other community-led initiatives such as the Ibis rice project in Cambodia that can achieve both biodiversity conservation and improved IP/FRC rights goals. Pilot these initiatives at the country-level to reflect local needs in partnership with regional partners such as RECOFTC.

Recommendation 5: To support PES initiatives in Recommendation 4, expand small grants programs targeting IP and FLCs in Cambodia, Lao PDR, and Vietnam and pair them with opportunities to pilot and scale-up models for biodiversity-friendly production, including certification and eco-labeling for locally and sustainably sourced products. Encourage communities to take a greater role in the development and co-management mechanisms for protected areas that promote community participation in CWT as part of zoning, management, and governance in protected areas.

Recommendation 6: Fund processes and projects that encourage mutual cooperation and collaboration between key actors such as indigenous journalists and mainstream media professionals, artists, musicians, and youth entrepreneurs. Novel and creative collaborations offer new pathways for cooperation, particularly among youth.

Recommendation 7: Invest in a comprehensive mapping exercise of indigenous groups in the LMS to begin to reduce gaps in understanding of the specific role Indigenous Peoples and Local Communities (IPLCs) can play in CWT and IWT activities. For example, expand engagement with IP communities to include their own priority issues that align with key United Nations Conventions such as United Nations Declaration on the Rights of the Indigenous Peoples (UNDRIP). Encourage cross-sectoral collaborations between CWT and rights organizations to bring new partners into dialogue and action.

Recommendation 8: Invest in local communities to engage in the conservation and management of protected and mixed-use forest areas.

I INTRODUCTION

I.1 BACKGROUND

Reducing Demand for Wildlife (RDW) is a project of the United States Agency for International Development, Regional Development Mission for Asia (USAID RDMA), based in Bangkok, Thailand that combats illegal transnational wildlife trade in Southeast Asia and China. The project has two main objectives for CWT: 1) Reduce demand through social and behavior change communication (SBCC) campaigns, and 2) Reduce supply through rational and comprehensive regulatory enforcement systems.

The project is implemented by RTI International as a prime contractor in partnership with FHI 360, WildAid, and the International Fund for Animal Welfare. The RDW project builds on the accomplishments of USAID Wildlife Asia in effectively reducing demand for elephant, pangolin, rhino, and tiger products through pioneering SBCC campaigns in China, Thailand, and Vietnam, and in supporting regional bodies such as ASEAN to strengthen regulatory and enforcement frameworks to reduce the supply of these wildlife products.

USAID/RTI contracted Solutions Lab, LLC to conduct three separate but interrelated assessments to aid the project in planning future program direction and activities. This CSSIA, the Political Economy Analysis (PEA), and the One Health Landscape Assessment aim to provide insight into emerging opportunities to build upon work undertaken in biodiversity conservation in the region, including more than a decade of work to combat wildlife trafficking. It provides a discussion of issues and options for advancing an integrated approach to addressing the inter-related problems of resource degradation, disease emergence, and economic disruption. Solutions Lab, LLC supports the project through its conduct of research activities to support project implementation and USAID RDMA planning processes.

This CSSIA study is also designed to complement the RDW GESI Analysis, particularly with regard to indigenous peoples and to youth in the region. The RDW GESI Analysis had determined that there was little information with regard to CWT, indigenous people, and youth, thus this CSSIA sought to develop more information for these groups to address the information gap.

I.2 INTRODUCTION

As indicated in the Executive Summary of this report, the overarching aim of the Civil Society and Social Inclusion Assessment is to help inform and achieve greater results and impacts through improved collaboration with civil society and the indigenous and marginalized groups, and to strengthen the mechanisms for participation and coordination in CWT efforts. The following overarching research questions were identified as the objective of the assessment:

- What are examples of effective collaboration between communities, CSO, donors, and/or local authorities in reducing the demand for wildlife?
- What would be the most accessible and effective 'handshake' platform for communities and policy-makers?
- Which national organizations and regional CSO/NGO or other networks could best be engaged and leveraged by USAID to advance CWT-related USAID RDMA Regional Development Cooperation Strategy goals?
- To what degree are wildlife products accessed by frontline communities used for domestic or community use (e.g., food) vs. livelihoods (sale to tourists, middlemen, etc.)?

- How might communities, specifically indigenous and forest-reliant communities, leverage traditional practices/beliefs to counter wildlife exploitation?

1.3 METHODOLOGY

This study employs mixed-methods qualitative research, as well as the gender-responsive and inclusive approach in line with USAID gender and social inclusion norms and standards, guidelines, and requirements. A semi-structured interview instrument provided primary data. Secondary data sources include academic articles, donor and INGO reports, news articles, and key index data. The research team used purposive sampling to obtain a cross-section of key actors in the multiple sectors in Cambodia, Lao PDR, Thailand, and Vietnam. This informed the development of all of the data-collection instruments including in-person and Zoom interviews, focus group discussions (FGDs), and consultations. This purposeful respondent sampling draws from implementation partners, development partners, INGOs, and a range of NGOs involved in CWT at the regional and national levels. The team selected individuals from a list of key stakeholders and beneficiaries prepared in consultation with USAID RDW staff, and by subsequent “snowballing” by the researchers. The individuals were assumed to possess knowledge of and experience with the topic of interest and therefore that they would be able to provide information that was both detailed (depth) and generalizable (breadth).

1.4 SAMPLING

The research team conducted semi-structured in-person and virtual interviews using the Zoom platform and FGDs. The team’s conceptualization of the regional political economy analysis of CWT/IWT, the Civil Society and Social Inclusion Study, and the One Health Landscape Study is that common themes, opportunities, or challenges might be identified in the course of research. For this reason, some interviews offer valuable insights for more than one study and are recorded as dual-use. Questions to query these possible linkages are included in each of the three distinct research instruments.

A total of 30 interviews, with a total of 76 individuals, took place between May 18 and June 10, 2022. Figures A1-A5 Annex I show the total number of interviews and respondents, and distributions of respondents by gender and organization or profession/ identity type — INGO/CSO/NGO, community-based organization (CBO), Activist, Government of Thailand, Government of Cambodia, U.S. Government, Implementation Partners, Community members: Indigenous, Elders, Youth, Farmers, Activists, Journalists. In-person interviews took place in Bangkok and Khao Yai in Thailand, and Phnom Penh and Kratie Province in Cambodia. Remote consultations include representatives from Beijing, China, Hanoi, Vietnam, and Washington, D.C.

1.5 STRUCTURE OF THE STUDY

This study is structured to offer key findings and recommendations, followed by analytical sections reflecting the major themes that emerged from the team’s research organized using the four dimensions of USAID’s applied political economy analysis (USAID, 2018) framework—foundational factors, rules of the game, here and now, and dynamics. The report concludes with a discussion of areas for further consideration.

1.6 RESEARCH LIMITATIONS

Notwithstanding the generalizability challenges of depth not breadth-focused qualitative research, getting a more wholesome picture of the state of civil society and exclusion of indigenous peoples

was constrained by a smaller sample due to the limitations of time. Time constraints also limited the team's ability to build full trust with vulnerable and monitored groups, and as such may require interpreting certain responses as possibly exhibiting social desirability bias. Research in Cambodia facilitated more direct consultation with differentiated IP communities (youth, elders, men, women). It was determined that gender would not be a central focus of this study in light of the recent and comprehensive gender and wildlife trade study³ and the RDW Gender Equality and Social Inclusion Analysis by Joni Seager.⁴

Time and resource constraints as well as ongoing challenges to regional travel limited research primarily to the LMS countries of Cambodia and Thailand. Within the two countries, there were regions (e.g., Kaeng Krachan National Park and Chiang Mai in Thailand) that were hotspots of indigenous exclusion, conflict, or local and regional civil society presence that the team was unable to visit in person (although some zoom consultations with key informant interviews from civil society in Chiang Mai were conducted and were immensely valuable to the research). Proxy interviews and consultations were conducted in Khao Yai province with mixed IP and non-IP forest-reliant groups, rangers, and local officials.

³ Joni Seager, *Gender And Illegal Wildlife Trade: Overlooked and Underestimated*. Gland, Switzerland: WWF (2021)

⁴ USAID Reducing Demand for Wildlife, *Gender Equality and Social Inclusion Analysis*, <https://www.usaidrdw.org/resources/reports/inbox/rdw-gender-equality-and-social-inclusion.pdf/view>

2 ANALYSIS

2.1 PURPOSE

This study should be understood as the opening of an overdue discussion and reexamination of the role of IPs and FRCs in combating wildlife crime. The path of inquiry focused on research questions on the ways in which multi-dimensional exclusion and marginalization may interact with participation in the wildlife trade, perceptions and misperceptions of the role of IP and FRCs in illegal wildlife activity, and how youth in these two types of communities (which overlap at times) understand their relationship to forest resources. Research also investigates the role of various development partners including INGOs (we categorize international conservation organizations under this category), NGOs, and CBOs and their current relationships with forest-reliant and indigenous communities.

While the history of marginalization of the ASEAN region's diverse indigenous populations is complex and nuanced, the current state of these communities reflects shared challenges in light of the broader political economy of the region. More than 70 percent of the world's population⁵ is living in countries with rising income and wealth inequality and this disparity is highlighted in the countries of the LMS where the strong economic gains of the 1990s until the pre-pandemic period of 2019 produced impressive GDP growth but poor distributional benefits to marginalized groups including indigenous peoples who already face high rates of poverty and acute socio-economic disadvantages. While GDP growth averaged between five and eight percent annually between 2011–2019,⁶ wealth disparities between the urban and rural poor increased. The rural poor still account for the majority of Cambodian, Laotian, and Vietnamese citizens. Rapid development plans that include numerous large-scale infrastructure projects such as hydro-dams, ports, and railways present unprecedented resource challenges, particularly as they relate to the management of food, water, and energy security of the region's population of 246 million.⁷ High levels of inequality are generally associated with institutional instability, corruption, financial crises, increased crime, and lack of access to justice, education, and health services. For indigenous peoples, poverty and gross inequities tend to generate intense social tensions and can intersect with IWT activities on a local scale.

The stark imbalance between land tenure gaps and the assignment of stewardship over protected areas is an example of IP and FRC being instrumentalized. There is a clear tenure rights gap in Asia. Indigenous Peoples and local communities customarily own and control nearly 40 percent of Asia.⁸ When excluding data from China, only 8.7 percent of all Indigenous People and Local Communities (IPLC) lands and territories in Asia are legally recognized.⁹ In nine South and Southeast Asian countries, the area of unrecognized IP's and community lands is approximately 140.3 million hectares.¹⁰ This represents an area larger than the combined territories of Cambodia, Thailand, Lao PDR, and the Philippines.

⁵ A/75/255 Report of the Secretary-General on Enhancing the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them (2020).

⁶ "Indicators | Data", World Bank, Accessed June 18, 2022, <https://data.worldbank.org/indicator>

⁷ Ibid.

⁸ "Estimated area of land and territories of Indigenous Peoples, local communities, and Afro-descendants where their rights are not recognized", Rights and Resources Initiative, September 15, 2020, <https://rightsandresources.org/publication/estimate-of-the-area-of-land-and-territories-of-indigenous-peoples-local-communities-and-afro-descendants-where-their-rights-have-not-been-recognized/>

⁹ Ibid.

¹⁰ "Indicators | Data", World Bank, Accessed June 18, 2022, <https://data.worldbank.org/indicator>

Indigenous communities are often at the frontline of these challenges over resources, land management policies, and growth but are seldom positioned to exercise their own agency over decisions that deeply impact their livelihoods, traditions, and choices.

2.2 FOUNDATIONAL FACTORS

This section explores the deeply embedded, longer-term national, subnational and international socio-economic and power structures that shape the nature and quality of a given political system, sector or problem and why it works or looks the way it does.

The LMS combined is home to approximately 129 different Indigenous Peoples and 120 languages. With an estimated population of 23.3 million, they are about 12 percent of the total population in the region. They are generally concentrated in forest and highland territories, in remote, rural, and border regions (see Table I and Annex I).

Table I. Demographic Data on IP, LMS

	CAMBODIA ¹¹	LAO PDR ¹²	THAILAND	VIETNAM ¹³
# IP Groups	24	42	10 ¹⁴	53 ¹⁵
# IP Languages	19	42	51 ¹⁶	8 ¹⁷
IP Population (approx.)	250,000 - 400,000	2.7 million	6.1 million ¹⁸	14.1 million
% of total Population (approx.)	3%	36%	9.68%	14.7%

2.2.1 CONTEXT OF FRC/ IPLC WITH NATIONAL GOVERNMENTS AND THE REGION: EVIDENCE OF EXCLUSION AND MARGINALIZATION

IP are undoubtedly the most marginalized and vulnerable groups in the region with common challenges^{19,20,21,22} of discrimination, poverty, lack of citizenship, and the consequent exclusion from access to basic services. Vietnam is the only country of the four whose ‘ethnic minorities’ have

¹¹ “The Indigenous World 2022: Cambodia”, IWGIA, April 1, 2022, https://iwgia.org/en/cambodia/4648-iw-2022-cambodia.html#_edn1

¹² “Ethnic minorities and indigenous people”, Open Development Laos, March 19, 2019, <https://laos.opendevelopmentmekong.net/topics/ethnic-minorities-and-indigenous-people/>

¹³ “The Indigenous World 2022: Vietnam”, IWGIA, April 1, 2022, <https://iwgia.org/en/vietnam/4659-iw-2022-vietnam.html>

¹⁴ “Ethnic minorities and indigenous people”, Open Development Thailand, August 31, 2022, <https://thailand.opendevelopmentmekong.net/topics/ethnic-minorities-and-indigenous-peoples-profiles/>

¹⁵ “Ethnic minorities and indigenous people”, Open Development Vietnam, March 30, 2019, <https://vietnam.opendevelopmentmekong.net/topics/ethnic-minorities-and-indigenous-people/>

¹⁶ Steph Koyfman, “What Language Is Spoken In Thailand?”, Babbel, October 24, 2019, <https://www.babbel.com/en/magazine/what-language-is-spoken-in-thailand>

¹⁷ “Ethnic minorities and indigenous people”, Open Development Vietnam

¹⁸ “The Indigenous World 2022: Thailand”, IWGIA, April 1, 2022, https://iwgia.org/en/thailand/4658-iw-2022-thailand.html#_ednref2

¹⁹ “The Indigenous World 2022: Cambodia”, IWGIA

²⁰ “The Indigenous World 2022: Laos”, IWGIA

²¹ “The Indigenous World 2022: Thailand”, IWGIA

²² “The Indigenous World 2022: Vietnam”, IWGIA

Vietnamese citizenship.²³ This lack of recognition encompasses the many ways in which the invisibility of indigenous peoples marginalizes and excludes them socially, economically, and politically. Lack of citizenship particularly limits IPs' ability to access basic services like education and healthcare, to move freely, and to seek employment. Residents on land rich in resources are facing pressures on it and its resources by the pro-foreign direct investment, sometimes exploitative economic growth trajectories of the region's governments. The well-documented outcomes of these policies – particularly as they relate to land management, commercial agriculture, and infrastructure development – are displacement from historical lands, threats to indigenous culture, and loss of traditional livelihoods.

Population pressures and distribution are also acute in the region and combine with the loss of forested areas (see Table 2). For example, forest loss exacerbates vulnerability from loss of traditional livelihoods, and increased risk of floods, and fires. Loss of viable animal habitats pushes human populations deeper into protected areas to hunt and can further degrade fragile ecosystems and increase the risk for zoonotic disease transmission. Development partners and sovereign investment in building resilience to climate change are compromised as biodiversity gains are increasingly reversed in the region. No one from the respondents consulted for this study expressed the view that engaging with IVT is preferable to other livelihood options. What is conveyed is that more viable economic opportunities and equitable land use policies are needed.

Table 2. Country Population Statistics, LMS²⁴

COUNTRY	POPULATION IN LMS (2020)	POPULATION DENSITY	ANNUAL POPULATION GROWTH (%)	PERCENT OF POPULATION INCREASE (2008-2018)	RURAL POPULATIONS (% OF TOTAL POPULATION)
Cambodia	16,718,971	94.7	1.40	17	77
Lao PDR	7,061,507	31.5	1.55	17	65
Thailand	69,799,978	136.6	0.30	7	49
Vietnam	97,338,583	313.9	0.90	11	64

Socially, and as revealed to us by IP respondents and those working with them, IP are generally the subject of cultural misunderstanding and negative stereotyping by the mainstream, or majority ethnic groups, who tend to view them as inferior and backward. They face discrimination and this particularly affects IP youth in places of higher education. As an IP respondent revealed:

“90 percent of youth I work with are studying (in institutions) where they confront discrimination.”

Private universities particularly with their high fees attract students from high-income backgrounds, creating a more discriminatory environment for low-income IP youth, and further widening the gap

²³ “The Indigenous World 2022: Vietnam”, IWGIA

²⁴ “World Bank Open Data”, World Bank, Accessed June 17, 2022, <https://data.worldbank.org/>

between them. As a result of such othering, respondents revealed IP youth’s propensity to hide their identity and culture in their attempts to assimilate into these spaces. Exclusion begins early. The primary education rates are low, in part because of the monocultural and monolingual curriculum. In Cambodia, for example, the high school completion rate among IP is a mere 4 percent,²⁵ compared to the national average of 91 percent.²⁶

Economically, IP are excluded and face challenges mainly through the remoteness of their residences and lack of citizenship or legal recognition. Being distanced from city centers prevents their ability to access basic services, which are not yet adequately provided in their locations. However, as infrastructure upgrades are being implemented, this physical isolation is diminishing.

Most IP are agriculture-dependent (e.g., over 90 percent in Cambodia²⁷) and their low-income status further exacerbates their exclusion from access to services. Lack of citizenship also poses restrictions on their mobility and they cannot travel outside their provinces without permission from government authorities, which further constraints their employment opportunities. Government jobs that represent financial security are also out of reach for this reason. In Cambodia, some respondents worked in nearby sugarcane factories, and in Khao Yai, Thailand, youth consulted confirmed what their employment opportunities amounted to: “...it’s pretty much a farm or factory”.

Even among some preferred private-sector jobs, respondents expressed the view that employers tend not to hire IPs because of the legalities complicating their recruitment process. Thus, this political exclusion from lack of full citizenship restrains their ability to access financially secure and desirable jobs, even for those with the requisite skill and education, further excluding them economically. This is one factor of IP youth migration to urban settings that can increase the potential for risky behavior in the form of crime, alcohol, and drug use, and cause further poverty.

Politically, other than the lack of citizenship and legal recognition, as a respondent working with IP regionally revealed, “the government similarly has a more antagonistic relationship with the indigenous that manifests itself through land-grabbing and a model of overdevelopment.”

2.2.2 LONG-STANDING TRADITIONS OF SANCTITY OF FORESTS, SUBSISTENCE HUNTING, AND WILDLIFE CONSUMPTION

The IP youth group in Cambodia presented a different perspective from the Khmer people who seem to have a lack of understanding of the impact of forest resource extraction on climate change and environmental degradation. They, on the other hand, are proud of the IP’s protective and preservation-minded traditions and culture over the majority population’s perceived extractive relationship with the environment. This includes the ways in which wildlife is regarded as part of a larger interdependent and sanctified system and disruptions in any of the forest resources are understood to impact the others. In Thailand, some youth respondents believe that the overdevelopment of land and land-grabbing is causing an identity crisis regarding their relationship with forests, land, and indigenous traditions. They consider land development as traumatic as it has been increasingly distancing the youth from their land and culture.

²⁵ “The Indigenous World 2022: Cambodia”, IWGIA

²⁶ “Cambodia Completion rate for primary education”, Knoema, 2019, <https://knoema.com/atlas/Cambodia/topics/Education/Primary-Education/Completion-rate-for-primary-education>

²⁷ “The Indigenous World 2022: Cambodia”, IWGIA

The traditionally sacred relationship between IPs and FRCs with the environment and forests was a repeated theme and was revealed by many respondents across the region and their organizational affiliations and identities. This is a natural and mutually beneficial relationship given the IP's spiritual relationship with and dependence on forests for life and livelihood. On this point, a respondent said of her IP community, *“Karan people rely on nature – for every newborn baby, the parents keep the umbilical cord, and the father will look for the best bamboo in the forest to hang it on so that when the child grows up, it is their job to defend that tree. You will see that these big trees are large and they believe that the soul of the baby and the tree are connected and will protect each other. We will protect the forest; we have to save it for our children and their children.”*

Consumption of meat, and in some cases wild meat, was revealed as a necessity for food. However, hunting wildlife for trade or possession was not a theme that emerged when investigating the drivers of IWT. Hunting by IP and FRC can be seen from the prism of subsistence hunting rather than supplying criminal syndicates. The same respondent expressed, *“The Karan community only hunts to eat, and believes that hunting for other reasons will destroy biodiversity. It is prohibited to hunt some animals like gibbons, horn-billed birds, lions, tigers, and others. They themselves believe these shouldn't be hunted because it would bring bad luck to them. But these specific beliefs vary from community to community. Hunting tigers and lions are particularly prohibited because they are powerful and they also help protect forests. We also don't hunt during seasons when animals are pregnant. So IPs are closely connected with forests and use them accordingly.”* Another respondent from a different IP community said:

“We see ourselves as the protectors of forests because we are dependent on them. We are concerned about animal habitats and the need to preserve them. We depend on them for wood, timber for building homes, collecting mushrooms (which is a significant source of income), fruits, and medicinal needs. We don't hunt wildlife for concern about its preservation as well as the risk of disease from consumption. We consume and have easy access to legal and non-endangered animals – fish from the river and meat from mobile carts and the market. We want to be able to pass community lands down to future generations by consciously preserving them now.”

Another group of elders in Thailand who were former poachers and are now working with Freeland explained why they ceased their generational tradition of hunting, *“We stopped hunting because we felt bad for the animals. It is bad karma to kill. Proximity and frequent exposure to animals also incentivize feelings of harmony ... [which] makes us empathize with the fact the animals are also just trying to survive. Importantly, there is no longer any compulsion now to depend on the forests for meat.”*

However, these are mostly self-reported claims and the literature strongly indicates that active participation from IP and FRCs is a contributing factor to the wildlife trade. This study provides insights into some of the drivers that contribute to this participation.

Prejudice toward IP communities remains an important dimension of exclusion. As an INGO head in Thailand revealed, *“There is prejudice against IP by Thais, who consider them as uncivilized slash-and-burn agriculture and bushmeat consumers. There is a lot of othering in their attitudes, which doesn't take into account the fact that the large scale IWT and consumption of bushmeat are driven*

by the affluent themselves.” The Here and Now section will examine the drivers of and actors involved in IWT in more detail.

2.3 RULES OF THE GAME

This section examines the formal and informal institutions (rules and norms) that shape the quality of governance and influence actors’ behavior and their incentives, relationships, power dynamics, capacity for collective action, and the extent to which public and private actors behave and interact according to rules that are widely known and accepted.

Laws related to civil society operation, various land, forest, and conservation laws, and IP’s poor access to their rights are crucial to examine together as this intersection impacts IP’s relationships with forests, wildlife, and CWT. Figure 1 below depicts how Cambodia, Lao PDR, Thailand, and Vietnam perform on recognition and rights of IP on an International Rights, Equality, and Development Index (IRELDI).²⁸ Primary data for this study is validated in the previous section where the ASEAN region scores low on IP land and customary rights, political economy, and bilingual education.

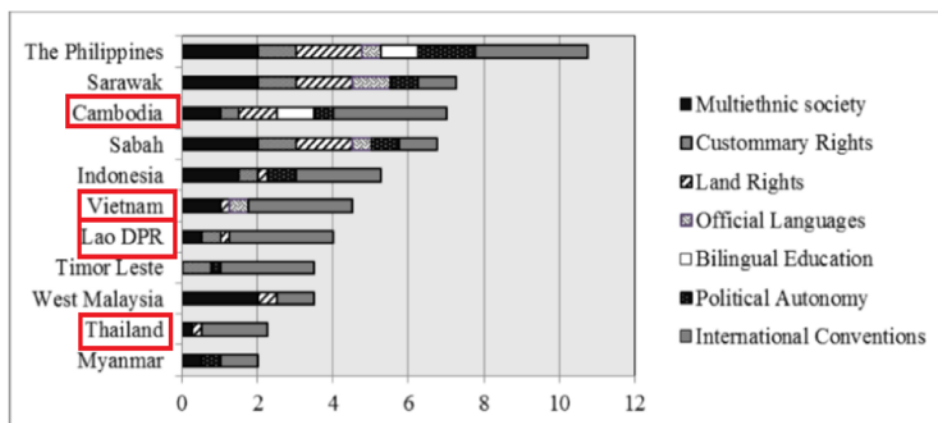


Figure 1. Disaggregation of IRELDI Scores in Southeast Asian Cases²⁹

2.3.1 LAWS AND RIGHTS PROTECTING AND AFFECTING IP AND FRC

There are various international laws, treaties, declarations, conventions, covenants, mechanisms, and forums that recognize and obligate governments to protect the rights of IP (see Table A2 for a detailed list and implications of these laws).

The most comprehensive instrument internationally is the United Nations Declaration on the Rights of the Indigenous Peoples (UNDRIP), which details the rights of IP and minimum standards for the recognition, protection, and promotion of these rights. Adopted in 2007 after decades of advocacy and negotiations by IP groups from all over the world, it lays out a universal framework and addresses both individual and collective rights; cultural rights and identity; rights to education, health, employment, language, and others. It outlaws discrimination against indigenous peoples and

²⁸ IRELDI examines IP rights in both constitutions and secondary legislation, and it also includes ratification by individual states of international agreements on minority rights. IRELDI is a useful tool for measuring IPR recognition in different minority rights regimes since it contains most of the indicators of multicultural constitutionalism and applies them to secondary legislation and the ratification of international conventions relevant for IPR. See below for reference.

²⁹ Isable Inguanzo, “Figure 1: Disaggregation of IRELDI scores in Southeast Asian cases”, ResearchGate, August 2018, https://www.researchgate.net/figure/Disaggregation-of-IRELDI-scores-in-Southeast-Asian-cases_fig1_327259800

promotes their full and effective participation in all matters that concern indigenous communities. It also ensures their right to remain distinct and to pursue their own priorities in economic, social, and cultural development. The Declaration explicitly encourages harmonious and cooperative relations between States and indigenous peoples.”³⁰

All four assessment countries, however, while having voted in favor of UNDRIP, do not recognize the term Indigenous Peoples, and instead go by “ethnic groups” or “ethnic minorities”, which goes against articles 3 and 18 of the Declaration. There are other implementation and political challenges to IP’s access to these rights. As revealed through primary research and introduced under Foundation Factors, the particular contraventions of the UNDRIP articles are with respect to rights to lands, territories, and resources, traditional livelihoods and access to justice, the right to nationality, and basic services, and the right to quality and culturally relevant education. Other relevant instruments include the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), which recognizes IP’s right to self-determination, control over their own institutions, and land but has not been ratified by any of the four countries³¹.

Nationally, all four countries have overarching policies to address IP, or ethnic minorities as they are known (see Table A3 for a detailed and summarized list). Cambodia has the National Policy on Development of Indigenous People, which aims to “improve the livelihood of indigenous people to escape from hunger and poverty, to receive formal education at least nine years of basic education, vocational training, healthcare, and to ensure the protection and preservation of their culture.”³² Lao PDR and Vietnam have various government agencies and mass organizations for “ethnic affairs”.^{33,34} Lao PDR has an Ethnic Minority Policy (1991) which states that “ethnic groups should have improved access to services and that all discrimination must be eradicated”. In order to improve their access, the government has encouraged and coerced IP to relocate to lowland areas where access to basic services and employment opportunities is better. However, relocation can be a threat to IP tradition and culture. Furthermore, the policy also considers ethnic minorities’ customs “backward” and calls for their “reeducation” for cultural assimilation.³⁵ Vietnam also has a *Master Plan on Socio-economic Development of Ethnic Minorities and Mountainous Areas (2021-2030)*, which unifies “over 100 legal documents enacted by more than ten state authorities since the 1980s. ... The implementation plan was issued by the Government in 2020 and the corresponding *National Target Program* is currently being drafted. However, debates remain on whether these policies are representative of the needs of the ethnic minorities.”³⁶ Thailand amended its *Nationality Act* in 2008 securing nationality to all those an earlier version had revoked.³⁷ However, discriminatory attitudes, the inability of many IP to provide proof of birth, administrative challenges of human resources and time required to process all cases, and other capacity issues pose serious obstacles to the

³⁰ “UN Declaration on the Rights of Indigenous Peoples”, OHCHR, accessed June 9, 2022, <https://www.ohchr.org/en/indigenous-peoples/un-declaration-rights-indigenous-peoples>

³¹ “Ratifications of ILO conventions: Ratifications by Convention”, ILO, accessed June 14, 2022, https://www.ilo.org/dyn/normlex/en/?p=I000:I1300:0::NO:I1300:P11300_INSTRUMENT_ID:312314

³² “Policy on development of indigenous people - OD Mekong Datahub”, 2018, Open Development Cambodia (ODC), https://data.opendevelopmentcambodia.net/laws_record/policy-on-development-of-indigenous-people

³³ “Ethnic minorities and indigenous people”, 2019

³⁴ Philip Turner, “Ethnic minorities and indigenous people policy and rights”, 2020, Open Development Vietnam, <https://vietnam.opendevelopmentmekong.net/topics/ethnic-minorities-and-indigenous-people-policy/>

³⁵ Open Development Laos, “Ethnic minorities and indigenous people.”

³⁶ “Ethnic minorities and indigenous people policy and rights”, Open Development Vietnam.

³⁷ “Reflections on Thailand (3): Is the time ripe for a citizenship campaign?”, 2013. Statelessness Programme: Tilburg University, <https://statelessprog.blogspot.com/2013/03/reflections-on-thailand-3-is-time-ripe.html>

implementation of the amendment. In terms of the awareness of IP in the region, a respondent working with indigenous groups said,

“... initiatives and declarations like UNDRIP etc. are known only to a handful of passionate people. In order to change this, rights awareness should be part of the formal/informal education system, not just restricted to advocacy or social media campaigns.”

LAND

The level of awareness of land rights and law differs. An IP respondent and civil society member said of the community’s awareness about laws and rights around forests and land:

“They are. They have always been. They are aware that their rights to land have been taken. Forest protection laws have come much after our settlement on the land, and yet we have no rights that legalize our right to land.”

As highlighted before, national laws in these countries either do not recognize or struggle to secure IP’s rights to communal land or allow them ownership of the land, which generally remains state-owned. In Thailand, despite a constitutional mandate for the State to ensure a fair distribution of landholding, “in practice, the government limits communities’ and individuals’ rights to manage the lands they live on and cultivate through restrictive policies, National Council for Peace and Order (NCPO), and laws.”³⁸ The passing of NCPO Order No. 64/2014 has resulted in legal action against indigenous communities living in protected areas, and harassment, detention and enforced disappearances of leaders and activists, particularly in Karen communities in the Burma-bordering northwestern parts of the country.³⁹ See Figure A6 in Annex I for a detailed look at IP’s land ownership and title data. Articles 23-38 of Cambodia’s Land Law (2001) also have provisions for communal land titles, including ownership of land, recognition of their traditions, and protection from outside encroachment on the indigenous property. Despite this, poor implementation continues to keep IP vulnerable to exploitation by economic interests and forced relocation.⁴⁰ Even in Vietnam, whose Land Law (2013) recognizes customary land rights, only two percent of the total forest land area was allocated to communities for management in 2015.⁴¹ Also, the land remains government-owned and communities are unrecognized by the Civil Code as legal entities. Similarly, Lao PDR’s Land Law (2003), while aiming to secure long-term rights to land for individuals, does not recognize communally held rights.⁴² Its *Law on Resettlement and Vocation* (2018) permits the government to expand its powers to relocate communities for their own plans, without consent. And although compensation for relocation is to be provided, many IPs lack the paperwork to prove

³⁸ “The Rights of Indigenous Peoples in Thailand”, Network of Indigenous Peoples in Thailand (NIPT), accessed June 8, 2022, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/THA/INT_CCPR_ICO_THA_23570_E.pdf

³⁹ Ibid.

⁴⁰ “Cambodia”, IWGIA, accessed June 14, 2022, <https://iwgia.org/en/cambodia.html>

⁴¹ “Ethnic minorities and indigenous people”, Open Development Vietnam

⁴² Open Development Laos, “Ethnic minorities and indigenous people”

their identity and will be left bereft of such compensation.⁴³ Land laws and rights are important as they are related to and can interact negatively with forest protection laws, which according to a respondent, “*have come much after [IP’s] settlement on the land, and yet they have no rights that legalize their right to their land*”. These laws exclude IP communities from rights; they do not confer rights.

2.3.2 FORESTRY AND CONSERVATION LAWS AND THEIR INTERACTION WITH IP

Economic growth interests and no-consultation forest protection measures have resulted in land confiscations, evictions, and arrests. The case that most encapsulates this conflict is in the context of the development of Kaeng Krachan National Park, Thailand. According to a respondent working with IP networks in the region, “*The government pushed out communities from their land and even a young activist who was trying to raise their voices against this has disappeared. Thus, governmental agencies and indigenous communities have a contentious, even if not a militaristic relationship because of these things, and this is a major issue.*” The activist in reference is “missing Bang Kloi village leader and Karen community member, Porlajee “Billy” Rakchongcharoen, who was apprehended and held in custody by the Chief of Kaeng Krachan National Park, in Petchaburi on 17 April 2014.”⁴⁴ He had been working with the Karen community on legal proceedings around the “alleged” burning of their homes and property in the Park, which was designated a United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage site. This case and other such examples of lack of community consultation or recognition of IP and FRC’s land rights revealed a discord between the well-intentioned forestry protection and conservation laws and their actual impact, against this political backdrop.

In terms of unintended impacts and absent consultation, another IP respondent and CBO member said, “In the past, there was no problem to use forest resources, but now for the last two years, the government has launched and declared three new acts which have limited the use of forests to IPs.” The laws being referred to are the National Park Act,⁴⁵ the Wildlife Conservation and Protection Act,⁴⁶ and the Forest Reclamation Policy.⁴⁷ These acts have had a big negative impact on using forest resources. This includes protected areas and national parks, which are connected to about 4000+ communities from these forest areas that are affected by these laws. The respondent added, “We were not consulted about this. We are not saying that the laws are not good, but they should not be so restrictive and inhibitive to the IPs’ way of life. The laws need to be considered further, with our interests in mind.”

Another respondent from a different IP community said, “The strictness of Forestry Laws protecting wildlife, is increasing their population to a level that requires some level of hunting to balance the resources, wildlife, and human ratio. This strictness may counterproductively be leading to IVT. Traditional ways of forest management that are prohibited by these laws also contribute to this and related forest management problems.” However, another IP youth group in Cambodia, which also has the Law on Forestry (2002) and whose Chapter 10, Articles 48-51 lays out rules around the conservation of wildlife, revealed that the law allowed those in the community who consumed

⁴³ Open Development Laos, “Ethnic minorities and indigenous people”

⁴⁴ “The Rights of Indigenous Peoples in Thailand”, Network of Indigenous Peoples in Thailand (NIPT)

⁴⁵ “Joint UPR Submission: Land-related Rights, Forest Conservation Laws and Climate Change Policies”, Manushya Foundation, Sai Thong Rak Pah Network, Indigenous Women’s Network of Thailand, Thai Business & Human Rights Network and the Thai CSOs Coalition for the UPR., March 2021, https://www.manushyafoundation.org/files/ugd/a0db76_4dffbbae2ad4b8ca7951312c2d36d50.pdf

⁴⁶ “Wildlife Conservation and Protection Act, B.E. 2562 (2019) - OD Mekong Datahub”, Open Development Thailand, <https://data.thailand.opendevlopmentmekong.net/en/dataset/wildlife-conservation-and-protection-act-b-e-2562-2019>

⁴⁷ Pratch Rujivanarom, “New government urged to revoke forest reclamation policy, work with local forest communities”, The Nation | Thailand, July 9, 2019, <https://www.nationthailand.com/in-focus/30372624>

wildlife to stop the practice. It also made them “confident in standing up to the outsiders (settled in and around their community) who consume and trade wildlife now and report them”.

In Thailand, the *Forest Reclamation Policy* was intended to crack down on “illegal encroachment by wealthy investors to increase forest-covered areas, but instead officers have tended to target the poor villagers in the forest. It was revealed that during the first half of 2019, more than 1,830 forest encroachment cases have been filed against poor people under the forest reclamation policy.”⁴⁸ The *National Park Act* requires residents who do not own the land to seek approval for its use and may be imprisoned for a maximum of twenty years or be fined up to two million baht (\$63,760), with forest officials having full authority to search and confiscate property without the need for court orders.⁴⁹ All these laws have been viewed as providing authority to officials rather than allowing them to collaborate on conservation with communities who share the goal. In the words of an indigenous person and civil society member:

“Forest protection and conservation laws are not sympathetic to the livelihood of forest-reliant communities, [and]... give all power to officials, communities do not have the right to manage and practice traditions.”

Forestry laws have also had a positive impact in clarifying demarcations between protected and non-protected areas and resource use rules for some IP respondents. (See Tables A4 and A5 for a detailed list of national and international laws).

2.3.3 IMPACT OF CIVIL SOCIETY LAWS ON THEIR OPERATION

National laws in all the four countries^{50,51,52,53} require any non-profit CSO to register their association or organization and these laws can also increase exclusion. The failure to do so can lead to financial penalties. Although the governments have claimed that their aim is to prevent international criminal and terrorist activity, the lack of consultation during the drafting of the law, mandatory and lengthy process of registration, full discretionary powers to the implementing Ministry, lack of right to appeal, and restrictions on foreign funding, have been viewed by civil society

⁴⁸ Pratch Rujivanarom, “New government urged to revoke forest reclamation policy, work with local forest communities”, The Nation | Thailand, July 9, 2019, <https://www.nationthailand.com/in-focus/30372624>

⁴⁹ “Joint UPR Submission: Land-related Rights, Forest Conservation Laws and Climate Change Policies”, Manushya Foundation, Sai Thong Rak Pah Network, Indigenous Women’s Network of Thailand, Thai Business & Human Rights Network and the Thai CSOs Coalition for the UPR., March 2021, https://www.manushyafoundation.org/files/ugd/a0db76_4dffbcae2ad4b8ca7951312c2d36d50.pdf

⁵⁰ “LICADHO MEMO New Draft Law Reaffirms Culture of Control”, LICADHO, June 11, 2015, <https://www.licadho-cambodia.org/reports/files/207LICADHOMemo-LANGODraftJune2015-English.pdf.pdf>

⁵¹ “2020 Country Reports on Human Rights Practices: Laos”, U.S. Department of State. March 30, 2021. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/laos/>

⁵² “5 Things to Know About Thailand’s Proposed NPO Bill”, ICNL, May 2021, <https://www.icnl.org/post/analysis/5-things-to-know-about-thailands-proposed-npo-bill>

⁵³ “Decree No. 12/2012/ND-CP: New regulation on NGO registration”, Vietnam Law & Legal Forum, March 28, 2012, <https://vietnamlawmagazine.vn/decree-no-12-2012-nd-cp-new-regulation-on-ngo-registration-2181.html>

as unduly interfering, controlling and draconian. Civil society in Cambodia⁵⁴ and Thailand⁵⁵ have even written to and met with their respective governments to demand amendments to or repeal of these laws, but did not have their demands met. (See Table A6 for the list of laws.)

2.3.4 REGIONAL COMMUNITY NETWORKS AND PLATFORMS OFFER PROMISE

The existence and potential of community networks is most exemplified by youth interest and action. When the IP youth group in Cambodia was asked about the need for such regional collaboration, they considered them to be “*very important, as conservation efforts cannot be successful or achieved by one community alone*”. They said their role in forest preservation could be encouraged by “*educating us further on community management, NRM [natural resource management], and forestry; and connecting us more with other groups and communities so we can learn from them and their NRM practices*”. A few of the respondents had interacted with other youth at events organized by Cambodia Youth Network and found the knowledge sharing to be very beneficial to their own efforts.

Youth interest in the protection of forests and connecting with each other can be leveraged to include them in CWT efforts that enjoin them with broader regional youth coalitions focused on climate change and conservation. This can provide opportunities for youth groups and their eagerness to be heard on national and regional platforms to acquire the skills to be able to do so effectively. According to one respondent working with indigenous youth:

“An issue raised by the indigenous youth themselves was their limited participation and desire to build the ability to engage with decision-makers, for example, some of the skills they wanted were speech writing so they would be better equipped to advocate for themselves. There is a real need and interest in building their capacity to advocate for themselves at regional and international levels. Opportunities of engagement exist, it is about how to make use of them, and make them worth a young person's while to attend.”

In terms of existing regional platforms, the Chiang Mai-based AIPP came out as the leading example of successful IP representation both in interviews as well as secondary research. Its five regional platforms include AIYP and the Network of Indigenous Women in Asia, among others focused on IP knowledge, human rights, and indigenous media. Relevant programs are the Regional Capacity Building Programme, which capacitates IP youth through leadership capacity building and community organizing to “*restore the pride of identity ..., values of cooperation, community solidarity, and decision-making by consensus*.”⁵⁶ The Environment Programme addresses forest conservation under Reducing Emissions from Deforestation and Forest Degradation in developing countries (REDD) and advocacy

⁵⁴ “Statement: With No Will to Amend, LANGO Must Be Repealed”, Licadho, February 10, 2020, <https://www.licadho-cambodia.org/pressrelease.php?perm=446>

⁵⁵ “Thailand: The Draft Act on the Operations of Not-for-Profit Organizations causes alarm”, January 8, 2022, <https://ifex.org/thailand-the-draft-act-on-the-operations-of-not-for-profit-organizations-causes-alarm/>

⁵⁶ “Regional Capacity Building”, Asia Indigenous Peoples Pact, Accessed June 16, 2022. <https://aippnet.org/programs/regional-capacity-building/>

for climate change through “related bodies such as the United Nations Framework Convention on Climate Change (UNFCCC) and Convention on Biological Diversity (CBD)”.⁵⁷

2.4 HERE AND NOW

This section examines how current events and circumstances influence the objectives and behavior of key actors/stakeholders, and how they respond to opportunities for, or impediments to change.

2.4.1 DRIVERS OF IWT AND WILDLIFE DEMAND

As laid out under Foundational Factors, FRCs and IPLCs have traditionally consumed bushmeat for their food needs, but do not drive IWT. According to an indigenous person and CBO member:

“We do not use wildlife products, but we do hunt and eat them. We do not use wildlife for decoration...we don't economize wildlife. The use of wildlife for aesthetics is driven by people from cities because only they can afford to buy such expensive products.”

Corroborated by various types of respondents across organizational affiliations and identities, the main driver of IWT and wildlife demand presented was affluence-driven demand from cities, and the actors enabling this were big criminal networks. Secondary literature consulted emphasizes the size and scale of demand from China for wildlife products for use in traditional medicine, a pattern repeated in Cambodia and in Vietnam. To illustrate the size of Traditional Chinese Medicine (TCM) in China, in 2010, the output value of TCM was \$43.7 billion. This figure is expected to grow to \$114.1 billion by 2025.⁵⁸

While some elements of demand for these products may incentivize IP and FRCs, the scale of demand requires more sophisticated hunting and trapping than basic snare traps.

Unlike the traditional and rudimentary snares that may be used by an individual and on a scale that is small, electric wires that have the ability to trap whole families of animals were said to be used by better-equipped networks. The participation of FRC and IPLC in IWT came up in the context of economic incentive or need. According to INGO members in Cambodia, rural poverty is a very real issue in many areas. Dire living conditions partially explain people's motivations to seek IWT for an easy income. However, the incidence of this is low as an activist working directly with and in these communities said, “*Wildlife hunting is now mostly an alternative for additional income during the unemployment season.*” For this study, low participation of IP and FRC is also supported by the many mentions of the presence, strengthening, and good enforcement of the law, and to some extent the implementation of government departments' awareness-raising efforts. However, the sheer number of traps documented across the region by conservation organizations such as WWF would suggest that greater participation by some IP and FRC groups may exist.

⁵⁷ “Environment”, Asia Indigenous Peoples Pact, Accessed June 16, 2022, <https://aippnet.org/programs/environment/>

⁵⁸ JuncaiXuandZhijieXia, “TraditionalChineseMedicine(TCM)—DoesItsContemporary Business Booming and Globalization Really Reconfirm Its Medical Efficacy & Safety?” *Medicine in Drug Discovery* 1 (July 3, 2019)

Finally, awareness about conservation, the potential of ecotourism to provide the economic incentive to preserve forest resources including wildlife, and the decreasing demand for wild meat for sustenance, are additional reasons cited by respondents.

While they may not be driving the demand for wildlife products, demand from people who can afford to buy wildlife combined with poor economic conditions make these communities vulnerable to participation in IWT activities. One respondent said, “*Transportation shipments also use communities for this [IWT] as they are vulnerable and live in sourcing areas and have nothing to live on but forests.*” Furthermore, differentiating the types of residents in FRCs and relating to IP’s spiritual connection to forests (as established previously), an INGO member also pointed towards “*migrants [to forest areas who] may not feel a sense of ownership and may have a more extractive relationship with land resources. They may also be part of large extractive networks.*”

Suggesting a potential solution, an implementation partner said:

“If opportunities for other reliable income can be provided, IWT would not be an issue. So alternative and sustainable livelihoods need to be provided.”

Current research on the success of providing alternative livelihoods is mixed. For example, most projects are run by local and national NGOs, and project managers acknowledge the importance of involving communities in project decision-making; however, many projects are funded through small, short-term grants and struggle to meet their objectives with the available time, funding and capacity. Because of these constraints, few projects monitor their outcomes and impacts. Projects also seldom implement conditionalities and sanctions, which may lead to the alternatives offered becoming additional rather than substitutional activities. Successful strategies will apply best-practice guidelines for Integrated Conservation and Development Project design and implementation, including the use of simple monitoring methods for evaluating outcomes and impact, to increase the chances of success for alternative livelihood projects, along with a restructuring of current funding models⁵⁹.

2.4.2 GOVERNANCE CHALLENGES

GROWTH MODEL, LAND GRABBING AND DEVELOPMENT: COMMERCIAL AGRICULTURE, CONSERVATION, ECONOMIC LAND CONCESSIONS

As laid out under the previous two analysis sections, the interaction of IPLC’s land rights and the government’s lack of conferral spills over as a significant spoiler to localized CWT efforts. In addition to the unintended interaction of conservation laws with IPLC’s land rights, the governments’ pursuit of rapid economic growth, can also act as a barrier to getting community commitment to CWT efforts. According to an INGO head in Cambodia:

⁵⁹ Wicander, Sylvia & Coad, Lauren. (2018). Can the Provision of Alternative Livelihoods Reduce the Impact of Wild Meat Hunting in West and Central Africa? Conservation and Society. 16. 10.4103/cs.cs_17_56.

“The Government lacks the means to single-handedly support conservation efforts because they are juggling with competing development and national priorities. A governmental agenda that is about economic growth and development is at odds with the community's definition of development and resource management.”

This is manifested in their own infrastructure projects as well as their land concessions to private businesses being set up around IPLC. Not only can the presence of outsiders in these areas increase IWT, as they see an additional economic incentive to business, but the loss of agricultural land for IPLC can also push them towards participation as well.

CORRUPTION

Economic incentive also plays a role in the involvement of lowly paid forest officials according to INGO employees in Cambodia, who said, “*as government employees, they have standard but low pay structures across all regions, which makes profiting off of Wildlife Trade an economic incentive.*” In what can be inferred as the complicity of forest officials on the ground, speaking of criminal actors’ ability to set electric wires, trap and extract wildlife, an IP group said, “*their intelligence network also seems to be strong as they usually seem to be aware of when rangers are on patrol and circumvent them.*” On a higher level, one perspective from Vietnamese NGO workers was:

“a lot of wildlife syndicates are being sponsored by people in the government. Even those in the government who are not corrupt and want to change things, find it difficult to do so because of this.”

Corruption is well documented and systemic in the region but in self-reported data, few IP and FRC raised this issue as a primary concern or the basis of grievances about land use policy and CWT. In an off-the-record, informal consultation with a broker of illegal wildlife products, it was revealed that wildlife supply chain sourcing at the community level was approached as artisanal – the perceived value of the meat is being rare, difficult to obtain in the city, and more costly so a luxury item. To maintain quality standards, the broker relied on a small “cell” of trusted hunters from a nearby FRC. He said that part of maintaining the “high value” for his elite Phnom Penh-based customers is to limit supply. His view was that the destructive use of wire traps for large-scale trapping was related to criminal syndicates that might work with security forces. His perception of small-scale hunting for high-value wild boar had nothing to do with those involved in “real IWT” crimes. He saw himself as supporting local community livelihoods, especially during COVID-19 when people became unemployed overnight.

POOR COORDINATION AND POLICY INCONSISTENCY

According to INGO heads in Cambodia and Thailand, there has been a lack of substantial efforts to reduce the demand for wildlife. They said:

“There are too many cooks in the kitchen, and it is still a confusing mess.” They [government departments] operate in silos and via top-down approach, which makes CWT efforts ineffective.”

This was also represented in Cambodia through the back-and-forth transfer of the responsibility for the biodiversity corridor between the Forestry Administration and the Ministry of Environment . Additionally, insufficient cross-border cooperation, poor collection and maintenance of data, and policy inconsistencies due to top-level changes in government, act as barriers to CWT and RDW. CSOs report that even where there is progress on strengthening laws, poor implementation further limits CWT efforts.

2.4.3 COMMUNITY-AUTHORITIES RELATIONSHIP

With regard to local forest authorities, this was predominantly presented in a positive light by government officials and community members alike, mostly because of the communities’ engagement in and support of conservation, and lack of involvement (at least as major players) in IWT. IPLC and FRC also rely on local authorities for protection against encroachments by animals and criminal actors. As a department head in Cambodia said, “[We are] conscious about not harassing consumers who can be positively encouraged to change behavior, and instead focus on going after the ‘big fish’ who really drive the criminal networks”.

To some extent, positive relationships may also be said to be contingent on the communities’ acquiescence to power. Negative relationships were brought up in the context of land conflicts in areas that are the focus of development, as also described in previous sections, but also in the local authorities’ enabling of encroachment – “there is a lot of conflict between communities and local authorities. Here they don’t crack down on infringement on Community Protected Area(s) (CPAs) because of rampant corruption. There are lots of trespass logging opportunities available here.”

2.4.4 IMPACT OF COVID

On the positive side, COVID-19 travel restrictions were presented as having enabled urban youth interest in and appreciation of national parks, forests, and wildlife, and may be viewed as having provided an opportunity to strengthen their engagement in CWT. According to some INGO representatives, COVID-19 compelled them to seek recreation in forests, where they were exposed to the benefit and beauty of the ecosystem. This, they said, engendered in them a passion for its protection, which propels them to talk and post about it on social media. On the negative side, it exerted pressures on enforcement because of having to reduce the already insufficient force of rangers and reduced the capacity to effectively CWT.

2.4.5 REGIONAL SOLUTIONS FOR IWT AND RDW

COMMUNITY ENGAGEMENT THROUGH COMMUNITY-CENTERED AND PARTICIPATORY DESIGN

To achieve measurable change the scale of action required is regional. This will require both start-up investment and coordination by RDMA and other regional partners. At the implementation level, the most cited area for improvement and solution with strong potential was creating, strengthening, and

enabling community-led consultative and participatory approaches. Organizations with strong local presence and credibility as well as offering regional capacity and platforms to broaden civil society engagement such as RECOFTC, AIYP, Asian Indigenous Peoples Network, and Young Southeast Asian Leaders Initiative all offer strong models. There is also potential in exploring how existing and emerging regional partnership coordination platforms and mechanisms in CWT and One Health might be leveraged to integrate and broaden grassroots stakeholder engagement in particular youth, Ips FRCs. Using regionally managed funds and planning can still reflect local priorities and benefit from FRC and IP community expertise.

According to the IP community and CBO members:

“The government can include IPs in law-making and policy-making processes. As of now, the government makes laws that directly affect them without including them in the process.” An implementation partner said; “It is important to consider and listen to what they want. [We try] to ensure the inclusion of women, youth, and indigenous in their projects. Results are better achieved when responding to what the community wants rather than national, or regional issues.”

Without this, according to another respondent working with IP communities and youth, the effort is significantly diminished if the community is not included more directly in policy and program development. “*Participatory action research is a potential solution, engaging NGOs and CSOs at the grassroots level (especially when they work on issues that are against the law in their countries). It is very important to make programs inclusive and participatory,*” the respondent added.

An IP community member and senior representative of a CBO also pointed out the importance for the indigenous community to be able to retain their core values while improving behavior on some things. A successful example, brought up by an indigenous civil society member, was Phu Pa Nam National Park in Sam Phak Nam village, Thailand. The community did not possess land rights and their area was designated a national park without consultation. RECOFTC conducted many multi-stakeholder consultations enabling mutual understanding between the parties, including encouraging the government to allow the community to implement traditional approaches to forest maintenance. This recognition of community needs and rights by the government, the creation of a “collaborative and community-oriented land-management practice, including the establishment of the Community Forestry Committee”⁶⁰ can be seen as a successful example of community-centered program design that featured so prominently in primary research.

Livelihood capacity-building programs and knowledge-sharing workshops with other community networks also exemplify potential pathways to regionalize such programs, which, according to senior INGO members in Cambodia, is crucial:

⁶⁰ Xiang Ding, “How a village and a National Park built a forest management system from the ashes of conflict.” RECOFTC, January 9, 2012, <https://www.recoftc.org/index.php/stories/how-village-and-national-park-built-forest-management-system-ashes-conflict>

“For regional networks and initiatives to be successful, they must be organic... come from bottom-up community mobilization. Without grassroots initiatives and ownership, no network building or problem-solving can be successful.”

Further, community participation appeared contingent on community support and protection - in protecting and advocating for IPLC’s fight for their land, recognition, and inclusion rights first. Network of Indigenous Peoples in Thailand (NIPT) is pushing for the adoption of the Council of Indigenous Peoples bill in Parliament, which in light of these issues “proposes to set up a formal indigenous peoples’ council to give Thailand’s indigenous population the opportunity to resolve community rights issues in ways that are suitable to their way of life”.⁶¹ According to an indigenous respondent in Thailand, civil society support is crucial to get help and get buy-in from communities. As another example, senior INGO members in Cambodia said; “WWF works not just on conservation but also on protecting community land against further encroachment through a legal lens, as well as on other gaps that the government is not able to fill.”

ALTERNATIVE AND SUSTAINABLE LIVELIHOODS

The second most prominent need and lever for strengthening CWT efforts is the provision of secure and alternative livelihoods that are sustainable both for the environment and the communities. Representing the view of many respondents, NGO members in Vietnam said, “People can’t protect anything if they can’t protect livelihoods, so it is important to support them with alternative livelihoods.” As an example of success, according to a group of ex-poachers in Thailand, “No one else hunts because capacity building networks enable them with information and skills about other agricultural livelihoods. For example, a medicinal herb garden was established as an alternative livelihood.” A senior government official in Cambodia similarly said, “The Ministry wants to support alternative income generation through livestock rearing. We have dedicated departments working on livelihood policy.” Despite the popularity of this approach it should be noted that the complete environmental impacts of livestock rearing are not fully assessed.

Ecotourism emerged as another alternative to participation in IWT:

“Since they would rather be tour guides than poachers, as it would be more economical for them, there are also potential pathways to CWT through eco-tourism.”

Mushroom farming, herb gardens, agricultural value chains on organic plant products, wild honey, and forest guides are some examples provided as alternative forest products that FRCs could rely on instead for their livelihoods. Viewed as PES, in which revenue derived from these activities is used

⁶¹ “Indigenous peoples network to propose new bill to protect indigenous rights”, Open Development Mekong. 2021, <https://opendevlopmentmekong.net/news/indigenous-peoples-network-to-propose-new-bill-to-protect-indigenous-rights/>

for reinvestment into community credit funds, or for direct wages in return for protecting the forest and resources, can allow for the conservation of wildlife while also allowing communities to prosper.

2.5 DYNAMICS

This section examines the ways in which the analytical components of the framework (foundational factors, rules of the game, here and now) interact: How do they affect each other, and how do they influence/shape prospects for change?

2.5.1 ATTITUDE TO CURRENT CWT EFFORTS

Perhaps more than any other members of society, IP and FRCs are at the nexus of CWT, forest management, and development pressures. They are also more vulnerable to restrictive laws and have less ability to advocate for rights as detailed throughout this assessment. For this reason, efforts to engage these communities directly in CWT efforts may be less successful than doing so indirectly. Working with youth platforms and focusing on broader participation enables exposure to systems thinking about wildlife, conservation, and planetary health and can include consideration of the role of IWT in disturbing ecosystems. CWT efforts that can also be transmitted from elders as part of the traditional respect for wildlife may also offer a more promising opportunity for collaboration. A regional IP organization leader, citing the ASEAN youth network as a good example, reflected; *“IP youth participation has to actually become meaningful. IP leaders are good at representing youth, including getting youth’s voice included in policy. They are interested in seeing the second line of leadership to accelerate the movement of IP rights.”* The same respondent admitted, however, that at the national level, indigenous youth issues are largely ignored, adding, *“their demon is jobs, education, and economics - they want quotas. Incorporation of their needs into national policy is currently not happening.”*

2.5.2 CIVIL SOCIETY AND ADVOCACY

The situation of Civil Society is fragile and uneven across the region. For example, in Lao PDR, conservation organizations have enjoyed relatively higher levels of freedom to operate since the 2016 election of Prime Minister Thongloun Sisoulith who has acted as a personal champion in the effort to eliminate illegal timber trade in the country. The introduction of important improvements to the 2007 Forestry Law and more recently the Forestry Strategy includes progressive measures for sustainable national growth and poverty eradication.⁶² This includes provisions that protect rural natural assets and set the aggressive goal of returning Lao PDR to 70% of natural forest cover by 2021. Both local NGOs such as the Biodiversity Association of Lao PDR and international conservation partners such as WCS note that they have greater freedom to do conservation work than in the pre-2016 period. However, community-based organizations, particularly those focused on the land rights of indigenous populations are highly constrained. Similarly, outward criticism of government policies regarding natural resource management and biodiversity remains rare, even among international organizations.

Examples of positive collaboration between FRC and conservation organizations emerge in the primary data and point to areas for expansion, as one respondent reported, *“We have interacted with twenty-five other communities at consultation committees organized by WWF. We found these beneficial in learning about each other’s contexts and practices, for example, livelihood generation in handicrafts or bamboo products.”* IP elders in Cambodia also reported that they have learned about credit and

⁶² Prime Minister’s Office, *Forestry Strategy to the Year 2020 of Lao PDR*, https://data.laos.opendevlopmentmekong.net/library_record/2020-1

setting up women's self-help groups, which they then proceeded to create in their own community. It should be noted that rights-based CSOs, notably Cambodian League for the Promotion and Defense of Human Rights (LICADHO),⁶³ have long supported the efforts of IP communities to secure legal land rights through training and advocacy. More recently, through the Mekong Drivers program, WCS has supported FRCs in securing land rights, land use planning, capacity building, and community-driven resource use agreements with the explicit goal of reducing deforestation and unsustainable land use. These efforts are critical in providing indigenous communities with the tools necessary to advocate for their rights while also engaging with CWT efforts.

CSO-COMMUNITY

The theme of dialogue and exchange is perceived to be an avenue for cooperation where CSOs “can help build a platform between relevant parties for dialogue and exchange. Many issues occur because stakeholders don't know each other.” It is noteworthy that in several of the IP consultations, individuals expressed compassion verging on pity for the ‘mainstream’ who they perceive to be alienated from nature and therefore incapable of understanding why IP and FRC prefer to live in harmony with nature.

Research suggests that a distinction between CSOs working locally, even if part of an international umbrella organization such as the International Union for Conservation of Nature, demonstrates more collaboration in developing conservation and CWT-related strategies. In contrast, those same organizations operating at the regional level seem increasingly distant from community priorities. As one regional director reflected, “*Maybe too much has been invested in law enforcement over the last fifteen years and not enough in looking at community needs – the supply side.*”

In contrast, WCS-Cambodia is successfully working in close coordination with an FRC living in the mixed-use buffer area, along the Mekong, that is outside of the protected forest in Kratie Province. The turtle population is under threat. This is a strong example of a partnership that is not distorting the local economy by creating an artificial incentive. WCS identified a community that had sufficient resources to not become dependent on the intervention, provided modest support for participation (just enough to cover the cost), and identified community champions who had the time to take on a leadership role. The elder women in this community have taken charge and provided mentorship to the youngest volunteers to transmit the value of the turtles in their environment. Contrary to misperceptions sometimes expressed by urban CSO members, the community is embracing this initiative as part of a longer-term strategy to attract tourists to their community to enjoy seeing the hatchlings. When queried about opportunities to network with other communities a respondent commented; “*This community collaborates and shares information with neighboring turtle communities realizing that collaboration amplifies conservation effectiveness.*”

A second successful model of CSO and IP and FRC collaboration is between WWF and communities also in Kratie Province, Cambodia. According to an INGO head:

⁶³ “LICADHO - About Us”, LICADHO, Accessed June 18, 2022. <https://www.licadho-cambodia.org/aboutus.php>
LICADHO is a national Cambodian human rights organization. Since its establishment in 1992, LICADHO has been at the forefront of efforts to protect civil, political, economic and social rights in Cambodia and to promote respect for them by the Cambodian government and institutions. Building on its past achievements, LICADHO continues to be an advocate for the Cambodian people and a monitor of the government through wide-ranging human rights programmes from its main office in Phnom Penh and 13 provincial offices.

“Forty percent of the WWF budget is allocated towards livelihood support that protects biodiversity. This has helped strengthen the position of communities. Exporting community products can encourage other communities to follow a similar self-sufficiency approach, rather than wait for big organizations to act as intermediaries. This is something that communities have chosen as a model for themselves, it has not been imposed from the top-down.”

Two elements of this collaboration should be considered more broadly. The first is the creation of a self-sustaining community development fund, revenue derived from participation in forest patrol contributes to the fund as does the interest on credit extended to community members. This intervention addresses multiple challenges: poverty and indebtedness (as a result of unregulated microfinance schemes in Cambodia), access to safe low-interest credit for conservation or enterprise development, and inclusion. To support inclusion and address possible imbalances in gender representation, all members of the community can participate in contributing or borrowing from the fund.

The second is how WWF, local authorities, and community forest patrols find accord in their efforts to reduce wildlife crime in the protected area. Patrols can be risky and respondents have shared concerns over safety. They have also made it clear that it is the responsibility of local authorities to respond to their requests for support and act on reports of wildlife crime. Instead of arming and putting community members at risk, they have made a clear distinction on the lines of responsibility and this contributes to local authorities being held accountable. In Thailand, community respondents in several consultations regarded local officials, including rangers, to be allies in addressing challenges they confront with human and wildlife interaction. This perception is mirrored by a ranger in the same community, *“We see ourselves as the middleman between wild animals and villagers – the animals already have a law to protect them but our job is to help the animals and people live in harmony. It's different from what you describe. I think they see us as allies – they call us to help with pushing animals [elephants] back.”*

Approaching CWT holistically as aligned with the broader mobilization around recognition and representation may offer a more effective pathway to youth and IP coalitions who can become natural allies in CWT. As one IP youth enthusiastically suggested:

“Just listen to our story! IPs don't really have space to voice their concerns, so give and support our opportunity to do so.”

Representatives from WCS Cambodia expressed their intention to work on improving CWT efforts by collecting data from communities and local administrations; and understanding the who, what, and why of wildlife crimes. Political will for this will be dependent on their ability to create trust-based relationships. WCS Indonesia has piloted such approaches in the country's national parks where there is a big mammalian poaching problem. Their recommendations serve as an inspiration to WCS Cambodia.

COMMUNITY-GOVERNMENT RELATIONS

The majority of respondents consulted indicated that, overall, they have favorable relationships with local authorities. This was a surprising finding given the perception that communities are often in conflict with local enforcement agencies. As one local official commented when asked about their office's relationship with local FRCs, *“Not perfect, but mostly good relationships with most of the communities who do not engage in [wildlife trade] and/or participate in protection/conservation. Potentially contentious only with the few who are not active in conservation work.”* IP community members in Chiang Mai, Thailand as well as IP youth, elders, and local farm owners in Khao Yai also confirmed that relationships with local authorities were generally positive. One possible reason given by the Karen respondents is that they feel well represented because their local political representative is also Karen and there is a foundation of mutual trust. In Cambodia, the provincial government in Kratie Province makes a concerted effort to invite participation at quarterly public consultations and ranger training is not limited to enforcement but includes legal awareness that covers knowledge of community forest rights.

IP community members in Kratie and Kampong Thom Cambodia shared, *“The Ministry of Environment and the Forestry Administration advocacy efforts have allowed us to be aware of our forest and land rights. We get invited to consultations about wildlife and forestry protection, where they listen to our grievances and call for Prey Lang's protection. For example, if we report deforestation attempts by a plantation around us, authorities take action. They even send guards to stand by for a month for high profile cases.”* However, some IP community members in Thailand shared, *“The Thai government does not implement and commit to capacity building. Government is the main key to opening up opportunities for IPs. It feels as if they don't want to include IPs because we lack so much education and skills, so it would be good to support and build our capacity. Also, Global Environment Facility, Swedish International Development Cooperation Agency, and other donors can pressure the government of Thailand to follow the commitments of the treaties it signs. We have local authorities elected by us and those people can be allowed to draft the law and the community can review them. This would be very useful, particularly as regards the laws of relevance to IPs.”*

One community member bluntly stated:

“[the] Government may think the Chinese investment created jobs is something communities want, but they don't. This exposes the mismatch between the government's ideas of progress and the community. They need to listen to what the community wants for themselves.”

The IP and FRC generally interact with the local face of government, provincial administrative officers at the sub-district level,⁶⁴ forest rangers, and in Thailand local representatives. At that foundational level, respondents shared mostly favorable views (the exception being among Karen respondents with regard to land conflicts but even this was with law enforcement sent in to resettle a community, not the local representative). Perceptions of central government mainly reflect the

⁶⁴ Local autonomous governments have both directly elected councils and mayors at their head. However, they are still placed under the control and supervision of provincial governors, district officers and the Minister of the Interior, who all along have the authority to approve their annual budget plans and local regulations, dissolve local councils, and dismiss local councilors. They consist of three types of municipalities: City municipalities (over 50 000 inhabitants), town municipalities and sub-district municipalities. In Chiang Mai province there are two locally elected Karen sub-district officials.

dimensions of marginalization addressed throughout the report. In response to questions about what the role of the government might be in working with communities on CWT, one Cambodian respondent offered, “Government should allocate funding toward biodiversity, and communities should find representation in the national assembly that is not tokenistic.” So aside from CWT-specific agendas, the question of political participation and representation is the primary concern.

DONOR-CSO

It is vital for CSOs and development partners to ensure that space is kept open for advocacy by these communities. Development partners are duty holders and as such can play a supportive role by ensuring that USAID follows its Policy on Promoting the Rights of Indigenous Peoples (PRO-IP) guidelines in program design and implementation.⁶⁵ Development partners more broadly can support indigenous peoples to reach higher levels of citizen empowerment and participate in the design and application of public policies and have strengthened their capacity to generate proposals and policies in the rural sphere that contribute to the reduction of poverty and sustainable development that is compatible with the conservation and valuation of wildlife.

Policy change to conserve biodiversity and accommodate community participation in CWT necessitates pressure, contestation, and negotiation. Unfortunately, in 2022, LMS governments continue to take repressive actions toward CSOs that express views that do not align with development policy particularly as this relates to protected areas management and the introduction of new transportation corridors. In Prey Lang, recent disagreements between the Royal Government of Cambodia, local forest management community groups, and environmental activists – particularly youth activists, and donors –resulted in the temporary withdrawal of funding by the USAID. The United States has invested more than \$100 million in programs that combat the loss of wildlife and biodiversity in Cambodia. Since 2016, despite USAID’s support for increased ranger patrols, training of law enforcement, and development of a national protected area management system, the Prey Lang Wildlife Sanctuary has lost approximately 38,000 hectares of forest or nearly nine percent of its forest cover and incidence of wildlife crime increased. Well-documented illegal logging continues in and around the Prey Lang Wildlife Sanctuary, and Cambodian authorities have not adequately prosecuted wildlife crimes or put a stop to these illicit activities. In addition, the government continues to silence and target local communities and their civil society partners who are justifiably concerned about the loss of their natural resources.⁶⁶ More can be done to encourage private sector accountability in land development in and near protected areas as encroachment continues to challenge local populations and can increase IVT activities.

Events in nearby Thailand combined with widespread arrests of activists in Cambodia, including the arrest of eleven environmental activists at a peaceful demonstration in 2021, saw the conviction of three jailed Mother Nature environmental activists in May 2021 on charges of incitement. They have now been charged with plotting by the Phnom Penh Municipal Court in relation to a case involving four fellow activists from June 2021.⁶⁷ High-profile arrests such as these discourage public discourse

⁶⁵ “Policy on Promoting the Rights of Indigenous Peoples (PRO-IP) | Indigenous Peoples | US Agency for International Development,” USAID. Accessed June 18, 2020, <https://www.usaid.gov/indigenous-peoples/usaids-policy-on-indigenous-peoples>

⁶⁶ “U.S. Embassy Phnom Penh Statement on the USAID Greening Prey Lang Funding Redirect”, US Embassy in Cambodia, June 18, 2021, <https://kh.usembassy.gov/u-s-embassy-phnom-penh-statement-on-the-usaid-greening-prey-lang-funding-redirect/>

⁶⁷ “Cambodia: Free Environmental Activists”, Human Rights Watch, June 22, 2021, <https://www.hrw.org/news/2021/06/23/cambodia-free-environmental-activists>

and debate about balancing economic development with wildlife and biodiversity conservation and progress on the valuation of natural resource capital.

In Vietnam, the *Prime Minister's Resolution 120*⁶⁸ represented a ground-breaking milestone, marking a departure from unsustainable development practices towards an “actively living with nature” paradigm in which community forestry, international conservation organizations, and those focused on climate change could work together. The public-facing commitment to biodiversity conservation and reducing corruption that surrounds the wildlife trade (legal and illegal) has created new openings for cooperation with civil society.⁶⁹ Yet, open criticism of the government and its policies is increasingly dangerous. For example, in the months between April and August, police arrested nine people including independent blogger Pham Chi Thanh, and land rights activists Nguyen Thi Tam, both of whom were charged with anti-state propaganda under article 117 of the penal code. Indigenous groups are not in a position of strength to fully engage with CWT or other campaigns when these intersect with more controversial areas and yet these are the issues that would lead to IP participation in protecting wildlife.

REGIONAL

Aside from the IP networks referenced throughout this report few regional platforms exist to facilitate better collaboration between community-focused organizations and high-level decision-making. The ASEAN Peoples Assembly⁷⁰ is the potential fora to include IP and FRC voices but these formal meetings have excluded the meaningful participation of civil society. The parallel forums of ASEAN Civil Society Conference (ACSC) and the ASEAN Peoples' Forum (APF) are undergirded by the important work of Forum Asia. The ACSC/APF has been one of the few platforms for meaningful inclusion, advocacy, and coalition building in the region for marginalized communities – this includes IP and FRCs as well as the LGBTQIA+ communities.⁷¹ The agenda of the 2019 conference included ecological sustainability among the other intersecting areas of focus for IPs such as human rights, access to justice as well as access to health and social protection. Conservation INGOs can encourage and support IP network participation in this forum and partner with youth and environmental groups to include CWT. Contextualizing IWWT so that subsistence hunting and maintenance of tradition are not understood to run counter to regional plans of action on CWT.

In addition to rethinking how IP and forest reliant communities can engage with regional mechanisms, it is vital that economic recovery include all segments of society to avoid further excluding communities from recovery. Alternative livelihood schemes may be local in focus but they should be part of the ASEAN Economic Recovery Plan and are currently absent. This is an area of potential convergence between policy-makers, CSOs, and communities. A CSO representative suggested building the capacity of communities to self-sustain through alternative livelihoods and linking them directly to export markets for sustainably sourced and created products. One approach could be rapid, skills-based training at a regional institution such as the Asian Institute of Technology (AIT) where community members from across the region learn monitoring techniques. Training programs could then be paired with a regional fund to financially compensate community members for these monitoring services. Over time, AIT could establish an innovation hub for IP and FRC

⁶⁸ Resolution 120, Issued November 2017, policy and institutional reforms, and spatially referenced and integrated actions in selected priority sectors.

⁶⁹ “Overview: Vietnam,” World Bank Group, April 14, 2022, <https://www.worldbank.org/en/country/vietnam/overview>

⁷⁰ CSOs have asserted their claim for participation in regional governance in Southeast Asia through multiple forums held since the late-1990s. The two most enduring are the ASEAN People's Assembly (APA), organized by ASEAN-ISIS and held seven times from 2000 to 2009, and the ASEAN Civil Society Conference (ACSC), organized by the Solidarity for Asian People's Advocacy network and held nine times from 2005 to the present.

⁷¹ LGBTQIA+ includes lesbian, gay, bisexual, transgender, queer/questioning, intersex, and asexual/aromantic/agender.

communities that pairs indigenous knowledge with innovation and investment opportunities. IP youth consulted for this study do not oppose use of technology and are eager to learn and share best practices with counterparts in the region.

Long-term financial and technical assistance is needed to include and equip communities with know-how and equipment. The respondent added:

“In order to achieve this, the government, INGOs, and donors must get rid of the political agenda behind resource management decisions and not impose their own ideas about what the community needs. Instead, they should build trust with communities, invest in trying to deeply understand local contexts, and support them in leading the process themselves.”

3 RECOMMENDATIONS

The following recommendations are targeted at the regional level. For selected recommendations, where a country pilot coordinated by a regional body might be applicable, it has been indicated.

The following recommendations prioritize indigenous youth networks. Centering the needs and aspirations of this group is pivotal in addressing the nexus of CWT/IWT, expansion of rights and inclusion, and amplification of youth and IP social movements across the region. Building partnerships that foster economic opportunity as part of a broader effort to value natural resources and strengthening governance of these assets should be core elements of national development that can offer pathways to greater IP and youth engagement.

Recommendation 1: Support and amplify existing regional indigenous and youth networks such as AIYP, Asian Youth Indigenous Peoples Network, and AIPP in their advocacy for participation in regional and international fora to build alliances with CWT and biodiversity networks and catalyze the current momentum of these youth networks. Invest in the skill-building required to support their own advocacy efforts and capacity to share knowledge with other regional networks and youth coalitions.

Recommendation 2: Ensure future regional CWT programs and activities include meaningful participation by forest-reliant and indigenous communities through allocation of appropriate levels of funding for consultation, participation, and enhanced representation in activity planning. For example, contributing to environmental assessments and wildlife monitoring. Investment funding mechanisms for direct community planning and engagement in CWT activities such as community development funds, community credit mechanisms, and capacity building to access alternative livelihoods – including funding arts-related initiatives that build on cultural tradition are all possible activities. Pair funding with capacity building on participatory funding management skills.

Recommendation 3: Invest in the co-creation process to engage and partner with civil society groups such as local NGOs, IPs and FRCs and their subsets including religious leaders, indigenous youth, and women to collaboratively build campaigns that amplify IP traditional and sacred relationships with forests and wildlife and reduce urban demand for wildlife products. At the regional level this can take place through existing regional platforms detailed in the study.

Recommendation 4: Promote collaborations to develop and support meaningful alternative livelihood schemes (sustainable) including eco-tourism, PES, or other community-led initiatives such as the Ibis rice project in Cambodia that can achieve both biodiversity conservation and improved IP/FRC rights goals. Pilot these initiatives at the country-level to reflect local needs in partnership with regional partners such as RECOFTC.

Recommendation 5: To support PES initiatives in Recommendation four, expand small grants programs targeting IP and FLCs in Cambodia, Lao PDR, and Vietnam and pair them with opportunities to pilot and scale-up models for biodiversity-friendly production, including certification and eco-labeling for locally and sustainably sourced products. Encourage communities to take a greater role in the development and co-management mechanisms for protected areas that promote community participation in CWT as part of zoning, management, and governance in protected areas.

Recommendation 6: Fund processes and projects that encourage mutual cooperation and collaboration between key actors such as indigenous journalists and mainstream media professionals,

artists, musicians, and youth entrepreneurs. Novel and creative collaborations offer new pathways for cooperation, particularly among youth.

Recommendation 7: Invest in a comprehensive mapping exercise of indigenous groups in the LMS to begin to reduce gaps in understanding of the specific role Indigenous Peoples and Local Communities (IPLCs) can play in CWT and IWT activities. For example, expand engagement with IP communities to include their own priority issues that align with key United Nations Conventions such as UNDRIP. Encourage cross-sectoral collaborations between CWT and rights organizations to bring new partners into dialogue and action.

Recommendation 8: Invest in local communities to engage in the conservation and management of protected and mixed-use forest areas.

4 CONCLUSION

The indigenous and forest-reliant communities of Southeast Asia have long had practices of stewardship and the concept of conservation. Many also embrace informal but long-held systems of governance that include sustainable use of natural resources. The survival of IP cultures and their ways of life is linked to maintaining the traditional knowledge which supports and nurtures the healthy relationships with the ecosystems in which they live. Understood in this regard, it is clear that the continued existence of wildlife is also linked to ensuring that Indigenous Peoples are to live within the carrying capacity of their ecosystems and not bereft of livelihood choices.

Youth, encompassing IP youth, represents the future of conservation. How this group will contour and shape the development patterns of the region - and *if* they will have the opportunities for expression to build advocacy coalitions that recognize the intrinsic relationship between sustainable development, protection of wildlife, and more equitable growth is an urgent question. USAID is uniquely positioned to encourage and support these coalitions so that they can constructively engage with the government and the private sector on more equal terms.

Throughout this report, the current state of IP and FRCs and their environment are considered within the broader context of increasing threats by external drivers including general population increase, large-scale industrial activities, climate change, conflicts, as well as by other unsustainable development activities. The structures of the world's ecosystems have been significantly degraded through human actions, including through the transformation of approximately one-quarter of the Earth's terrestrial surface into cultivated systems. In the ASEAN region, many IPs suffer disproportionately from loss of biological diversity and deterioration of ecosystems such as forests, due to their subsistence economies and occupations, and their spiritual connection to their traditional lands and territories. Their exclusion from the economic benefits derived from natural resources that other members of society benefit from further isolates IPs.

Many IP live in the world's more biodiverse areas, and their displacement – either by force due to the consequences of unsustainable development or climate change – leads to greater destruction of these important ecosystems such as in the Annamite region in Lao PDR and Vietnam. In partnership with these communities, USAID and other development partners can commit to incorporating and valuing the generational experiences and observations of IP and FRC communities and to investing in their youth as the future foundation for a global, regional and national partnership between IP communities and calls for specific guidance aimed at enhancing their full and effective participation in CWT as part of the rubric of a healthy and sustainable ecosystem. Addressing the supply-side and not simply the demand for wildlife products can also close the gaps that may encourage IP to act in ways that compromise wildlife and forest resources.

Throughout this study, recognition that exogenous drivers interact in complicated and misunderstood ways that contribute to the discrepancy between the real and perceived role of indigenous communities in the wildlife trade are investigated. While more comprehensive research needs to be done to understand these intersections, if effective CWT programs are to be developed, it is clear now that the first step is encouraging stronger direct collaboration between existing, organic regional networks, development partners, and global social and issue-driven coalitions. For example, partnering with global indigenous rights organizations, the climate change movement, and the youth advocacy platforms that offer exposure to regional and global policy-level dialogue.

The positive news is that this study suggests that willing IP youth platforms exist in the region and are eager for opportunities to expand skills, networks, and engagement with environmental issues. While it was not found that these networks are currently coalescing around CWT or IWT, they are engaged with biodiversity and climate change and bring a pre-existing understanding of the interaction between wildlife, forest conservation, and poverty.

ANNEX I. TABLES AND SUPPORTING INFORMATION

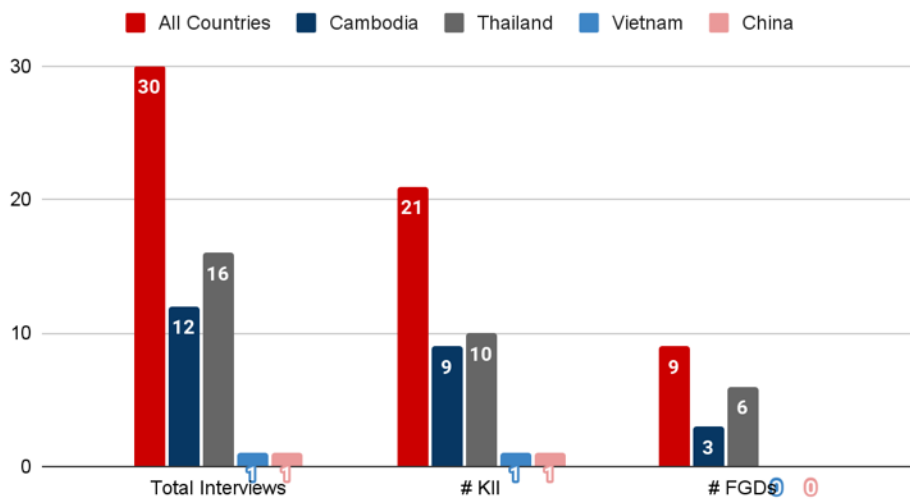


Figure A1. Total Number of Interviews by Type of Interview

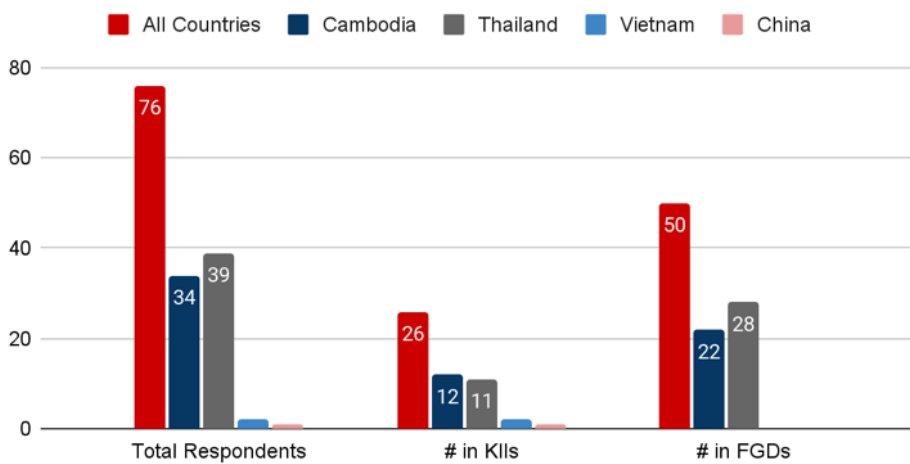


Figure A2. Total Number of Respondents by Type of Interview

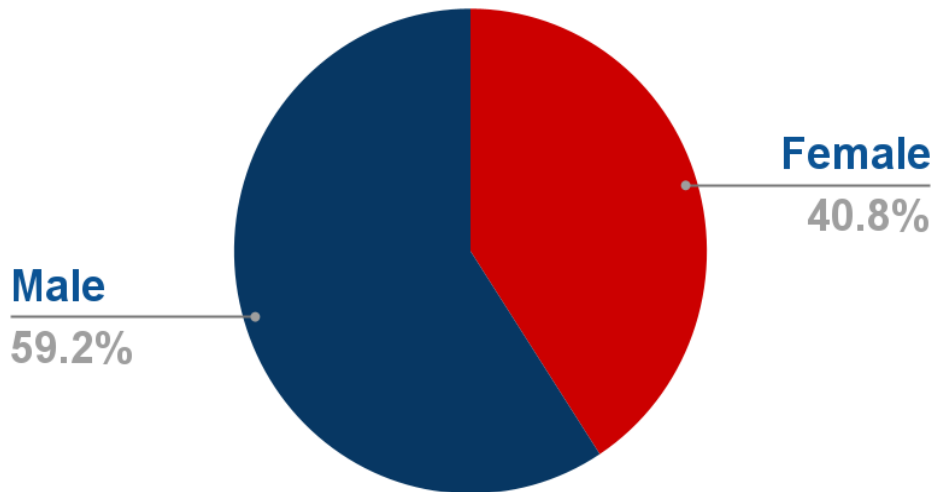


Figure A3. Respondent Gender Distribution

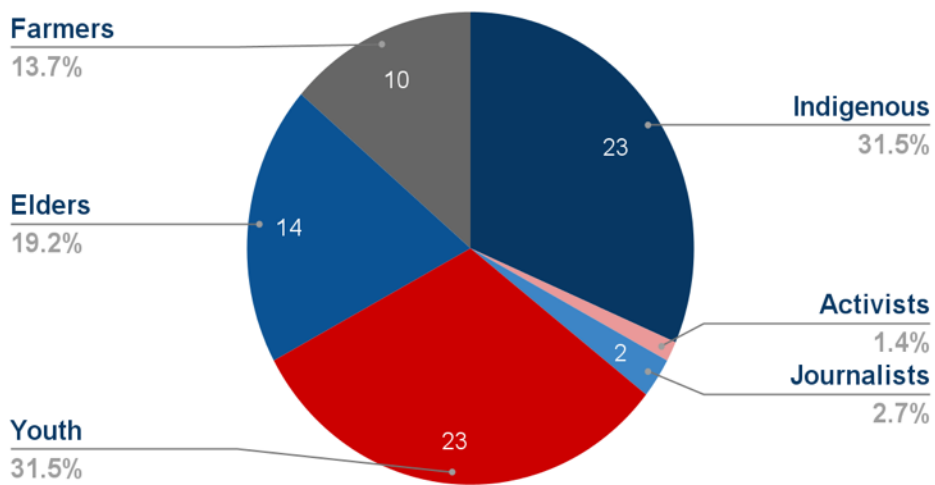


Figure A4. Types of Community Members and Identities Represented

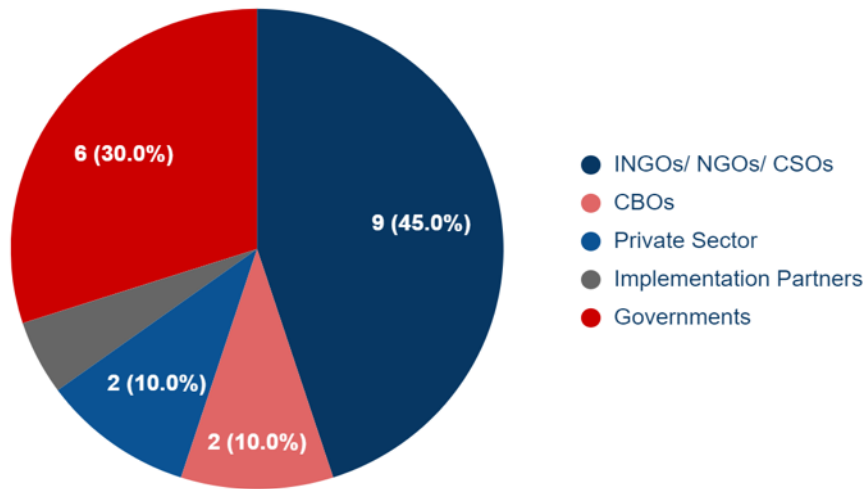


Figure A5. Types of Organizations Represented

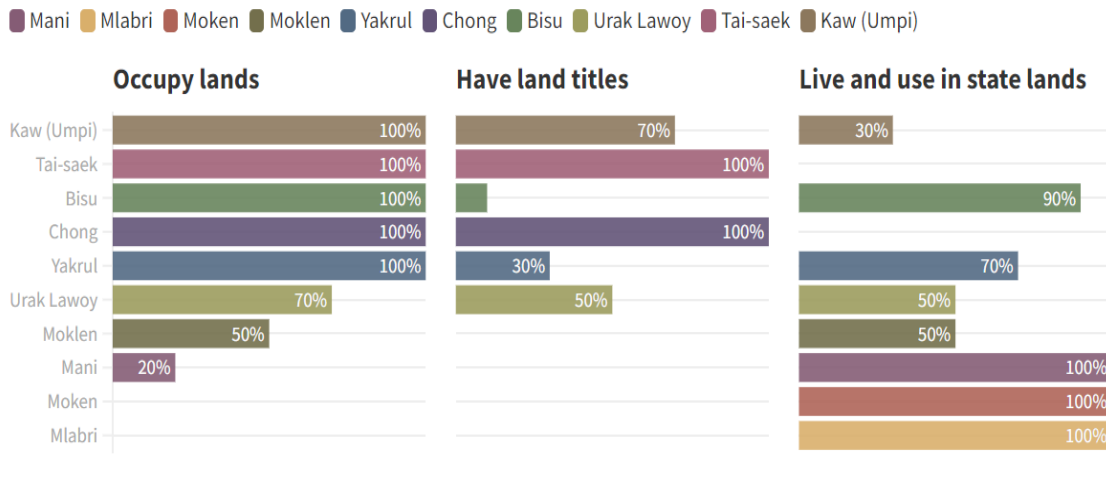


Figure A6. IP Land Ownership, Title and Usage Data in Thailand

Table A1. Additional Demographic Data on IP, LMS

	CAMBODIA ⁷²	LAO PDR ⁷³	THAILAND	VIETNAM ⁷⁴
# Indigenous Peoples Groups	24	42	10 ⁷⁵	53 ⁷⁶
Indigenous Peoples (names)	Bunong, Kuouy, Stieng, Mil, Kroal, Thmorn, Khaonh, Tompuonn, Charay, Kroeung, Kavet, Saouch, Lun, Kachak, Praov, Raadear, Chornng, Por, Souy, Others IP ⁷⁷	(Language groups): Mon-Khmer (33), Hmong-lu Mien (2), China-Tibetan (7)	North: Kaw (umpi), Bisu, Mlabri Northeast: Yarkul, Tai-saek East: Chong South: Urak Lawoy, Moken, Moklen, Mani	(Language groups) ⁷⁸ : Viet – Muong, Tay – Thai, Mon – Khmer, Mong – Dao, Ka – belt, Nam duc, Han and Tang
# Indigenous Languages	19	42	51 ⁷⁹	8 ⁸⁰
IP Population (approx.)	250,000 - 400,000	2.7 million	6.1 million ⁸¹	14.1 million
% of total Population (approx.)	3%	36%	9.68%	14.7%
Territories	North eastern provinces: Ratanakiri, Mondulkiri, Kratie, Stung Treng, Kampong Thom, and Preah Vihear	Lao Soung (uplands)	Fisher-communities (Chao-Ley people) and hunter-gatherers (Mani people) in the South; Korat plateau in the northeast and east, highland peoples in the	Northern mountains and central highlands

⁷² “The Indigenous World 2022: Cambodia”, IWGIA, April 1, 2022, https://iwgia.org/en/cambodia/4648-iw-2022-cambodia.html#_edn1

⁷³ “Ethnic minorities and indigenous people”, Open Development Laos, March 19, 2019, <https://laos.opendevlopmentmekong.net/topics/ethnic-minorities-and-indigenous-people/>

⁷⁴ “The Indigenous World 2022: Vietnam”, IWGIA, April 1, 2022, <https://iwgia.org/en/vietnam/4659-iw-2022-vietnam.html>

⁷⁵ “Ethnic minorities and indigenous people”, Open Development Thailand, August 31, 2022, <https://thailand.opendevlopmentmekong.net/topics/ethnic-minorities-and-indigenous-peoples-profiles/>

⁷⁶ “Ethnic minorities and indigenous people”, Open Development Vietnam, March 30, 2019, <https://vietnam.opendevlopmentmekong.net/topics/ethnic-minorities-and-indigenous-people/>

⁷⁷ “Developing Indigenous Peoples Center and Data”, Cambodia Indigenous Peoples Organization, Accessed June 15, 2022, <https://cipocambodia.org/our-work/developing-indigenous-peoples-center/>

⁷⁸ “Ethnic minorities and indigenous people”, Open Development Vietnam

⁷⁹ Steph Koyfman, “What Language Is Spoken In Thailand?”, Babel, October 24, 2019, <https://www.babel.com/en/magazine/what-language-is-spoken-in-thailand>

⁸⁰ “Ethnic minorities and indigenous people”, Open Development Vietnam

⁸¹ “The Indigenous World 2022: Thailand”, IWGIA, April 1, 2022, https://iwgia.org/en/thailand/4658-iw-2022-thailand.html#_ednref2

	CAMBODIA ⁷²	LAO PDR ⁷³	THAILAND	VIETNAM ⁷⁴
			north and north-west.	

Table A2. Non-Exhaustive List of International Laws, Treaties, Declarations, Conventions, and Mechanisms to Protect the Rights of Indigenous Peoples, LMS

NAME & YEAR	SUMMARY	CAMBODIA	LAO PDR	THAILAND	VIET NAM
International and IP-specific					
UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples) Resolution adopted in 2007	<p>“The Declaration is the most comprehensive instrument detailing the rights of indigenous peoples in international law and policy, containing minimum standards for the recognition, protection and promotion of these rights. It establishes a universal framework of minimum standards for the survival, dignity, wellbeing and rights of the world's indigenous peoples.” It “addresses both individual and collective rights; cultural rights and identity; rights to education, health, employment, language, and others. It outlaws discrimination against indigenous peoples and promotes their full and effective participation in all matters that concern them. It also ensures their right to remain distinct and to pursue their own priorities in economic, social and cultural development. The Declaration explicitly encourages harmonious and cooperative relations between States and indigenous peoples.”⁸² The declaration came about after decades of collaboration, negotiation and advocacy by indigenous peoples groups from all over the world. Today, it is a powerful tool for the recognition and fight for indigenous rights.</p> <p>Although all four countries voted in favor of adoption of the UNDRIP, none of them officially recognize the term and concept of “Indigenous Peoples” and instead refer to them as ethnic groups, which goes against</p>	x	x	x	x

⁸² “UN Declaration on the Rights of Indigenous Peoples”, OHCHR, accessed June 9, 2022, <https://www.ohchr.org/en/indigenous-peoples/un-declaration-rights-indigenous-peoples>

NAME & YEAR	SUMMARY	CAMBODIA	LAO PDR	THAILAND	VIET NAM
	<p>articles 3 & 18 of the declaration. Some other documented challenges in implementation particular to Thailand,⁸³ which also were referenced in the primary research, are:</p> <ol style="list-style-type: none"> I. Rights to lands, territories and Resources, Traditional Livelihoods and Access to Justice (UNDRIP Articles 8, 10, 11, 19, 22, 25, 26, 28, 29, 38, 46): national law does not recognize IPs’ traditional land tenure and resource management systems or allow them ownership of the land, which remains state-owned. <p>Land confiscations, evictions and arrests are on the rise particularly in Karen communities in the Lao-bordering and northern and northwestern parts of the country. The passing of NCPO Order No. 64/2014 has resulted in legal action against indigenous communities living in protected areas (PA), and harassment, detention and enforced disappearances of leaders and activists.</p> <p>Much quoted by indigenous rights organizations, leading to international spotlight, and also prominent in our primary research in Thailand was the case of the “missing Bang Kloi village leader and Karen activist, Porlajee “Billy” Rakchongcharoen, who was apprehended and held in custody by the Chief of Kaeng Krachan National Park, in Petchaburi, on 17 April 2014.” He had been working with the Karen community on legal proceedings around the “alleged” burning of their homes and property in the Park, which was designated a UNESCO World Heritage site. This case and examples of lack of community consultation or recognition of indigenous and forest-reliant communities’</p>				

⁸³ “The Rights of Indigenous Peoples in Thailand”, Network of Indigenous Peoples in Thailand (NIPT), accessed June 8, 2022, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/THA/INT_CCPR_ICO_THA_23570_E.pdf

NAME & YEAR	SUMMARY	CAMBODIA	LAO PDR	THAILAND	VIET NAM
	<p>land rights revealed a discord between the well-intentioned forestry protection and conservation laws and their impact, against this political backdrop.</p> <p>2. <i>Right to Nationality & Access to Basic Services (UNDRIP Articles 6, 21, 24, 33):</i> As heard from primary sources too, “Indigenous peoples have been struggling for decades to secure citizenship in Thailand.” The lack of citizenship is a barrier to accessing their rights to land, livelihood, health, education, free movement and other basic rights and services enjoyed by nationals.</p> <p>Although the government has a mechanism to register them as citizens and temporary residents (for expedited convenience), lack of paperwork and formal proof has made this process very difficult.</p> <p>3. <i>Right to Quality and Culturally Relevant Education (UNDRIP Articles 14, 15):</i> As expressed in primary research, indigenous children and youth are also at a disadvantage because of the country’s monolingual and monocultural education system, which excludes them from participation or increases their difficulty. This further has implications on their employment and socio-economic prospects later in life. UNICEF and UNESCO studies show that drop-out rates and non-enrolment is driven by these children.</p> <p>Cambodia,⁸⁴ Laos⁸⁵ and Vietnam⁸⁶ All share similar challenges of indigenous and forestry land, facing pressure from the governments’ pro-investment, resource-extractive, economic growth models. Similarly, as a result, IPLC is threatened by</p>				

⁸⁴ “Cambodia”, IWGIA, accessed June 14, 2022, <https://iwgia.org/en/cambodia.html>

⁸⁵ “Laos”, IWGIA, accessed June 14, 2022, <https://iwgia.org/en/laos.html>

⁸⁶ “Vietnam”, IWGIA, accessed June 14, 2022, <https://iwgia.org/en/vietnam.html>

NAME & YEAR	SUMMARY	CAMBODI A	LAO PDR	THAILAND	VIET NAM
	<p>loss of land and livelihood. They also are restricted in accessing their fundamental rights to speech, assembly, and land. While the Cambodian government, after the Universal Periodic Review (UPR) in 2019, has officially accepted recommendations to address evictions and compensation for victims of land grabs, implement a resettlement policy, grant land titles, and be more consultative of the IPLCs, these problems persist.</p>				
<p>ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169)</p>	<p>“Convention 169 recognizes Indigenous peoples’ right to self-determination within a nation-state, while setting standards for national governments regarding Indigenous peoples’ economic, socio-cultural and political rights, including the right to a land base. The convention is law within the nation-states that have ratified it.”⁸⁷</p> <p>“The Convention consists of 44 articles organized in ten categories that outline the minimum standards of the rights of Indigenous peoples. These 44 articles, among other things, recognize “the aspirations of [Indigenous] peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live.” The Convention guarantees Indigenous peoples the right to participate in decision-making on activities that may impact their own societies and territories, such as natural resource extraction, while maintaining the integrity of their societies, territories, and cultures.”</p> <p>According to the official data, only 24 countries have ratified the convention,</p>	<p>Not ratified</p>	<p>Not ratified</p>	<p>Not ratified</p>	<p>Not ratified</p>

⁸⁷ Erin Hanson, “ILO Convention 169”, Indigenous Foundations, accessed June 14, 2022, http://indigenousfoundations.arts.ubc.ca/ilo_convention_169/

NAME & YEAR	SUMMARY	CAMBODIA A	LAO PDR	THAILAND	VIET NAM
	which does not include Cambodia, Laos, Thailand and Vietnam. ⁸⁸				
Council Resolution on Indigenous Peoples within the Framework of the Development Cooperation of the Community and Members States	In December 2021, the UN General Assembly adopted an annual resolution on the rights of IP. Relevant to the issues uncovered in the primary research, the resolution included mention of better implementation, in consultation and cooperation with IP, of national measures to achieve UNDRIP and raise awareness among non-IP nationals. It highlights and urges action on the increased vulnerability of IP in the face of climate change, and expresses “concern over the misappropriation and misuse of indigenous peoples’ cultural heritage”, reaffirming their right to maintain it. It also resolved to consider ways to increase IP representatives’ participation in concerned UN forums. ⁸⁹ As members of the UN, the resolution is applicable and relevant to all four countries.	x	x	x	x
United Nations Permanent Forum on Indigenous Issues (UNPFII)	“In 2000, the <u>Economic and Social Council (ECOSOC)</u> , one of the six main organs of the United Nations, established the Permanent Forum on Indigenous Issues to consider a wide range of issues affecting Indigenous Peoples. The Forum, which includes eight Indigenous experts, is the first and only international body in the United Nations that has Indigenous Persons as members. It meets once a year for ten working days and submits annual reports to the Economic and Social Council. The Permanent Forum serves as an advisory board to the <u>Economic and Social Council</u> , discussing Indigenous issues relating to economic and social	x	x	x	x

⁸⁸ “Ratifications of ILO conventions: Ratifications by Convention”, ILO, accessed June 14, 2022, https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312314

⁸⁹ “General Assembly adopts annual resolution on the Rights of Indigenous Peoples | United Nations For Indigenous Peoples.”, UN, 2021, <https://www.un.org/development/desa/indigenouspeoples/news/2021/12/general-assembly-adopts-annual-resolution-on-the-rights-of-indigenous-peoples/>

NAME & YEAR	SUMMARY	CAMBODI A	LAO PDR	THAILAND	VIET NAM
	<p>development, culture, the environment, education, health, and human rights. From these discussions, the Forum provides expert advice and recommendations to the Council, raises awareness of Indigenous issues within the UN system, and prepares and disseminates information on Indigenous issues.”⁹⁰</p> <p>As members of the UN, the forum is inclusive of the issues of IP in the four countries. However, none of them have had a member nominated to the forum.</p>				
UN HRC’s Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)	<p>Established by the Human Rights Council (HRC), the “Expert Mechanism” provides the Human Rights Council with expertise and advice on the rights of Indigenous Peoples. It assists Member States in achieving the goals of the United Nations Declaration on the Rights of Indigenous Peoples.</p> <p>The Expert Mechanism conducts studies to advance the promotion and protection of Indigenous Peoples’ rights by:</p> <ul style="list-style-type: none"> ● clarifying the implications of key principles, such as self-determination and free, prior and informed consent ● examining good practices and challenges in a broad array of areas pertaining to Indigenous Peoples’ rights, ● suggesting measures that States and others can adopt at the level of laws, policies and programmes.”⁹¹ <p>As members of the UN, the forum is inclusive of the issues of IP in the four</p>	x	x	x	x

⁹⁰ “The Rights of Indigenous Peoples”, University of Minnesota Human Rights Library, accessed June 14, 2022, <http://hrlibrary.umn.edu/edumat/studyguides/indigenous.html>

⁹¹ “Expert Mechanism on the Rights of Indigenous Peoples”, OHCHR, Accessed June 14, 2022. <http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx>

NAME & YEAR	SUMMARY	CAMBODIA	LAO PDR	THAILAND	VIET NAM
	countries. However, they have not found representation in the expert group.				
UN Special Rapporteur on the Rights of Indigenous Peoples (UNSR)	<p>Recognizing the history and implications of colonization, territorial invasions, poverty and marginalization, and discrimination faced by IP because of their identity and culture, the Commission on Human Rights appointed a Special Rapporteur to:</p> <ul style="list-style-type: none"> • “Promote good practices, including new laws, government programs, and constructive agreements between indigenous peoples and states, to implement international standards concerning the rights of indigenous peoples; • Make recommendations and proposals on appropriate measures to prevent and remedy violations of the rights of indigenous peoples; • Report on the human rights situations of indigenous peoples around the world; • Address specific cases of alleged violations of indigenous peoples’ rights.”⁹² <p>As members of the UN, the mandate is also applicable to the four countries, however, have not received a visit by the Rapporteur since his appointment in 2001.</p>	x	x	x	x
Not indigenous specific, but inclusive of indigenous peoples and their rights					
UN Declaration Of Human Rights (UDHR)	The first document that enshrines and that got countries to agree to provide universal protection of fundamental human rights. All individual articles of the declaration are encompassed by the overarching right to freedom, equality and dignity. All humans are entitled to the rights enshrined and no distinction on the basis of race, color, sex, language, religion, national or social origin, property, birth or other status may be	x	x	x	x

⁹² “Special Rapporteur on the rights of indigenous peoples.”, OHCHR, Accessed June 14, 2022. <http://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/SRIPeoplesIndex.aspx>

NAME & YEAR	SUMMARY	CAMBODI A	LAO PDR	THAILAND	VIET NAM
	<p>made.⁹³ These rights are of particular importance to indigenous peoples and marginalized groups who are more prone to exclusion from or repression of these rights. Of particular relevance to the Mekong region, where based on primary and secondary research, some or all of these articles are not being applied effectively especially with regards to IPs, are the articles protecting humans from torture, inhumane or degrading treatment (Article 5), the right to recognition (6), equality before law (7), right to remedy for violation of rights (8), freedom from arbitrary arrest (9) (and relatedly 10 & 11), freedom of movement (13), right to nationality (15), right to property (17), right to freedom of opinion and expression (19), right to participate in public service (20), right to social security (22), right to work without discrimination (23), right to education (26) and the right to culture (27).</p>				
<p>UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities</p>	<p>“The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities sets essential standards to ensure the rights of persons belonging to minorities. It offers guidance to States as they seek to manage diversity and ensure non-discrimination, and for minorities themselves, as they strive to achieve equality and participation.”⁹⁴</p> <p>As members of the UN, the declaration is also applicable to the four countries. Also, while the declaration does not specify IP, the term “minorities” is inclusive of them and helps uphold the states’ obligations to their IP. Given the citizenship, identity, and linguistic challenges faced by IP in the four</p>	x	x	x	x

⁹³ “Universal Declaration of Human Rights | United Nations”, the United Nations, accessed June 14, 2022, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

⁹⁴ “Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities.”, OHCHR, 2010, <https://www.ohchr.org/en/publications/reference-publications/declaration-rights-persons-belonging-national-or-ethnic>

NAME & YEAR	SUMMARY	CAMBODIA	LAO PDR	THAILAND	VIET NAM
	countries, this declaration is relevant to addressing their concerns.				
UN International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	<p>“The Convention essentially resolves to “to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination.””⁹⁵</p> <p>As members of the UN, the convention is also applicable to the four countries. However, Thailand’s interpretative declaration states that it will not interpret any of the convention’s provisions “as imposing upon the Kingdom of Thailand any obligation beyond the confines of the Constitution and the laws of the Kingdom of Thailand.”⁹⁶ Vietnam also responded with a reservation stating that it did not “consider itself bound by the provisions of article 22 of the Convention and holds that, for any dispute with regard to the interpretation or application of the Convention to be brought before the International Court of Justice, the consent of all parties to the dispute is necessary.”⁹⁷</p>	x	x	x	x
UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	<p>Given the political oppression and cases of disappearance and ill-treatment faced by indigenous activists, this convention is relevant in protecting them against such treatment.</p> <p>All of the four countries have signed and ratified/ acceded to the convention.</p>	x	x	x	x

⁹⁵ “OHCHR | International Convention on the Elimination of All Forms of Racial Discrimination: 50 years of fighting racism.”, OHCHR, Accessed June 14, 2022, <https://www.ohchr.org/en/treaty-bodies/cerd/international-convention-elimination-all-forms-racial-discrimination-50-years-fighting-racism>.

⁹⁶ “Status of Ratification Interactive Dashboard”, OHCHR, Accessed June 14, 2022, <https://indicators.ohchr.org/>

⁹⁷ Ibid.

NAME & YEAR	SUMMARY	CAMBODI A	LAO PDR	THAILAND	VIET NAM
UN International Covenant on Civil and Political Rights (ICCPR)	<p>“The ICCPR is a key international human rights treaty, providing a range of protections for civil and political rights. The ICCPR, together with the Universal Declaration of Human Rights and the International Covenant on Economic Social and Cultural Rights, are considered the International Bill of Human Rights. The ICCPR obligates countries that have ratified the treaty to protect and preserve basic human rights, such as: the right to life and human dignity; equality before the law; freedom of speech, assembly, and association; religious freedom and privacy; freedom from torture, ill-treatment, and arbitrary detention; gender equality; the right to a fair trial; right family life and family unity; and minority rights. The Covenant compels governments to take administrative, judicial, and legislative measures in order to protect the rights enshrined in the treaty and to provide an effective remedy. The Covenant was adopted by the U.N. General Assembly in 1966 and came into force in 1976. As of December 2018, 172 countries have ratified the Covenant.”⁹⁸</p> <p>All four countries are ‘state parties’ to the convention and have ratified/ acceded to it ⁹⁹</p> <p>Relevant to IP, Article 27 also has provisions for collective rights, stating, “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice</p>	x	x	x	x

⁹⁸ “FAQ: The Covenant on Civil & Political Rights (ICCPR).”, American Civil Liberties Union, Accessed June 14, 2022. <https://www.aclu.org/other/faq-covenant-civil-political-rights-iccpr>

⁹⁹ “International Covenant on Civil and Political Rights | OHCHR Dashboard”, OHCHR, https://www.ohchr.org/sites/default/files/Documents/HRBodies/CCPR/OHCHR_Map_ICCPR.pdf

NAME & YEAR	SUMMARY	CAMBODI A	LAO PDR	THAILAND	VIET NAM
	their own religion, or to use their own language.” ¹⁰⁰				
UN International Covenant on Economic, Social and Cultural Rights (ICESCR)	<p>Together with UDHR and ICCPR, the ICESCR is one of three documents that make up the International Bill of Rights. It secures the economic, social and cultural rights of all humans. Relevant to IP in the four countries, it protects the right to self-determination, right to livelihood, social security, standard of living, education and cultural participation.¹⁰¹</p> <p>Other than Cambodia, the other 3 countries have all ratified/ acceded to the covenant.¹⁰²</p>		x	x	x

¹⁰⁰ “International Covenant on Civil and Political Rights.”, OHCHR, Accessed June 14, 2022. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

¹⁰¹ “International Covenant on Economic, Social and Cultural Rights.”, OHCHR, Accessed June 14, 2022. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

¹⁰² “Status of Ratification Interactive Dashboard”, OHCHR, Accessed June 14, 2022, <https://indicators.ohchr.org/>

Table A3. Non-Exhaustive List of National Laws, Declarations, Conventions, Committees, Ministries and Mechanisms to Protect the Rights of Indigenous Peoples, LMS

NAME & YEAR	SUMMARY
Cambodia	
National Policy on Development of Indigenous People	This is a policy created by Cambodia’s Ministry of Rural Development (MRD) and it aims to “improve the livelihood of indigenous people to escape from hunger and poverty, to receive formal education at least 9 years basic education, vocational training, healthcare, and to ensure the protection and preservation of their culture.” ¹⁰³ “It also focuses on environment, land, agriculture and water resources, infrastructure, justice, tourism, and industry, mines and energy.” ¹⁰⁴
Various Letters in Recognition of Indigenous Community identities	Various letters have been signed by the government (Ministry of Rural Development) over the years recognizing various communities as indigenous communities. ¹⁰⁵
Land Law (2001) ¹⁰⁶	Passed in 2001, this law and its articles 23-28 make provisions for communal land titles. This includes, ownership of land (25), recognition of the role of “traditional authorities, mechanisms and customs in decision-making and exercising ownership rights” (26), and that “no authority outside the community may acquire any rights to immovable properties belonging to an indigenous community” (28). Some of the challenges in implementation that remain are MRD’s recognition of IP, Ministry of Interior registering IP community as a legal entity, and the Ministry of Land Management, Urban Planning and Construction then being able to conduct a collective land titling process. While protected on paper, this poor implementation continues to keep IP vulnerable to exploitation by economic interests and forced relocation.
Law on Land Management, Urban Planning and Construction	“The objective of the Law on Land Management, Urban Planning and Constructions shall be to promote the organization and embellishment of the urban and the rural areas throughout the Kingdom of Cambodia with the purpose of assuring development of this country in the spirits of respecting both common and individual interests, private rights, observing laws and regulations, and overseeing on the construction matters, assuring through the development process an equilibrium between the cities/towns and rural areas based on their geographical conditions and special characteristics, assuring the value of natural and cultural wealth, ensuring

¹⁰³ “Policy on development of indigenous people - OD Mekong Datahub”, 2018, Open Development Cambodia (ODC), https://data.opendevlopmentcambodia.net/laws_record/policy-on-development-of-indigenous-people

¹⁰⁴ Ethan Crowley, “Ethnic minorities and indigenous people”, 2019, Open Development Cambodia, <https://opendevlopmentcambodia.net/topics/ethnic-minorities-and-indigenous-people/>

¹⁰⁵ “ODM DataHub: Laws”, Open Development Mekong, Accessed June 15, 2022. https://data.opendevlopmentmekong.net/en/laws_record/?q=&taxonomy=Ethnic+minorities+and+indigenous+people+profiles&sort=score+desc%2C+metadata_modified+desc&page=1

¹⁰⁶ “Ethnic minorities and indigenous people”, Open Development Cambodia

	the development of the economy and tourism sectors and maintaining the quality of the environment.” ¹⁰⁷
Policy on registration and right to use of land of indigenous peoples	“The purpose of this policy is to register the indigenous communal land to ensure land tenure, poverty reduction, national economic development, sustainable land use management, elimination of illegal forest clearing and land grabbing, and to preserve the riches of cultures in the Kingdom of Cambodia.” ¹⁰⁸
Sub-Decree No. 83 on procedures of registration of land of indigenous communities	“This sub-decree is to establish the principle, procedure, and mechanism to register the indigenous community land as the collective ownership with the objective to provide land tenure to the indigenous community, and security and to protect the collectivism by preserving the identification, culture, custom, and taboo of indigenous people.” ¹⁰⁹
Various Sub-decrees on reclassifying as state private land for collective ownership	About 18 such sub-decrees have been documented as having returned land and collective ownership to various IP communities in Cambodia. ¹¹⁰
Lao PDR	
Government agencies and mass organizations for “ethnic” affairs ¹¹¹	<ol style="list-style-type: none"> 1. “The Ethnic Minorities Committee under the National Assembly is responsible for drafting and evaluating proposed legislation related to ethnic groups”. 2. The Institute for Cultural Research under the Ministry of Information, Culture and Tourism, is responsible for research related to ethnic groups. 3. The Lao Front for National Construction (a mass organization) has an Ethnic Affairs Department and its mission includes “mobilizing, protecting and promoting the benefits of all ethnic groups” and “relaying the requirements, frustrations and real desires of all Lao people to the higher officials.”
Ethnic Minority Policy (1991)	Laos does not have any specific legislation or policies for indigenous peoples, or ethnic minorities as they are known. They only have an “ethnic minority policy” (also known as the ‘Resolution of the Party Central Organization Concerning Ethnic Minority Affairs in the New Era’ and that came into force in 1992) that is supposed to ensure that all “ethnic groups should have improved access to services and that all discrimination must

¹⁰⁷ “Law on Land Management, Urban Planning and Construction - OD Mekong Datahub”, 2016, Open Development Cambodia, https://data.opendevdevelopmentcambodia.net/en/laws_record/law-on-land-management-urban-planning-and-construction

¹⁰⁸ “Policy on registration and right to use of land of indigenous peoples - OD Mekong Datahub”, 2018, Open Development Cambodia, 2018, https://data.opendevdevelopmentcambodia.net/en/laws_record/policy-for-registration-and-right-to-use-of-land-of-indigenous-peoples

¹⁰⁹ “Sub-Decree No. 83 on procedures of registration of land of indigenous communities - OD Mekong Datahub”, 2018, Open Development Cambodia, https://data.opendevdevelopmentcambodia.net/en/laws_record/sub-decree-no-83-on-procedure-of-indigenous-communal-land-registration

¹¹⁰ “ODC DataHub: Laws”, Open Development Cambodia, Accessed June 15, 2022.

https://data.opendevdevelopmentcambodia.net/en/laws_record/?organization=cambodia-organization&taxonomy=Ethnic+minorities+and+indigenous+people&q=&sort=score+desc%2C+metadata_modified+desc

¹¹¹ “Ethnic minorities and indigenous people.”, 2019, Open Development Laos, <https://laos.opendevdevelopmentmekong.net/topics/ethnic-minorities-and-indigenous-people/>

	<p>be eradicated”. It further obligates the government to “improve the living conditions of all ethnic groups”. In order to improve their access, the government has encouraged and coerced IP to relocate to lowland areas where access to basic services and employment opportunities is better. However, relocation can be a threat to IP tradition and culture. Additionally, budget constraints and the remoteness of many IP communities pose serious implementation challenges to the policy.¹¹² Furthermore, the policy also considers ethnic minorities’ customs “backwards” and calls for their “reeducation” for cultural assimilation.¹¹³</p>
Decree No. 207 On ethnic group affairs (2020)	<p>“This decree sets out the principles, regulations, and measures on the management of ethnic affairs”.¹¹⁴</p>
Prime Ministerial Decree on Ethnic Groups (2020)	<p>“The decree states that ethnic groups must be governed using principles that ensure unity and equality. In addition, all ethnic groups should be permitted to practice their special customs and traditions in accordance with the country’s constitution and laws. The decree bans all forms of discrimination against ethnic groups while calling for all ethnic groups to be provided with equal opportunities for development and participation in national protection and development. To build unity among ethnic groups, the government has specified 12 policies, including the expansion of infrastructure in rural areas. This is aimed at enabling ethnic communities in remote areas to more easily access state services and development opportunities.”¹¹⁵</p>
The Guideline on Ethnic Group Consultation (2012)	<p>This guideline encourages the “engagement of all ethnic groups in any relevant development projects and activities, both in regard to the potential benefits, as well as positive and negative impacts on their livelihood and environment.” It also requires that ethnic groups be provided platforms and opportunities to voice and discuss their concerns. It requires the provision of opportunities for ethnic groups to discuss their concerns. According to civil society in Laos, however, any meaningful consultation of ethnic or any citizen group remains a significant area of concern and improvement.¹¹⁶</p>
Land Law (2003) ¹¹⁷	<p>This law states that all land in the country is the property of all the population, and the state is responsible for securing “long-term rights to land by ensuring protection, use, usufruct, transfer and inheritance rights.”. While it recognizes “permanent and temporary land-use rights for individuals, it does not define or recognize communally held rights.” As IP</p>

¹¹² Caecilie Mikkelsen, “Country Technical Note on Indigenous Peoples’ Issues”, pg. 1, 2012, International Fund for Agricultural Development, https://www.ifad.org/documents/38714170/40224860/laos_ctn.pdf/24089e12-d0e8-43db-9fb8-978b48526499

¹¹³ Open Development Laos, “Ethnic minorities and indigenous people.”

¹¹⁴ “Decree No. 207 On ethnic group affairs (2020) - OD Mekong Datahub”, 2012, Open Development Laos, https://data.laos.opendevlopmentmekong.net/en/laws_record/decree-no-207-on-ethnic-group-affairs

¹¹⁵ “Prime Ministerial Decree on Ethnic Groups”, 2020, Open Development Laos, https://data.laos.opendevlopmentmekong.net/en/laws_record/prime-ministerial-decree-on-ethnic-groups

¹¹⁶ Open Development Laos, “Ethnic minorities and indigenous people.”

¹¹⁷ Open Development Laos, “Ethnic minorities and indigenous people.”

	<p>have sacred and spiritual relationships with certain forests, this aspect of the law presents itself as a failure in this regard and the inclusion of communal land titling has been advocated by civil society. As a result, the law is under revision, the government has piloted communal land titling in some villages and the Ministry of Natural Resources and Environment has started a communal agricultural land management (CLAM) project.</p>
<p>Law on Resettlement and Vocation (2018)</p>	<p>“This Law sets out principles, rules and measures regarding the supervision, inspection and monitoring of resettlement and vocation in order to enhance its efficiency, effectiveness, compliance, and to be consistent with locality condition and development to ensure Lao multi-ethnic persons who live in resettlement and vocational area have place to stay, place to earn a living and sustainable vocation which aim to solve illegal relocation problem, reduce poverty, improve livelihood of Lao multi-ethnic persons physically and mentally, develop social discipline, become development village and agglomerate big villages into small town in rural areas therefore contribute to national socio-economic development as well as to safeguard national defense and security.”¹¹⁸</p> <p>This law however permits the government to expand its powers to relocate communities for their own plans, without consent. And although compensation for relocation is to be provided, many IP don’t have paperwork to prove their identity and will be left bereft of such compensation.¹¹⁹</p>
<p>The 8th National Socio-Economic Development Plan (8th NESDP) (2016-2020)</p>	<p>Laos’ development policies are based on five-year plans (FYPs). The relevance of the latest Plan to IP is its promotion of:</p> <ol style="list-style-type: none"> 1. “improving infrastructure in remote areas, especially those inhabited by ethnic groups; 2. social welfare policy and poverty reduction to meet specific needs and capabilities of ethnic people; and 3. promoting diverse heritage and cultural values of different ethnicities, to enhance equality and unity among multi-ethnic people. One strategy highlighted in the plan for promoting cultural heritage is hosting “ethnic minorities’ cultural fairs” and promoting cultural tourism. It is unclear whether the government has consulted with ethnic groups about these strategies. At the same time as promoting ethnic cultures, the plan also calls for efforts to raise awareness of “the nation’s cultural values” to ethnic peoples in order “to establish a livelihood pattern that is in line with the advanced cultures”.”¹²⁰
<p>Thailand</p>	

¹¹⁸ “Law on Resettlement and Vocation [Lao PDR] - OD Mekong Datahub.”, Open Development Laos, Accessed June 15, 2022. <https://data.laos.opendevlopmentmekong.net/en/dataset/law-on-resettlement-and-vocation>

¹¹⁹ Open Development Laos, “Ethnic minorities and indigenous people.”

¹²⁰ Open Development Laos, “Ethnic minorities and indigenous people.”

<p>Amendment to the Nationality Act 2008¹²¹</p>	<p>A breakthrough for IP living without citizenship and permanent residency, the “new provision of the 2008 Nationality Act determined that anyone whose nationality was revoked by the 1972 Declaration or who failed to acquire nationality while this Declaration was in force (1972-1992) can acquire Thai nationality (section 23). To benefit, applicants must have evidence of their birth and subsequent domicile in Thailand and demonstrate good behavior. Those whose parents had their nationality revoked or were unable to acquire nationality due to the 1972 Declaration are also eligible for Thai nationality. In short, it would now appear that anyone born in Thailand before 1992 – or with a parent who was born in Thailand before 1992 – and still residing there, should now have a pathway to citizenship.”¹²²</p> <p>Discriminatory attitudes, inability of many IP to provide proof of birth, and administrative challenges of human resources and time required to process all cases, and other capacity issues pose serious obstacles to the implementation of the amendment. ^{123 124}</p>
<p>The Regulation of the Prime Minister Office on the Issuance of Community Land Title Deeds (2010)</p>	<p>“The essence of this law is to legally allow communities (both highland and lowland people) to collectively manage and use state-owned land for their living.</p> <p>This implies that the state still retains its claim to ownership of these lands. This is very different from what indigenous peoples are demanding: that they get legal recognition of traditional land tenure and resource management systems. The present law requires that a community has to periodically renew their land title deeds with the respective government agencies that formally own the land, which means that to the communities it is like renting their own land.” ¹²⁵</p>
<p>Cabinet Resolutions on the Restoration of the Traditional Practices and Livelihoods of Karen and Sea Gypsies in Thailand 2010</p>	<p>As the name suggests, these are resolutions intended to restore the practices and livelihoods of Karen and Sea Gypsies. However, this has been marked similarly by poor implementation.¹²⁶</p>
<p>Vietnam</p>	

¹²¹ “Amendment to the Nationality Act as of 27 February 2008”, 2009, Thailand Law Forum, <http://thailawforum.com/database/Amendments-to-the-nationality-act.html>

¹²² “Reflections on Thailand (3): Is the time ripe for a citizenship campaign?”, 2013. Statelessness Programme: Tilburg University, <https://statelessprog.blogspot.com/2013/03/reflections-on-thailand-3-is-time-ripe.html>

¹²³ “Reflections on Thailand (3): Is the time ripe for a citizenship campaign?”, Statelessness Programme: Tilburg University

¹²⁴ “The Rights of Indigenous Peoples in Thailand”, Network of Indigenous Peoples in Thailand (NIPT)

¹²⁵ “Community land title law passed in Thailand”, 2010, IWGIA, <https://www.iwgia.org/en/thailand/1201-community-land-title-law-passed-in-thailand.html>

¹²⁶ “The Rights of Indigenous Peoples in Thailand”, Network of Indigenous Peoples in Thailand (NIPT)

<p>Government agencies and mass organizations for “ethnic” affairs¹²⁷</p>	<p>Vietnam has The National Assembly of Council on Ethnic Minorities under which the following ministries and mass organization are responsible for ethnic affairs:</p> <p>I) Government Actors:</p> <ol style="list-style-type: none"> 1. Committee for Ethnic Minority and Mountainous Area Affairs (CEMA): It “performs state management functions for ethnic minorities and mountainous areas” 2. Department of Education for Ethnic Minorities under the Ministry of Education and Training 3. National Office of Poverty Reduction under the Ministry of Labor Invalids and Social Affairs (MOLISA) 4. Ministry of Agriculture and Rural Development (MARD): “performs state management on related issues of agriculture, forestry, ...and rural development for ethnic minorities” <p>II) Mass Organizations</p> <ol style="list-style-type: none"> 1. Advisory Council on Ethnic Minorities under the Fatherland Front: it “collects and distributes the ethnic minority peoples’ comments to the National Assembly and the State” 2. Women Union: “a channel for improving the respect, protection and fulfillment of the rights of” women from ethnic minorities.
<p>Master Plan on Socio-economic Development of Ethnic Minorities and Mountainous Areas (2021-2030)</p>	<p>This Master Plan unifies “over 100 legal documents¹²⁸ enacted by more than 10 state authorities since the 1980s. ... The implementation plan was issued by the Government in 20205 and the corresponding National Target Program is currently being drafted. However, there remain debates on whether these policies are representative of the needs of ethnic minorities.”¹²⁹</p>
<p>Land Law (2013)¹³⁰</p>	<p>“This Law prescribes the land ownership, powers and responsibilities of the State in representing the entire-people ownership of land and uniformly managing land, the land management and use regimes, and the rights and obligations of land users over the land in the territory of the Socialist Republic of Vietnam.”</p> <p>Relevantly, Article 27 sets out “responsibilities of the State for residential and agricultural land for ethnic minorities”, including policies on residential land in conformity with their customs and culture, and helping them with</p>

¹²⁷ Philip Turner, “Ethnic minorities and indigenous people policy and rights”, 2020, Open Development Vietnam. <https://vietnam.opendevlopmentmekong.net/topics/ethnic-minorities-and-indigenous-people-policy/>

¹²⁸ “ODV Data Hub: Laws”, 2022, Open Development Vietnam, https://data.vietnam.opendevlopmentmekong.net/laws_record/?odm_spatial_range_list=vn&taxonomy=Ethnic+minorities+and+indigenous+people+policy+and+rights&q=&sort=score+desc%2C+metadata_modified+desc

¹²⁹ “Ethnic minorities and indigenous people policy and rights”, Open Development Vietnam.

¹³⁰ “Vietnam land law 2013: The land law in Vietnam, Vietnam law firm”. VietanLaw. November, 2013. <https://vietanlaw.com/vietnam-land-law-2013/>

	<p>land for agriculture. According to Article 110, ethnic minorities in particularly difficult socioeconomic conditions or those using agricultural land are also exempt from land use levies or rentals. Article 133 also includes protection from improper or illegal land use or rental or occupation by domestic and foreign organizations and businesses.</p>
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Table A4. Non-Exhaustive List of International Treaties, Conventions and Cooperation Agreements to Protect Biodiversity and Wildlife, LMS¹³¹

NAME AND YEAR	MAIN ISSUE	CAMBO DIA	LAO PDR	THAI LAND	VIETNA M
Man and the Biosphere Programme - MAB (Launched in 1971)	The MAB program is an intergovernmental scientific program that aims to establish a scientific basis for enhancing the relationship between people and their environments. It combines the natural and social sciences with a view to improving human livelihoods and safeguarding natural and managed ecosystems, thus promoting innovative approaches to economic development that are socially and culturally appropriate and environmentally sustainable. The World Network of Biosphere Reserves currently counts 714 sites in 129 countries all over the world, including 21 transboundary sites, including 1 site in <u>Cambodia</u> and 9 in <u>Vietnam</u> .	X		X	X
World Heritage Convention (Effective since 1975)	The Convention defines the kind of natural or cultural sites which can be considered for inscription on the World Heritage List. The Convention sets out the duties of States Parties in identifying potential sites and their role in protecting and preserving them. By signing the Convention, each country pledges to conserve not only the World Heritage sites situated on its territory, but also to protect its national heritage. The States Parties are encouraged to integrate the protection of the cultural and natural heritage into regional planning programs, set up staff and services at their sites, undertake scientific and technical conservation research and adopt measures which give this heritage a function in the day-to-day life of the community.	X	X	X	X
The Convention on Wetlands - Ramsar Convention (Adopted in 1971 and came into force in 1975)	The Ramsar Convention is an intergovernmental treaty that provides the framework for “the conservation and wise use of all wetlands through local and national actions and international cooperation, as a contribution towards achieving sustainable development throughout the world.” The Contracting Parties approved the Fourth Ramsar Strategic Plan for 2016-2024 at COP12. The Plan lays out a new vision under the Convention mission, four overall goals and 19 specific targets which are designed to support the efforts of Parties, partners, and other stakeholders in preventing, stopping, and reversing the global decline of wetlands. The Plan also intends to contribute to the achievement of the Sustainable Development Goals (SDGs) and targets.	X	X	X	X
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	CITES is an international agreement between governments that aims to ensure that international trade in specimens of wild animals and plants does not threaten the survival of the species. The agreement provides a framework to be respected by each Party, which has to adopt its own domestic legislation to ensure that CITES is implemented at the	X	X	X	X

¹³¹ Sources: Convention on International Trade in Endangered Species of Wild Fauna and Flora; Convention on Biological Diversity; The Convention on Wetlands; Mekong River Commission; Lancang-Mekong Cooperation; Lancang - Mekong Water Resources Cooperation Information Platform; Greater Mekong Subregion; RED+ Web Platform; UNESCO - Man and the Biosphere (MAB) Programme; UNESCO - The World Heritage Convention; UN, 2015; World Encyclopedia of Law (Wildlife Treaties)

(Agreed in 1973 and entered into force in 1975)	national level. Although CITES is legally binding on the Parties, it does not take the place of national laws.				
Greater Mekong Subregion Economic Cooperation Program- GMS (Established in 1992)	The Greater Mekong Subregion comprises <u>Cambodia</u> , China, <u>Lao PDR</u> , Myanmar, Thailand, and <u>Vietnam</u> . The Program supports the implementation of high-priority sub regional projects in agriculture, energy, environment, health and human resource development, information and communication technology, tourism, transport, transport and trade facilitation, and urban development. To realize its vision of a prosperous, integrated, and harmonious subregion, the GMS program has adopted a strategy that includes building a greater sense of community through projects and programs that address shared social and environmental concerns.	X	X	X	X
Convention on Biological Diversity (opened for signature in 1992 and entered into force in 1993)	Known informally as the Biodiversity Convention, is a multilateral treaty and legal instrument that aims for "the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources," that has been ratified by 196 nations. Its objective is to develop national strategies for the conservation and sustainable use of biological diversity, and it is often seen as a key document regarding sustainable development. The Convention has two supplementary agreements: The Cartagena Protocol on Biosafety to the Convention on Biological Diversity: International treaty governing the movements of living modified organisms (LMOs) resulting from modern biotechnology from one country to another. It was adopted in January 2000 and entered into force in September 2003. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS): Provides a transparent legal framework for the effective implementation of one of the three objectives of the Convention: the fair and equitable sharing of benefits arising out of the utilization of genetic resources. The Nagoya Protocol was adopted in October 2010 and entered into force in October 2014.	X	X	X	X
Mekong River Commission - MRC (Established in 1995)	The MRC is an intergovernmental organization for regional dialogue and cooperation in the Lower Mekong River Basin, established in 1995 based on the Mekong Agreement between <u>Cambodia</u> , <u>Lao PDR</u> , Thailand and <u>Vietnam</u> . The organization serves as a regional platform for water diplomacy and a knowledge hub of water resources management for the sustainable development of the region.	X	X	X	X
Transforming Our World: The 2030 Agenda for Sustainable Development	The Agenda is the guiding reference for the work of the international community until the year 2030. It establishes a transformative vision towards the economic, social, and environmental sustainability of the 193 United Nations Member States that adopted it. The Agenda includes 17 Sustainable Development Goals (SDGs) and 169 targets. At least two SDGs try to address biodiversity in a direct way. SDG 14 aims to "Conserve and sustainably use the oceans, seas and marine	X	X	X	X

(Approved in 2015)	<p>resources for sustainable development,” and SDG 15 calls signatories to “Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.” SDG 5- gender equality which links to control and access to NR and equal opportunities in leadership, decision making.</p> <p>With just under ten years left to achieve the SDGs, the SDG Summit in September 2019 called for a Decade of Action and delivery for sustainable development, pledging to mobilize financing, enhance national implementation and strengthen institutions to achieve the Goals by the target date of 2030, leaving no one behind.</p>				
Reducing Emissions from Deforestation and Forest Degradation - REDD+ (Completed in 2015)	<p>Negotiated under the United Nations Framework Convention on Climate Change (UNFCCC) in 2005, REDD+ has the objective of mitigating climate change through the removal and reduction of net emissions of greenhouse gasses by reducing emissions from deforestation and forest degradation, preserving, and enhancing forest carbon stocks, and fostering the sustainable management of forests in developing economies.</p> <p>REDD+ is divided into three phases, which are roughly associated with readiness (which is different from GCF’s Readiness funding program), implementation, and payment for results. Phase 1 of REDD+ includes developing national strategies or action plans, policies and measures, and other capacity building activities. Phase 2 includes implementing national policies and measures, and national strategies or action plans. Phase 3 consists of results-based payments following the verification of emission reductions.</p>	X	X	X	X
Lancang-Mekong Cooperation Mechanism - LMC (Established in 2016)	<p>The LCM is a sub-regional cooperation mechanism to promote development among the six countries that share the Mekong (Lancang) River: Myanmar, <u>Lao PDR</u>, Thailand, <u>Cambodia</u>, and <u>Vietnam</u>. It focuses on cooperation in three areas: political and security issues; economic and sustainable development; and social, cultural and people-to-people exchange. Although environmental protection is not a primary goal of the mechanism, in the Sanya Declaration, announced at the launch of the LMC, the heads of state of the participating countries agreed to “encourage sustainable and green development, enhance environmental protection and natural resources management.” In addition, the five-year action plan for the LMC includes actions related to forests, water resources and environmental protection, and a recent joint statement mentions that LMC cooperation should “strengthen environmental policy exchanges and dialogue, and enhance cooperation on biodiversity conservation, air quality, clean water pilot programs, and sustainable infrastructure.”</p>	X	X	X	X
IOSEA Marine Turtles (Memorandum of Understanding on the Conservation and	<p>“The Memorandum of Understanding on the Conservation and Management of Marine Turtles and their Habitats of the Indian Ocean and South-East Asia puts in place a framework through which States, territories, inter- and non-governmental stakeholders of the Indian Ocean and South-East Asian region, as well as other concerned States, can work together to conserve marine turtle populations and their habitats for which they share responsibility. This objective can be</p>	x		x	x

<p>Management of Marine Turtles and their Habitats of the Indian Ocean and South-East Asia)</p>	<p>achieved most effectively through the collective implementation of the IOSEA Conservation and Management Plan (CMP).</p> <p>The Memorandum of Understanding applies to the waters and coastal States of the Indian Ocean and South-East Asia and adjacent seas, extending eastwards to the Torres Strait.”</p> <p>It calls upon Signatory States to “improve coordination among government and non-government sectors in the conservation of marine turtles and their habitat” and, in particular, to “encourage cooperation within and among government and non-government sectors, including through the development and/or strengthening of national networks”.</p>				
<p>Convention on the Conservation of Migratory Species of Wild Animals (CMS)</p>	<p>“As an environmental treaty of the United Nations, CMS provides a global platform for the conservation and sustainable use of migratory animals and their habitats. CMS brings together the States through which migratory animals pass, the Range States, and lays the legal foundation for internationally coordinated conservation measures throughout a migratory range.</p> <p>As the only global convention specializing in the conservation of migratory species, their habitats and migration routes, CMS complements and co-operates with a number of other international organizations, NGOs and partners in the media as well as in the corporate sector.”</p> <p>Cambodia, Lao PDR, Thailand and Vietnam are all non-party states under the convention.</p>	<p>x</p>	<p>x</p>	<p>x</p>	<p>x</p>

Table A5. Non-Exhaustive List of National Environment, Forestry, and Conservation Laws in the LMS

LAW	DESCRIPTION
Cambodia ¹³²	
Law on Forestry (2002) ¹³³	<p>This law defines the framework for management, harvesting, use, development and conservation of the forests in the Kingdom of Cambodia, with the objective of ensuring the sustainable management of these forests for their social, economic and environmental benefits, including conservation of biological diversity and cultural heritage. The law is under the jurisdiction of the Ministry of Agriculture, Forests and Fisheries. It also states public participation will be solicited in any government decision.</p> <p>Relevant to IPLC, Article 37 holds that “Local communities that traditionally practice shifting cultivation may conduct such practices on land property of indigenous communities which are registered with the state.”</p> <p>Chapter 9, Articles 45-47 detail community rights including non-requirement of permit for traditional user rights like collection, family use and sale of forest by-products, and the use of timber to build homes etc. The law also recognizes the religious forest of local communities, living within or near the forest, as Protection Forest serving religious, cultural or conservation purposes, thus prohibiting their harvest.</p> <p>Chapter 10, Articles 48-51, lay out rules around conservation of wildlife, all of which are considered State property and under the administration of the FA. All wildlife is categorized as endangered, rare or common. Article 49 prohibits hunting, harming or harassing of all wildlife, including possession at home, transport, trade, and export-import of all endangered and rare species. Even common species are not allowed to be possessed at home or transported and traded exceeding an amount necessary for customary use.</p>
Sub-Decree No. 79 on Community	“This Sub-Decree aims at determining rules for the establishment, management and use of community forests throughout the Kingdom of Cambodia.” It is implemented by the Minister of Interior, Minister in charge of

¹³² “ODC DataHub: Environment and natural resources policy and administration”, Open Development Cambodia, Accessed June 15, 2022. https://data.opendevdevelopmentcambodia.net/en/laws_record/?organization=cambodia-organization&q=&sort=score+desc%2C+metadata_modified+desc

¹³³ “Law on Forestry - Laws OD Mekong Datahub”, 2016, Open Development Cambodia, https://data.opendevdevelopmentcambodia.net/en/laws_record/law-on-forestry

Forestry Management	<p>the Office of the Council of Ministers, Minister of Agriculture Forestry and Fisheries and the Minister of Economy and Finance.</p> <p>It sets out legislation regarding Local Community management of forest resources, and defines the rights, roles and responsibilities of the Forestry Administration authorities, Community Forest (CF) communities and other relevant stakeholders. It aims to enable Communities to manage, use and benefit from forest resources, to preserve their culture, tradition and improve their livelihoods; and at the same time be involved in sustainable management of forest resources.</p> <p>Importantly, CF is stated as state public property, which means that land cannot be sold or granted as economic land concessions. Also, the FA has the right to give official designations to demarcations of each CF boundary. Local communities have to submit written requests to FA to establish themselves as a CF community. Khmer nationality is required to become a member of a CF community. A CF community has the right to barter, process, transport and sell Non-Timber Forest Products, continue to practice traditional swidden agriculture during specific periods of time as determined in the Community Forest Management Plan, and appeal decisions which impact CF Community rights. They are not required to get permits to conduct activities under a CF area, but cannot sell or transfer rights to a third party.</p>
Law on Environmental Protection and Management of Natural Resources	<p>“The objectives of this law are to protect and upgrade the environment quality and public health by means of prevention, reduction and control of pollution, to make assessment impacts to environment, before issuance of decision by the Royal Government on all submitted proposed projects, to ensure and manage the use of natural resource of the Kingdom of Cambodia. This law encourages and provides for the public to participate in the protection of the environment.”</p> <p>Importantly, it states that national environmental plans will supersede any conflicts with regional plans, and an environmental impact assessment will be conducted on all projects. It also includes a procedure for public participation.</p>
Law on Natural Protected Areas	<p>“This law defines the framework of management, conservation and development of protected areas. The objectives of this law are to ensure the management, conservation of biodiversity, and sustainable use of natural resources in protected areas. This Law has a scope of application in protected areas defined by the provisions of the Law on Environmental Protection and Natural Resources Management.” This law was passed by the Ministry of Environment.</p>
Law on Biosafety	<p>“The objectives of this law are to implement the precautionary approach on biosafety; prevent adverse impacts on the conservation of biodiversity and</p>

	natural resources in Cambodia; ensure effective conservation of biodiversity and sustainable use of biological resources; provide a transparent process for making and reviewing decisions on living modified organisms and related activities and operations; and develop biotechnology education while preventing environmental and health hazards associated with the use and release of living modified organisms.” This law was passed by the Ministry of Environment.
Lao PDR	
Law on Environmental Protection (2012)	“The Environmental Protection Law defines principles, regulations and measures related to environmental management, monitoring of protection, control, preservation and rehabilitation, with quality, of mitigating impacts and pollution created by anthropogenic loads or by nature, aiming to provide balance between social and natural environment, to sustain and to protect natural resources and public health; and contribution into the national socio-economic development and reduction of global warming.” ¹³⁴
Decision on the Establishment and Management of Zoos, Wildlife farms, the breeding of wild animals and plants, and rehabilitation centers (2019)	“The Decision, which is posted on the official gazette, permits individuals, legal entities and organizations to establish and operate zoos, wildlife farms, and wild fauna and flora breeding and rehabilitation centers.”
Announcement - Suspension of Land Use Certificates in Conservation, Protection and Production Forests (2021)	This notice is issued to strengthen the forest land governance and ensure the effectiveness of law implementation in relevant government sectors. Previously, there were many people, entities or organizations illegally encroaching the forest land or occupying land in forest areas without authorization.
Thailand	

¹³⁴ “Environmental Protection Law (Revised Version)”, 2013, Open Development Laos, https://data.opendevlopmentcambodia.net/en/laws_record/law-on-agriculture/resource/e746169c-e64f-4976-93f3-78ebc8bb7f15

<p>Wildlife Conservation and Protection Act, B.E. 2562 (2019)¹³⁵</p>	<p>An update to the 1992 Wild Animal Reservation and Protection Act (1992), this new version states its aim is to remove certain provisions and various measures in the old version that are no longer appropriate and do not comply with the current situation. It states that it will be “used as a tool to efficiently facilitate the conservation, protection, care, and restoration of wild lives and their habitats, including other natural resources.” While the English translation of the update was not available, Chapter III of the old version outlines articles on hunting, propagating, possessing and trading wildlife or their products. Under certain specified exceptions allowing officials to do so, hunting, endangering, possessing, and trading preserved or protected wildlife is prohibited. Under a sanctuary, no wildlife, even those that aren't protected or preserved, can be hunted.</p> <p>Lack of consultation of communities during its drafting and the Act’s perceived lack of collaborative spirit between communities and authorities in the maintenance of forest resources, a goal both share, is seen as not fully in the IPLC's interest.</p>
<p>Forest Reclamation Policy (2019)</p>	<p>“Announced by the NCPO in 2014 shortly after the coup with the aim of seizing forestland subject to illegal encroachment by wealthy investors and to increase the forest-covered areas of the country to 40 per cent from the current 31.57 per cent. However, instead of cracking down on the big players, officers have tended to target the poor villagers in the forest. The People’s Movement for a Just Society (P-Move) revealed that during the first half of [2019], more than 1,830 forest encroachment cases have been filed against poor people under the forest reclamation policy.”¹³⁶</p> <p>It also operationalizes older forest legislation such as the Forest Act B.E. 2484 (1941), the National Reserved Forests Act B.E. 2507 (1971).</p> <p>All of these put together have impacted IPLC and forest-reliant communities negatively.</p>
<p>National Park Act B.E. 2562 (2019)¹³⁷</p>	<p>The successor of the National Park Act, B.E. 2504 (1961), this updated Act gives “reasons and necessity of restricting the rights and freedoms of persons according to this Act are to reserve, conserve, protect and maintain national parks, flora parks, botanical gardens and the management of natural resources, ecosystems and biodiversity in those areas for balanced and sustainable</p>

¹³⁵ “Wildlife Conservation and Protection Act, B.E. 2562 (2019) - OD Mekong Datahub”, Open Development Thailand, <https://data.thailand.opendevlopmentmekong.net/en/dataset/wildlife-conservation-and-protection-act-b-e-2562-2019>

¹³⁶ Pratch Rujivanarom, “New government urged to revoke forest reclamation policy, work with local forest communities”, The Nation | Thailand, July 9, 2019, <https://www.nationthailand.com/in-focus/30372624>

¹³⁷ “Joint UPR Submission: Land-related Rights, Forest Conservation Laws and Climate Change Policies”, Manushya Foundation, Sai Thong Rak Pah Network, Indigenous Women’s Network of Thailand, Thai Business & Human Rights Network and the Thai CSOs Coalition for the UPR., March 2021, https://www.manushyafoundation.org/files/ugd/a0db76_4dfffbeae2ad4b8ca7951312c2d36d50.pdf

	<p>benefits. The enactment of this Act is in accordance with the conditions provided in Article 26 of the Constitution of the Kingdom of Thailand.”¹³⁸</p> <p>Communities living here lack land ownership and need approval for its usage. If convicted under this Act, the maximum imprisonment has been increased to 20 years and fine to 2 million baht (US \$63,760), with forest officials having full authority to search and confiscate property without the need for court orders.¹³⁹</p>
Vietnam	
Law on Forestry (2017)	<p>“This Law deals with management, protection, development and use of forests; forest products processing and trade.”¹⁴⁰</p> <p>This law was an update to its 2004 version, which while championing conservation had not taken IPLC sufficiently into consideration. The 2017 Act now recognizes the rights of communities including “ethnic minorities” to access forests and their resources, including living space within them. It also shows respect to traditional practices, beliefs and culture surrounding forests.¹⁴¹</p>
Law No. 29/2004/QH I I on Forest Protection	For forest protection and development. Issued by the National Assembly in 2004.
Environment Protection Law 2020	An update to the 2014 version, this law now also includes provisions regarding natural conservation zones, physical and cultural heritage and other natural heritage, and requirements on relocation and resettlement. One of the reasons for this update was also to effectively promote public participation, and include the concept of a ‘residential community’ other than just the “agencies, organizations, households and individuals” that were earlier stated. It also advocates for decentralization and sustainable economic growth. ¹⁴²
Decree No. 99/2010/ND-CP on the policy on	Among other issues, this decree provides for the policy on PES including “protection of natural landscapes and conservation of biodiversity of ecosystems”, and “providers and users of forest environment services;

¹³⁸ “National Park Act, B.E. 2562 (2019)”, 2020, Open Development Thailand,

<https://data.thailand.opendevlopmentmekong.net/en/dataset/national-park-act-b-e-2562-2019>

¹³⁹ “Joint UPR Submission: Land-related Rights, Forest Conservation Laws and Climate Change Policies”, Manushya Foundation, Sai Thong Rak Pah Network, Indigenous Women’s Network of Thailand, Thai Business & Human Rights Network and the Thai CSOs Coalition for the UPR

¹⁴⁰ “Vietnam Law on Forestry 2017 - OD Mekong Datahub”, Open Development Vietnam, 2017,

https://data.opendevlopmentmekong.net/en/laws_record/vietnam-law-on-forestry-2017

¹⁴¹ “Rights for Forest Dwellers: Some Answers in the 2017 Vietnam Forestry Law”, Land Equity International, 2020,

<https://www.landequity.com.au/news/rights-for-forest-dwellers-some-answers-in-the-2017-vietnam-forestry-law/>

¹⁴² Vo Trung Tin, “Vietnam Law on Environmental Protection 2020 – New Highlights | Le & Tran”, LE & TRAN Trial Lawyers, August 11, 2021, <https://letranlaw.com/insights/new-highlights-of-the-law-on-environment-protection-2020/>

payment for forest environment services (PES)	management and use of the payment for forest environment services; rights and obligations of providers and users of forest environment services; responsibilities of state management agencies at all levels for the payment of forest environment services; etc.”
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Table A6. Summary of NGO registration laws, LMS

LAW	DESCRIPTION
Cambodia	
<p>Law on Associations and Non-Governmental Organizations (LANGO), 2015</p>	<p>The law mandates “registration for all domestic and international associations and NGOs, criminalizing all activities by unregistered membership organizations.” with the Ministry of Interior (MOI) having full discretion on the registration approval. This has been viewed by CSOs as having a “particularly severe impact on the freedom of association of grassroots groups and community-based organizations”.¹⁴³ Without having been consulted they call it “draconian and onerous. Article 8 empowers authorities to deny the application of a group that engages in activities that “jeopardize peace, stability and public order or harm the national security, national unity, culture, and traditions of the Cambodian national society.” Article 9 expands the ban on all unregistered domestic NGOs and associations, while Article 12 requires local NGOs with short term international projects to seek approval first from the Ministry of Foreign Affairs and International Cooperation. At present, NGOs are only ordered to notify the Ministry about their activities with international partners. Article 30 gives discretionary powers to the government minister to remove the registration of domestic NGOs for activities listed under Article 8 mentioned above.”¹⁴⁴ Citing that the country’s civil code already governs associations and organizations and related criminal acts, CSOs as of 2020 met with MOI to demand its repeal, but were not successful.¹⁴⁵</p>
Lao PDR	
<p>2017 Decree 238 on Associations (under Ministry of Foreign Affairs and Ministry of Public Security)</p>	<p>CSOs at all levels are required to register with the government and obtain approval from the Ministry of Foreign Affairs to legally receive foreign funding upwards of \$60,000. NGOs are also required to “accept “advice and assistance” from the government to ensure their operations are in line with party policy and the law.” “The registration process for NGOs was burdensome, in practice often taking more than two years, and authorities restricted NGOs’ ability to disseminate information and conduct activities without interference”.¹⁴⁶</p>
Thailand	

¹⁴³ “LICADHO MEMO New Draft Law Reaffirms Culture of Control”, LICADHO, June 11, 2015, <https://www.licadho-cambodia.org/reports/files/207LICADHOMemo-LANGODraftJune2015-English.pdf.pdf>

¹⁴⁴ Mong Palatino, “Does Cambodia Really Need a New NGO Law?”, The Diplomat, July 17, 2015, <https://thediplomat.com/2015/07/does-cambodia-really-need-a-new-ngo-law/>

¹⁴⁵ “Statement: With No Will to Amend, LANGO Must Be Repealed”, Licadho, February 10, 2020, <https://www.licadho-cambodia.org/pressrelease.php?perm=446>

¹⁴⁶ “2020 Country Reports on Human Rights Practices: Laos”, U.S. Department of State. March 30, 2021. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/laos/>

<p>Bill on the Operations of Not-For-Profit Organizations (NPO Law 2021)</p>	<p>It “requires that all Non-Profit Organizations (NPOs) register with the Ministry of Interior, and comply with the rules prescribed by the law.”¹⁴⁷ The points of concern have been criminalization for non-registration, intensive and invasive reporting requirements, full control and discretion of MOI, blanket restrictions on foreign funding, and lack of right to appeal the Ministry’s decisions.¹⁴⁸ According to CSOs, “ If the draft passes into law, it will be detrimental to the development of all non-profits organizations operating in the country. Whether it is international or local NGOs, grassroots communities, or small local CSOs, this bill will stigmatize their operations, subject them to criminal sanctions for non-compliance, and most importantly, put undue interference on their rights to freedom of association and peaceful assembly.”¹⁴⁹ In 2019, CSOs expressed their concern to the government in writing and urged the government to reconsider, but there has been no change as of 2022.¹⁵⁰</p>
<p>Vietnam</p>	
<p>Decree No. 12/2012/ND-CP (2012)</p>	<p>This regulation is for the operation, registration and management of all NGOs and non-profit organizations established under foreign laws, “and carrying out activities of development assistance and humanitarian aid not for profit or other purposes in Vietnam.” “These organizations are prohibited from (i) organizing or conducting political and religious activities detrimental to national interests, security, defense or solidarity, (ii) organizing, conducting or joining in profit-making activities, (iii) involving in money-laundering or terrorist activities, and (iv) conducting activities harmful to social ethics, fine traditions and customs and national identities.”¹⁵¹</p>

¹⁴⁷ “Civic Space in Thailand”, Manushya Foundation and SHero Thailand, 2021,

https://www.manushyafoundation.org/files/ugd/a0db76_28fa72384db74b28ba5db0e7856d25a7.pdf

¹⁴⁸ “5 Things to Know About Thailand’s Proposed NPO Bill”, ICNL, May 2021, <https://www.icnl.org/post/analysis/5-things-to-know-about-thailands-proposed-npo-bill>

¹⁴⁹ “Civic Space in Thailand”, Manushya Foundation and SHero Thailand, 2021

¹⁵⁰ “Thailand: The Draft Act on the Operations of Not-for-Profit Organizations causes alarm”, January 8, 2022, <https://ifex.org/thailand-the-draft-act-on-the-operations-of-not-for-profit-organizations-causes-alarm/>

¹⁵¹ “Decree No. 12/2012/ND-CP: New regulation on NGO registration”, Vietnam Law & Legal Forum, March 28, 2012, <https://vietnamlawmagazine.vn/decree-no-12-2012-nd-cp-new-regulation-on-ngo-registration-2181.html>

ANNEX 2. KEY INFORMANT & FGD RESPONDENT LIST

COUNTRY	SITE	DATE	ORG AFFILIATION	RESPONDENT(S) ORGANIZATION	RESPONDENT TITLE
Cambodia	Phnom Penh	May 18	INGO	WWF	1) Country Director; 2) Conservation Program Director
Cambodia	Phnom Penh	May 18	U.S. Government	USAID	1) Project Management Specialist, Environment/ Forestry; 2) Project Management Specialist, Environment and Climate Change
Cambodia	Phnom Penh	May 18	INGO	WCS	1) Project Manager, CWT; 2) CWT Specialist
Cambodia	Phnom Penh	May 18	Activist	Independent	Independent Youth Activist
Cambodia	Phnom Penh	May 19	Government	Ministry of Environment	Deputy, Department of River & Incentive, (& Photographer)
Cambodia	Kratie	May 19	Private Sector	N/A	Broker/ Seller
Cambodia	Kratie	May 20	Government	Forestry Administration	Deputy Director
Cambodia	Kratie	May 20	Government	Department of Environment	Deputy Director
Cambodia	Phnom Penh	June 9	Implementation Partner	USAID Greening Prey Lang	Chief of Party
China	Hong Kong	June 8	Journalist	Independent	Journalist
Thailand	Thailand	May 24	INGO	WCS	Country Program Director
Thailand	Thailand	May 25	INGO	WWF	Acting Conservation Director

COUNTRY	SITE	DATE	ORG AFFILIATION	RESPONDENT(S) ORGANIZATION	RESPONDENT TITLE
Thailand	Thailand	May 25	INGO	World Bank	IWT Lead
Thailand	Khao Yai	May 27	Private Sector	N/A	Farmer/ Business owner
Thailand	Khao Yai	May 28	N/A	N/A	Farmer
Thailand	Khao Yai	May 28	Private Sector	Baan Maemon	Former High School Biology Teacher/ Organic Farmer & Business Owner
Thailand	Thailand	May 31	INGO	RECOFTC	Executive Director
Thailand	Thailand	May 31	INGO	RECOFTC	Director, Program Coordination and Technical Services
Thailand	Thailand	June 3	CBO	AIPP	Regional Capacity Building Coordinator
Thailand	Thailand	June 6	INGO	UNESCO/ AIPP (AIYP)	Consultant
Thailand	Bangkok	June 10	Journalist	Indigenous Media Network; Indigenous Peoples Foundation for Education and Environment	Journalist
Vietnam	Hanoi	June 8	INGO	TRAFFIC	1) Director for Vietnam Office, Program Officer; 2) Team Leader - Demand reduction component for USAID Wildlife Asia

COUNTRY	SITE	DATE	VILLAGE/ COMMUNITY/ ORG	IDENTITY	#	AGES	GENDER
Cambodia	Kratie	May 20	Yeav Village	Elders & Youth	8	49; 29; 27; 35; 42; 37; 34; 78	M; M; M; M; M; F; F; F
Cambodia	Kratie	May 20	Okreang Commune, Okork (Punong IP)	IP Elders	7	50; 65; 39; 50; 39; 49; 44	M; M; F; F; M; M; M
Cambodia	Kratie	May 20	Okreang Commune, Okork (Punong IP)	IP Youth	7	24; 23; 30; 29; 30; 29; 23	M; M; M; M; F; F; F
Thailand	Khao Yai	May 27	Wangmee Pittayakom School	Youth	11	18	F; M; M; M; F; M; F; F; F; M; F
Thailand	Khao Yai	May 27	Wangmee Subdistrict Administrative Office	Officials	4	26; 41; 45; 25	F; M; F; F
Thailand	DPKY	May 28	Klong Phakang Sub-station (KY4)	Rangers	4	33; 36; 30; 21	M
Thailand	DPKY	May 28	Khao Pheang Mha Non-hunting Area	Rangers	2	40; 31	M
Thailand	DPKY	May 28	Wangmee Sub-district	IP Elders	4	70; 70; 64; 69	M
Thailand	Chiang Mai	June 9	Karan IP	IP CBO members	3	N/A	F

ANNEX 3. RESEARCH INSTRUMENT

1] Foundational factors:

- 1.1 What is your/ the community's relationship with people outside your community?
- 1.2 Is there reliance on wildlife trade and wildlife consumption? How has the marginalization of indigenous groups and their resources affected their propensity to rely on wildlife trade and consumption?

2] Rules of the game

- 2.1 What is the role played by existing regional intergovernmental coordination networks in combating wildlife trade? How effective have they been in reaching communities?
- 2.2 What role does the exclusion of marginalized communities from these networks play in the level of success/ failure of these efforts?
- 2.3 Are you/ the communities aware about your/ their land and forest resource use rights?
- 2.4 [For Org] What is the role of networks and network-building at the community, national, regional levels to CWT in a socially inclusive way?/ [For community] Are you aware of existing like-minded community movements that are working on CWT?
- 2.5 What is your/ the community's relationship with local authorities?
- 2.6 What opportunities are available to your community to maintain forest resources?
- 2.7 How might communities, specifically indigenous, forest-reliant communities leverage traditional practices/beliefs to counter wildlife exploitation?
- 2.8 What are the main barriers/ threats standing in the way of forest preservation?
- 2.9 How are you/ is the community affected by current approaches to CWT/ forest protection?

3] Here and now

- 3.1 What are potential solutions or enablers to RDW? What are examples of effective collaboration between communities, CSO, donors and/or local authorities in reducing the demand for wildlife?
- 3.2 How can organizations reduce barriers to inclusion in policy design/dialogue? What resources are needed?
- 3.3 What are the best mechanisms to support the engagement of local CSO/NGO groups in CWT efforts?
- 3.4 What is the relationship of the community to the forest and its resources? Has it changed, if so, how?
- 3.5 What is the relationship of youth to the forest and its resources? Has it changed, if so, how?
- 3.6 What are specific strategies/approaches that deliver community engagement and support?
- 3.7 How might communities, specifically indigenous, forest-reliant communities leverage traditional practices/beliefs to counter wildlife exploitation?
- 3.8 How can responsible and community-responsive investment in ecotourism provide new opportunities?

3.9 How is COVID impacting community dynamics?

3.10 Do you/ does the community see a role for themselves in CWT efforts? How might these be encouraged/ enabled/ meaningfully included in broader efforts?

4] Dynamics

4.1 How might community perspectives be integrated into regional CWT efforts?

4.2 How might youth perspectives be integrated into regional CWT efforts?

4.3 What common issues can join different communities to work together on CWT?

4.4 What are accessible platforms, how can communities and policymakers be facilitated in mutual interest to work together against CWT?

4.5 How can USAID/RDMA and other donors invest in improving community/national/and regional integration of CWT strategies?

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