

## ENSURING GENDER-EQUITABLE CONSULTATIONS IN CAMBODIA'S LAND AND AGRICULTURE LAW AND POLICY



By Alice Beban, Sochanny Hak, and Joanna Bourke-Martignoni

JULY 2024

This policy brief offers guidance for implementing gender-equitable consultations in Cambodia. **Gender-equitable consultations** are participatory processes that involve people of all genders in decision-making, policy development, and legislative processes.<sup>1</sup> With the Cambodian government currently undertaking consultations on the draft Contract Farming Law (CF Law) and a revised Land Law, this brief provides practical guidance to ensure that forthcoming discussions around these new Laws are gender-equitable. While the intended audience is government, for Civil Society Organisations (CSOs), Agricultural Cooperatives (ACs) and private sector organisations, who are involved in these consultations, the guidance provided is relevant for any debates about proposed reforms to the land and agricultural legal framework.

<sup>1</sup> Consultations should engage the diverse perspectives of different groups of men and women with a view to integrating a gender perspective at all stages of the law and policy cycle, from development, implementation, and monitoring, to evaluation (see Beijing Platform for Action, 1995; CEDAW, art. 14(2)).

## KEY MESSAGES

**Gender-equitable consultations are vital for creating a better legal framework.** Women are a crucial labour force in agriculture in Cambodia, yet they are under-represented in decision-making and leadership at both local and national levels. Including a wide range of women across age groups, socio-economic status and ethnicity in consultations can identify gender-specific concerns that may not have been considered. This facilitates the creation of laws that reflect the values and experiences of those affected and can enable greater compliance. Participating in consultations can also empower women to engage in further political activities, thereby building momentum to confront gender discrimination in society.

The **process of law-making relating to land and agriculture should be transparent, and widely communicated in accessible formats.** There should be clear communication regarding the intentions and objectives of laws, a timeline for their implementation, and details about when and where public consultations will be held and how the views of different people will be considered.

Longer term, proactive steps should be taken to **encourage the engagement of women** – particularly those who have not previously participated in agricultural organisations – to take up leadership roles in ACs, and other groups that represent farmers and rural people so that women's voices can be reflected in high-level consultations.

Ultimately, **inclusive consultative spaces** are needed that incorporate a variety of views and knowledge. This participatory approach aligns with international human rights law on rural women. The aim is not to train local people to comply with pre-defined policies, but rather to base policymaking on their existing experiences and expertise, and to translate technical processes into locally relevant concepts. This shift prompts policymakers and CSOs to move from asking 'how can we help women find their voice?', to 'how can we listen better?'.<sup>2</sup>

## WHY DO GENDER-EQUITABLE CONSULTATIONS MATTER?

Gender-equitable consultations promote the participation of women and men to ensure their voices are heard and their priorities are reflected in policies and laws. Gender-equitable consultations is not simply about having equal numbers of men and women in consultations, but rather it is about ensuring that women from diverse backgrounds—including ethnic minorities, youth, poor families and others—can meaningfully participate.

Women play a vital role in Cambodia's agricultural sector, yet they are often marginalised in the formulation of laws and policies on land, resources, and agriculture. International human rights standards call for mechanisms to ensure gender equality by promoting women's participation.<sup>2</sup> The Cambodian Constitution guarantees equality and non-discrimination, and Cambodia's laws prohibit domestic violence and trafficking, and support joint land titles.

However, there are no official mandates for gender-equitable consultation in Cambodian law, and the legal framework for consultation is weakly defined. According to the Constitution and guidelines for legislative drafting (Circular 03), consultation should be conducted prior to and after drafting laws; this, however, is often limited to the ministries and sub-national officials affected and provides limited avenues for CSO and public input. Due largely to the failure to adopt inclusive, participatory methods, existing laws and policies in Cambodia often overlook gendered inequalities.

Including a wide range of women in consultations can identify gender-specific concerns for better legislation and for its enforcement. Ultimately, consultation processes that foster transformative gender relations can lead to better laws and help to address unequal power dynamics.

<sup>2</sup> This includes the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the CEDAW Committee's General Recommendation no. 34 (2016) on the rights of rural women, the Food and Agriculture Organization of the United Nations' (FAO) Voluntary Guidelines on the Governance of Land Tenure (FAO, 2012) and the gender dimensions of the Guiding Principles on Business and Human Rights (United Nations Human Rights Council, 2019).



© Diego Calvi

## WHAT ARE THE CHALLENGES IN UNDERTAKING GENDER-EQUITABLE CONSULTATIONS IN CAMBODIA?

**Consultation processes are often top-down**, not allowing for the transformative institutional changes necessary for genuine inclusivity. For example, most of the CF Law consultation meetings thus far have occurred within government institutions, while broader public consultation has been limited to select meetings with agriculture-related CSOs. Interviewees said that local-level consultations they had previously attended were usually information sharing rather than held to genuinely listen to people's ideas. Institutions such as the Ministry of Women's Affairs (MoWA) have connections from local through to national level, but decision-making within MoWA tends to be central.

**Restrictive gender norms** that portray caregiving as the domain of women, and politics as the domain of men stifle women's participation in politics. Research undertaken for the MRLG regional report, *Towards gender-equitable land policy and law-making in the Mekong Region* found that women who attended meetings often did not speak up. Women leaders experience the pressures of gender norms, feeling the need to be overly prepared so they are not perceived as ill-informed, while also being cautious about being seen as too assertive when voicing opinions.

**The law-making process lacks transparency** and can be derailed if the political environment changes. The drafting of the CF Law has been opaque, excluding broad CSO engagement. CSO interviewees said that it was difficult to provide input because they did not have access to full draft documents and did not receive feedback about how their ideas would be included. Furthermore, CF Law discussions frequently overlook critical issues such as land tenure security, hindering a gender-equitable human rights-based approach.

**Gender neutrality in the law is misconceived as equality.** The current CF Law sub-decree and Department of Agro-Industry presentations on the draft CF Law use the gender-neutral language of 'farmer' and 'farmer group', which can reinforce norms whereby men are considered the household head and the main party dealing with agricultural traders and State authorities. Discussion of gender issues was also notably absent in the CF consultations observed. MRLG workshops that piloted participatory consultation methods revealed how women's and men's different lived experiences shape their perspectives on CF issues; for example, men's group discussions focused on negotiating fair prices and dispute resolution, while women's groups also focused on enabling joint decision-making and ensuring all farming families were included in CF and supported throughout the process. Yet, these differences are invisible when there is no explicit requirement to address gender in guidelines for consultation.



© Dinogeromella

**Women leaders at all levels of government are often over-burdened and isolated. There is also no feedback or system to monitor the response to inputs provided at consultations.** One Commune Councillor, for example, said that she is the only woman on the Council and has responsibility for all portfolios on gender, women, and children, as well as leadership of the local AC. Although she is committed to inclusive participation, she noted that this is difficult due to her workload and the fact that there is no mechanism to monitor how the community concerns she raises are considered by the commune or higher levels of government.

**Gender-focused government institutions have limited influence on land issues.** MoWA and ministry-level gender technical working groups (TWGs) are important sites for legislative input but lack financial resources and the power to enact change in land and agriculture policies. While MoWA has connections from national-level to commune-level through appointed Gender Focal Points, interviewees felt that MoWA has authority only relating to 'women's issues' (such as domestic violence and girls' education) and lacks influence in the farming sector. Interviewees felt that the agriculture ministry gender TWG also lacks power to influence the content of laws.

**Cambodia's civil society space has contracted in recent years due to restrictive laws and pressure on CSOs working on land issues, leading to concerns about speaking openly.** Nevertheless, CSO interviewees felt that it was still possible to continue advocacy work on gender issues for rural people. For example, the NGO Forum and the Gender and Development for Cambodia (GADC) Network (31 NGOs/CSOs working on gender equality) are active in legal advocacy. However, while the GADC members interviewed agreed that the CF Law should be considered from a gender perspective, they had not been informed of any possibilities for their network to offer input.



© Jeff Cagle

**Agricultural Cooperatives (ACs) can be a vehicle for integrating diverse perspectives from local to national levels into land and agriculture discussions, but women's participation requires support.** ACs, which are important CF stakeholders, are required to have at least one woman board member. The Farmer Nature Network (FNN), a coordinating body for AC groups, currently lacks a gender focus but representatives interviewed said that they are open to adopting a more gender-responsive approach. The participatory consultations undertaken for the MRLG regional study showed that ACs differ in terms of the gender equality of their membership. One AC stood out for its active engagement with diverse farming families. This was facilitated by strong leadership from both women and men within the AC, consistent meetings, effective communication between AC leaders and local authorities, and transparency in sharing financial information with the community. In contrast, a second AC with a majority-male leadership had fewer networks with the wider farming community and inconsistent meetings. This suggests that ACs with diverse leadership may encourage greater community participation.

## How can forthcoming CF Law and Land Law consultations be gender-equitable?

### *Ensuring consultation processes are participatory:*

1. **Ensure transparent processes:** The process of legal drafting for the CF Law and Land Law should be transparent, with documentation available early and widely circulated among agriculture- and gender-focused CSOs and ACs. Clear timelines for consultation and the adoption of laws and policies should be provided.
2. **Undertake decentralised consultations:** Consultations should be conducted in rural areas where contract farming is prevalent – not just in the cities – to capture diverse, on-the-ground perspectives. This is best practice to improve participation, and is particularly important for rural women, as women often lack the time and resources to participate in consultations that require travel, especially if they are responsible for childcare. Alongside broad participation in official meetings with State representatives, village-level debate outside of official meetings should also be encouraged, including through local ACs, to enable people to self-organise in ways that make sense in their local contexts and customary governance systems.

3. **Ensure accessible documentation:** Distribute the draft CF Law, Land Law and related documents well in advance, in plain language with summaries in relevant ethnic minority languages when feasible. These should be shared widely with rural communities. Village meetings should be organised for direct feedback, ensuring gender-equity in meeting design and facilitation (see the checklist below). While it is not feasible to hold village meetings in every village, this can focus on areas that are most affected (for example, for CF Law consultations, they should focus on areas with high levels of CF). Digital tools such as short videos that explain how to provide feedback on the Law should be disseminated through social media, and a phone hotline could be set up to enable people who may not be able to participate in person – such as women with childcare responsibilities – to share ideas.
4. **Ensure participant safety:** All those who are part of the consultation process need to be assured of their safety so that they are willing to share their views, and they need to have full understanding of the risks involved when deciding to take part. Human rights-based principles applicable to free, prior and informed consent (FPIC) should be used to guide consultation processes to ensure that they are ethical and effective.<sup>3</sup> Safeguarding measures, such as anonymising contributions in meeting records, while still recording gender and social roles (e.g. farmer, CSO representative) should be considered.
5. **Commit to transparent reporting:** Following each consultation, a report should be provided summarising the inputs received, with commentary disaggregated by gender, and noting how these have been addressed. This information should be publicly accessible, and disseminated to all those who took part in consultations.
7. **Articulate gender concerns as a discussion point in the consultations.** Smallholder farmers in the CF consultation workshops had concerns about multiple aspects of the CF process that have gender implications, including details of pricing, input provision and training, signing contracts and dispute resolution.
8. **Empower Women AC representatives:** Women AC representatives should be mentored to take an active role in CF and Land Law consultation processes, including being supported to understand and respond to the draft law, and training in dispute resolution and facilitation, so that they can effectively represent the community at regional and national level consultation workshops.

### ***Looking forward: addressing structural challenges to implementing gender-equitable policy making***

1. **Support MoWA to expand its focus** beyond perceived 'women's issues', to engage actively on land and agriculture, including upskilling staff who are assigned to land, agriculture, and natural resources. Public awareness campaigns on the critical role of women in agriculture and women's rights to land should also be developed to nurture positive social norms around women's right to participate in land and agriculture matters.
  2. **Consult with the private sector** companies involved in CF. Company relationships with farmers should be supported by a platform that enables farmers to share experiences and ask for clarification of existing and proposed contractual conditions, with consideration given to how women farmers can actively contribute.
  3. **Structure consultations in advance** rather than after the legal or policy instruments have been adopted. Participatory law-making entails wide consultation from early in the process and requires review and input from relevant women's rights and gender institutions on all land and agriculture laws.
  4. **Formalise gender-equitable consultation processes** in legal frameworks to ensure inclusive participation. Develop mechanisms for incorporating insights from local consultations into draft laws and policies at an early stage in the process. Draft legislation should be presented to communities for consultation at several different points in the development cycle.
  5. **Strengthen formal and informal networks** among women leaders and gender-focused groups, to enhance common voice, advocacy and influence.
- Ensuring women's voice are heard and influence the content of laws and policies:***
6. **Strengthen connections between land/agriculture, gender-focused CSOs** (such as the NGO Forum, Gender and Development for Cambodia (GADC), the Farmer and Nature Net (FNN), and government institutions (MoWA, gender Technical Working Groups in relevant ministries, and Gender Focal Points in local government) to advocate for gender-responsive input into law-making. Gender-focused CSOs should be included in invitations for consultation processes on the CF Law and Land Law, including reviewing draft documentation and giving feedback.

<sup>3</sup> FAO. 2016. Free Prior and Informed Consent Manual for Project Practitioners. <http://www.fao.org/3/i6190E/i6190e.pdf>

6. **Empower women in informal leadership roles at the local level.** It is especially important for women (including youth, the poor, and indigenous and minority women) who are visible in community networks, producer groups, or kin networks to lead and connect across communities.
7. **Challenge gender norms by engaging men as well as women.** Engage both women and men to become gender champions, including working with the partners and families of emerging women leaders to manage challenges – including women's increased workload – and to celebrate men who actively support women by taking on childcare and housework.
8. **Start documenting experiences** of what works to ensure effective participation of women in consultations in Cambodia.
9. **Improve gender-disaggregated data collection** for informed law-making and monitoring relating to land and agriculture.
10. **Build capacity at commune level for women to raise complaints and ideas.** The suggestion box at commune offices, which allows for anonymous complaints, could be expanded to cover gender issues, which could then be fed up to policy makers.
11. **Complement gender-equitable consultations with reinforcing actions such as gender impact assessments, gender responsive budgeting, and gender equality training for policymakers.**



© Presse750

This brief consolidates key findings from a larger Mekong Region Land Governance (MRLG) project regional thematic study *Towards gender-equitable land policy and law-making in the Mekong Region*. This study involved an in-depth analysis of consultation processes in Cambodia, drawing from interviews, participatory consultation pilots, observations of a national consultation workshop on the CF Law, and extensive literature review.

**Editor:** Renée Chartres

**Proofreading:** Janet Taylor

**Layout and Design:** Watcharapol Isarangkul Na Ayuthaya

**Full Citation:** Beban, A., Hak, S. and Bourke-Martignoni, J. (2024). *Ensuring Gender-Equitable Consultations in Cambodia's Land and Agriculture Law and Policy*. Brief #15. Phnom Penh: MRLG



This work is licensed under a *Creative Commons Attribution-NonCommercial - ShareAlike International (CC BY-NC-SA 4.0)*

The Mekong Region Land Governance Project (MRLG) aims to improve the land tenure security of smallholder farmers in the Mekong Region and has been operating in Cambodia, Laos, Myanmar and Viet Nam since April 2014. MRLG is an initiative of the Government of Switzerland, through the Swiss Agency for Development and Cooperation (SDC), with co-financing from the Government of Germany and the Government of Luxembourg.

Please visit [www.mrlg.org](http://www.mrlg.org)

## Disclaimer

The views, opinions and interpretations expressed in this publication are those of the authors and contributors. They should not be interpreted as representing the official or unofficial views or positions of SDC, Germany or Luxembourg.

## Funded by:



## Supported by

