

REPORT

Data Protection in the Context of Indigenous Peoples in Cambodia



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Abstract:

Indigenous people's rights in Cambodia have recently gained greater recognition, notably within the scope of land ownership. Acknowledgement of these rights has not led to a very secure process in issuing land titles, however. The implementation of the legal procedures might be potentially harming Indigenous peoples' personal rights to privacy, as their data, collected in the course of administrative enquiries, are left without protection. The issue of data protection in Cambodia is potentially another threat to indigenous rights as this would hinder indigenous data sovereignty. The Royal Government of Cambodia is developing several legal tools and policies to respond to the challenges of modern data protection. However, even if the Cambodian legal system is mostly evolving into a more efficient structure capable of protecting personal data, the legal framework is still developing and not ready to face such challenges. Some hopes are emanating from regional and international initiatives, such as the latest work of ASEAN and the tidal wave of the European Union General Data Protection Regulation, already influencing practices in Cambodia.

Key words: Data protection, Data protection policy, Indigenous peoples, Indigenous data sovereignty, Sustainable Development Goals, Land registration, Communal land law, Data collection, Privacy, Personal rights.

Data Protection in the Context of Indigenous Peoples in Cambodia

“The gradual deterioration of indigenous societies can be traced to the non-recognition of the profound relationship that indigenous peoples have to their lands, territories and resources”, stated the United Nations Special Rapporteur Erica Irene Daes, depicting the alarming threats and challenges to indigenous peoples around the world.¹ The increasing threats against indigenous communities have resulted in an growing focus on indigenous rights within international law and policy “as the world seeks to protect unique cultures and ways of life, as well as the rights of individuals affected”.²

The central role of the state in defending these vulnerable minorities has become the focus of an international debate. The International Working Group on Indigenous Affairs (IWGIA) stated that indigenous peoples around the world “remain on the margins of society: they are poorer, less educated, die at a younger age, are much more likely to commit suicide, and are generally in worse health than the rest of the population.”³ This applies to the Cambodian context, “where the systematic violation of land rights is one of the most prevalent human rights violations today. The indigenous population in particular is losing their land at an alarming rate due to large-scale logging of forests, resource extraction, infrastructure projects such as dam and pipeline constructions, and land concessions for agri-business”.⁴ The work of the Cambodian Center for Human

Rights (CCHR) showed the struggle for indigenous peoples to use recent policies to protect their collective land ownership: “Of Cambodia’s 4,582 indigenous communities, only 113 have been able to complete the process and register their collective lands”.⁵ The effectiveness of the protection in the land laws is almost non-existent.

Khmer people make up 90% of the Cambodian population, followed by Vietnamese 5%, with the remaining 5% being Chinese, Cham (mostly a Muslim community) and indigenous ethnic groups, also known as Khmer Loeu.⁶ A first study led by the UN in 1992 estimated that there were 120,000 indigenous people in Cambodia, while other organizations stated a population of around 200,000 persons in 2008.⁷ According to Minority Rights Group International, the indigenous population was 400,000 in 2017, which represents 2–3% of the total Cambodian population.⁸

While a total of 24 different indigenous groups⁹ have been identified, there are only 17 that have been legally recognized. Indigenous groups include the Broa, Chhong, Jarai, Kachak, Kavet, Kel, Koang, Kouy, Kreung, Krol, Phnnong, La Eun, Lun, Mil, Por, Radei, Ro Ang, S’aoch, Sam Rei, Souy, Spong, Stieng, Thmoun and Tompoun, spread across 15 provinces, mostly in the highlands of Ratanakiri, Mondulkiri and Kratie. Experts have identified 19 different indigenous languages in Cambodia¹⁰ and stated that these populations are living within nearly 4 million hectares of remote evergreen and

dry deciduous forests.¹¹ The indigenous peoples' ways of life are strongly connected to their land use systems and access to forest resources. Their traditional techniques consist of the practice of "rotational (shifting) cultivation and animal husbandry, and in forests harvest rattan and vine, resin, cardamom, and honey. Weaving is another key source of income. Some income sources depend on location, such as zircon gemstone mining outside Banlung in Ratanakiri."¹²

As of today, however, there is no official definition of "indigenous people" that provides specific rights and protections to these populations in Cambodia. There is a helpful description in the 2001 land law (part 2 of Chapter 3) about "Immovable Property of Indigenous Communities", proposing a broad definition of indigenous community as "a group of people that resides in the territory of the Kingdom of Cambodia whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possession according to customary rules of collective use".¹³ Cambodian laws employ multiple terms, including "indigenous communities", "indigenous ethnic minorities" and "highland peoples", "hill tribes", "highlanders" and "Khmer Leu" to refer to indigenous people. These peoples often call themselves Choncheat.

The lack of legal status to protect indigenous peoples in Cambodia's laws remains a critical issue as these spread-out communities are facing serious threats to their ways of life and their lands and communities. In recent history, indigenous rights movements began in the late 1990s and continue to grow today. However, their position has appeared to suffer from the "recent government crackdowns on political parties",¹⁴ including the dissolution of the main opposition party by the Supreme Court, allowing the Cambodian People's Party (CPP) to rule effectively as a single party government. Also relevant has been the imprisonment of many opposition party politicians and the general ban on political activity applied to 107 out of

the 118 members of the Cambodia National Rescue Party (CNRP) for five years.¹⁵

Indigenous rights movement unfortunately became a form of "opposition" to the governing CPP. On one hand, the claim for land protection and forest preservation gathers support from environmentalists and indigenous peoples. On the other hand, the Government is supporting economic growth of the country through the developments of big companies that have sometimes led to deforestation. Few local events better illustrate the struggle between indigenous figures and the state, as the threats and violence towards, and arbitrary arrests of, a few indigenous people representatives as we can see with the Kui activists' example.¹⁶ As stated by Minority Rights Group International "Cambodia is one of the most dangerous places to be an environmental rights defender, with many killed for their work in recent years, including indigenous activists".¹⁷

The main challenges for the movement derive from discrimination and coerced displacement from their lands, which prompts their extinction as distinct groups. The lands where indigenous peoples have historically lived are being converted for extractive and development purposes and "these patterns are driven by ongoing state and transnational corporate ventures for resource extraction/conversion (mainly timber, minerals, hydro power generation and agribusiness), coupled with growing immigration from other parts of the country".¹⁸ as described by IWGIA. Such debates are portrayed as a fight between the national interest for energy and economic growth versus the preservation of indigenous peoples' habitats.

The work of civil society organizations (CSOs) and other development stakeholders is key to documenting information on indigenous communities, raising awareness about their situation and promoting their rights and livelihoods. Open Development Cambodia (ODC) also empowers and supports

indigenous peoples' voices by mapping, data collection and teaching and promoting access to the legislation in place for the communal land law.¹⁹ Thanks to the expertise of NGO Forum it is possible to have a precise overview of the economic land concessions, mining concessions and hydropower dams, land grabbing, deforestation and illegal logging that have severely impacted on the livelihoods of indigenous groups.²⁰

Shedding light on such issues is game-changing for indigenous communities. 17 indigenous communities – mainly Tampuan, Jarai, Kachok and Kreung peoples in Ratanakiri – decried the fact that their land had been converted into Economic Land Concessions (ELCs) by a rubber company based in Vietnam, through finance connected to the World Bank's International Finance Corporation (IFC). With the assistance of NGOs and indigenous peoples' organizations, these communities established channels of communications with the IFC's Compliance Advisor Ombudsman (CAO) in 2013–2014.²¹ As a result of the negotiations held in 2015 between the parties, and thanks to the mediating role of the ombudsman, the rubber company agreed to facilitate the communal land title processes for 11 of the affected communities and provide other remedies.²²

There has also been a recent expansion of the regulation to protect these minorities in Cambodia. In 2017, the government adopted the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) without reservation, which was ratified alongside other agreements ICERD,²³ CEDAW,²⁴ ICCPR,²⁵ ICESCR,²⁶ CDB²⁷ and CRC.²⁸ Simultaneously, Cambodia accepted one recommendation stating the need to "increase measures to tackle illegal land evictions [of] indigenous people and consider fortifying the legislative framework consistently with international standards", during its last Universal Periodic Review in 2013. However, no concrete result has been observed since then to prevent discrimination and address land insecurity of indigenous peoples.

At the national level, Cambodian law was supposedly²⁹ to develop regulations and policies stemming from by the Communal Land law and natural resources law to provide for the rights of local communities. The hope that the 2001 Land Law³⁰ and the 2002 Forest Law would lead to a substantive remedy that protected indigenous peoples' lands through collective/communal land titling (CLT) continued to fade in 2018. By the end of 2018, only a few indigenous communities had gained a title.³¹ Hence, the legislative advances are not translated into real action nor an actual improvement of indigenous peoples' rights. It can be seen that regulations make the protection of these communities more difficult, given that, for instance, "the subsequent Policy and Sub-decree for Indigenous Peoples Registration of Collective Land Rights set as a condition for receiving collective title the incorporation of the community as a legal entity".³² Despite this legal mechanism, there is a clear lack of enforcement and no clear follow up. At the end of the day, the Government continues to grant "economic land concessions to rubber plantations without free, prior, informed consultation or consent of the indigenous communities".³³

A broader policy emanating from the Ministry for Rural Development, the National Policy on the Development of Indigenous Peoples (NPDIP), was approved in 2009.³⁴ The NPDIP's purpose is around the necessity for promoting "the livelihoods of indigenous peoples and to improve their quality of life. It concentrates on ten development sectors including culture, education and vocational training, health, environment, land, agriculture and water resources, infrastructure, justice, tourism, and industry, mines and energy".³⁵

Considering this stalemated situation, many NGOs³⁶ came to help these targeted minorities to preserve their lands and lifestyle. The associations provided support, counsel, lodged complaints against the state and collected information in order to expose publicly the fight of the indigenous people in

Cambodia. Their role is crucial in the process to provide protection to these populations.

Among the different challenges for land registration for indigenous peoples in Cambodia, the issue of data collection raises questions on the ownership and use of information. This issue first emerged through the work of the NGOs helping indigenous people. The data collection operated by the NGOs to build stats about the situation of indigenous peoples, as well as in the land registration process addressed to the central administration, became a sensitive concern for minorities. Ethnic minorities started to realize the pressing issues about data protection and are now concerned about how data collection, even in the process of land registration, could turn against them, hence allowing promoters and investors to target locations that are around indigenous peoples' lands and to reduce the natural habitats of these populations through legal deforestation documented by the new delimitation available thanks the land law.

These challenges generate a fundamental debate on the current data protection regulations that could benefit the indigenous people and hinder the destruction of their regions by investors. What kind of data protection is there for indigenous peoples and their lands?

Overall, all the actions led by the Government took a rather political dimension, denying any clear legal framework benefitting the indigenous peoples. The problems around data protection reflect practical issues that minorities are currently facing. While IPs data collection underpins their legal protection and capacity to secure their land ownership, data can, at the same time, be detrimental to them. Indeed, data collection is revealing some risks regarding privacy and data protection for these minorities.

The main concern arising is the threat around registration itself. There could be compromising personal data of indigenous peoples that gives clear information

to investors for them to continue their developments so harmful to the indigenous lifestyle and habitat.

It is possible that the recent development of the legal framework around data protection in Cambodia could bring legal cover to benefit indigenous peoples. Unfortunately these legal tools are clearly lacking efficiency and do not provide proper protection for the threatened minorities. Therefore, this work finds multiple threats around the data collection within the indigenous communities' struggle for land registration (II) representing the complexity of the challenge around data matters in Cambodia (I). The Cambodian legal framework about data protection is facing serious issues. The article will give a short analysis of the relative substance of the recent Cambodian data protection law (III), which could one day be source of hope for protection for indigenous peoples but is not the answer to the current crisis just yet.

1. The Rising Challenge of Data Matters and the Case of Indigenous Peoples in Cambodia

In order to pin down the challenge around data in the case of indigenous peoples in Cambodia, it is crucial to first have a quick overview of the data concept in relation to privacy (A), leading to a better understanding of the specific case of indigenous peoples' data collection (B).

A. A Quick Overview of the Data Concept in Relation to Privacy

Data collection can represent a source of endangerment for privacy and data protection. In the context of indigenous peoples going through land registration procedures in Cambodia, data collection is often considered a threat to the privacy for the communities as they have to give personal information through application forms and surveys. The information that must be given includes names, sex, language, religion, ethnicity, detailed location of the land they claim and the number of people living on the land. On top of that, officials will be sent to the land in question to carry out fieldwork. A detailed analysis of the procedures and the privacy issues will be given later on, but first we must understand the different concepts of privacy and data protection.

In a world where the global data revolution accelerates, talking about big data projects and artificial intelligence, it is clear that data collection, processing and storage are key points in the pathway that our information takes. This is where data protection and the fundamental right to privacy come into play. Privacy is an internationally-recognised human right in article 12 of the Universal Declaration of Human Rights (UDHR) signed in 1993 by the Cambodian Government. This

proclaims that “[no] one shall be subjected to arbitrary interference with his privacy, family, home or correspondence Everyone has the right to the protection of the law against such interference or attacks.”³⁷

The common roots of privacy and data protection were once expressed by a former UN Special Rapporteur in the report Promotion and Protection of the Right to Freedom of Opinion and Expression: “the protection of personal data represents a special form of respect for the right to privacy”.³⁸

From a practical perspective, we can say that privacy “by design mandates the consideration of privacy at the development process of any product or service”, as opposed to privacy by default that “requires privacy to be a default setting allowing a customer to customise how much they would like to share with others”.³⁹ The practice should vary depending on the type of consent given by the user sharing their personal data.

The Cambodian E-Commerce Law defines data as “a group of numbers, characters, symbols, messages, images, sounds, videos, information or electronic programs that are prepared in a form suitable for use in a database or an electronic system”.⁴⁰ Here we acknowledge data as recorded information including technical data and computer software. However, the term does not extend to information incidental

to contract administration, such as financial, administrative, cost or pricing, or management information.⁴¹ It is also fundamental to consider that any data gathered during online transaction can eventually be seen as “personal data”. Thus, it is commonly accepted that “conventional data, such as full names, national identification numbers, passport numbers, photographs, images, phone numbers, personal email addresses, IP addresses, and other network identifiers may arguably constitute personal data under the E-Commerce Law”.⁴²

It is useful to distinguish the different kinds of data, as personal data has its specific regime protected by the law. Following that path, it will be possible to determine if the Indigenous communities’ claim for privacy and data protection rights are potentially violated. The concept of personal data is then related to a living individual who can be identified, or who is identifiable, from that data. In other words, it is any information that is clearly about a particular person and allows access to the person’s identity. For example, United States law broadly defines “personal data” to mean “any information that is linked or reasonably linkable to an identified or identifiable natural person”.⁴³ Personal data will appear in anything that can affirm your physical presence somewhere. Therefore, surveillance camera footage of you is personal data, as are fingerprints. On a side note, personal information is personal data, but not all personal data is personal information.

A critical variant of personal data lies in the legal concept of sensitive personal data as a specific set of “special categories” that must be treated with extra security. These categories include racial or ethnic origin; political opinions; religious or philosophical beliefs; trade union membership; genetic data; biometric data (where processed to uniquely identify someone). Such sensitive personal data require extended legal protection.

In addition to these types of personal data, is non-personal data. Non-personal data is any set of data which does not contain personally identifiable information. To set out a quick example, a website account created for a customer service, containing personal information (name, age, gender, and other contact information of an individual), will become non-personal data if name and contact information are removed. In India, a government committee recently produced a report classifying non-personal data into three main categories: public non-personal data, community non-personal data and private non-personal data. As it was described, “all the data collected by government and its agencies such as census data, data collected by municipal corporations on the total tax receipts in a particular period or any information collected during execution of all publicly funded works has been kept under the umbrella of public non-personal data”.⁴⁴ Community non-personal data is considered as “any data identifiers about a set of people who have either the same geographic location, religion, job, or other common social interests”.⁴⁵ And Private non-personal data covers data “which are produced by individuals which can be derived from application of proprietary software or knowledge”.

Some data are protected and some are not. Data protection has been described as “the law designed to protect your personal data. In modern societies, in order to empower us to control our data and to protect us from abuses, it is essential that data protection laws restrain and shape the activities of companies and governments”.⁴⁶

A personal data breach means “a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed” (art 4 paragraph 12 GDPR).

The type of the data collected as part of indigenous peoples’ land registration procedures is fundamental, as the protection

will vary from one type of data to another. The example of Cambodian data protection regulation is a delicate topic, in the sense that no such specific legal mechanism exists at the moment. At best, we can observe some elements in the recent E-commerce law, but they are only related to virtual data in a consumer/provider scheme. This legal gap will be analysed in the last part of the paper.

Incidental to this emerging development of general data protection regulations and literacy, we take a more specific reflection on indigenous data sovereignty. Few legal examples can give a broad illustration of the issues around data protection as well as the case of indigenous peoples.

B. The Specific Case of Indigenous Peoples' Data Collection

In this chapter we take a closer look at the CARE and FAIR principles as they apply to indigenous data governance. Data became pivotal for “indigenous peoples’ ability to exercise their individual and collective rights to self-determination”,⁴⁷ as we see the development of the doctrine of indigenous data sovereignty. As the Australian National University Press stated after the workshop “Data sovereignty for indigenous peoples: current practice and future needs” in July 2015, “The multifaceted nature of indigenous data sovereignty gives rise to a wide-ranging set of issues, from legal and ethical dimensions around data storage, ownership, access and consent, to intellectual property rights and practical considerations about how data are used in the context of research, policy and practice”.⁴⁸ Conceptualizing the sovereignty of such minorities over their data means creating a sustainable path to reinforce “the rights to engage in decision-making in accordance with indigenous values and collective interests”.⁴⁹

Following the instructive research of the GIDA, it is interesting to acknowledge that “indigenous data, which include data collected by governments and institutions about Indigenous Peoples and their territories, are intrinsic to Indigenous Peoples’ capacity and capability to realise their human rights and responsibilities to all of creation”.⁵⁰

This data collection is a double-edged sword⁵¹ for the indigenous cause, being both a potential help for indigenous minorities and a threat if data were to work against them in the name of the collective interest of the nation. In the development of data usage, the primary set of principles around data best practice is the FAIR⁵² (Findable, Accessible, Interoperable, Reusable) principles, “encouraging open and other data movements to consider both people and purpose in their advocacy and pursuits”.⁵³ FAIR principles take a data-centric approach for scientific data management and stewardship and is a general framework for data use. The second useful set of principles is CARE (Collective benefit, Authority to control, Responsibility, Ethics). These concepts were ideveloped in response to the specific case of indigenous peoples. The CARE principles support indigenous data governance “reflecting the crucial role of data in advancing Indigenous innovation and self-determination”.⁵⁴

All these combined principles aim at preserving Indigenous peoples’ interests in the frequently unbalanced struggles of minorities to have their rights recognized. GIDA finally states that “the rise of national Indigenous Data Sovereignty networks reflects a growing global concern about the need to protect against the misuse of Indigenous data and to ensure Indigenous Peoples are the primary beneficiaries of their data”.⁵⁵ An America example is the US Indigenous Data Sovereignty Network (USIDSN), working on data-driven research, policy advocacy and education. A New Zealand example is the Maori Data Sovereignty Network that has operated since

2015. Australian developments include the Maiam Nayri Wingara Aboriginal and Torres Strait Islander Data Sovereignty Collective founded in 2017.

Such initiatives do not yet exist among indigenous peoples in Cambodia, although many NGOs are working and cooperating with indigenous peoples, including through data awareness and administrative help to obtain land titles. “The importance of data for the advancement of indigenous self-determination and development has been emphasised by indigenous NGOs (Tebtebba Foundation 2008), communities and tribes”,⁵⁶ showing the pivotal role of data collection in the struggle of indigenous peoples. Nonetheless, NGOs’ work on data collection in Cambodia seems to be most likely backfiring against the indigenous peoples as it gives crucial information to investors on where they can obtain ownership in forest areas without creating much more protections to the indigenous peoples. In fact, a contradiction exists with the development of “the current movement toward open data and open science” (represented by the FAIR principles) as it “does not fully engage with indigenous peoples rights and interests”.⁵⁷ This means that the fieldwork led by NGOs can produce negative impacts. “As a result, the collection of data on indigenous peoples is viewed as primarily servicing government requirements rather than supporting indigenous peoples’ development agendas”.⁵⁸ However, “while not denying some role for centralised data collection, what indigenous peoples are seeking is a right to identity and meaningful participation in decisions affecting the collection, dissemination and stewardship of all data that are collected about them”.⁵⁹ This means that both interests of the state and the indigenous peoples have to be taken into consideration, as long as there is a bare minimum of protections developed around minorities. Consequently, it is of the utmost importance to build a sustainable system to protect these minorities and develop concepts to use indigenous data in a way that preserves their sovereignty and lifestyle in Cambodia.

Indigenous peoples face serious risks on the way to rights recognition, as shown during the process of drafting and negotiating the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). This found that “The twin problems of lack of reliable data and information on indigenous peoples and the biopiracy and misuse of their traditional knowledge and cultural heritage”⁶⁰ are perpetual issues. Risks of bias in the process of data collection are real. Lack of control over indigenous data by indigenous peoples can lead to public exposure of that data, threatening their lifestyle and territories.

2. Multiple Threats Caused by Data Collection and Exposure for Indigenous Peoples

Now that the theoretical ground is established around the main concepts of data and its collection considering the specific situation of Indigenous peoples, it is important to understand the main threats against the usage of their data. Two main issues arise. The main concern is still about how the procedure of land registration can threaten indigenous peoples' privacy. Secondly, the action of NGOs providing support is likely backfiring against indigenous peoples if what is produced is biased, incomplete or unrepresentative data.

A. The Humanitarian Actions of the NGOs Both Helping and Endangering Indigenous Peoples' Conditions

NGOs data collection methodology evolved over time, as "for many decades, the census has been the 'gold standard' for population estimates and projections, particularly for subpopulations and small geographic areas, both of which include indigenous peoples".⁶¹ This existed until there was a move to the traditional 'footwork' census and renewing the use of "rolling surveys, population registers and administrative data, along with greater use of digital technologies". However, this change can be perceived as quite detrimental on both the quality and disaggregation on indigenous data, as we can see with the example of Canada⁶² in the early 2010's. In another example, the implementation of an integrated data infrastructure and a fully administrative census of Aotearoa/New Zealand,⁶³ revealed issues in the anonymity of indigenous data, leading to possible targeted interventions. Authors say that such shifts in the data processing can have "major implications for

the control, quality and comprehensiveness of indigenous data". It is obviously a strategic concern in the further development of indigenous data sovereignty principles as the methodology of data collection can become very harmful to minorities.

Here are few examples of NGO's data collection gathering information to help communities in Cambodia, but simultaneously making information accessible and threatening the indigenous peoples' data sovereignty, territories and lifestyle.

The first example is the report called "Access to Collective Land Titles for Indigenous Communities in Cambodia" produced by the CCHR, supposedly helping to get an overview of the Land Reform Project. This "highlights the obstacles to registration of collective land for indigenous communities in Cambodia, based on data collected by the Project". Collectively, the CCHR and the Government are both releasing and analysing indigenous data collected during scouting by the Government and fieldwork while proceeding to land registration. Even if "the purpose of this report is to present data collected from the Project's research on the obstacles that indigenous communities in Cambodia face when seeking land tenure security through applying for a Communal

Land Title,”⁶⁴ the disclosure and the further analysis resulting from the report can be seen as a threat to the indigenous peoples as their personal data is used. Finding a balance between the help of the NGO and the indigenous peoples’ best interest becomes really tricky.

A second data collection performed by an NGO “examines the impact of land grabbing on indigenous people in Cambodia over an extended time period of several years”.⁶⁵ This shows evidence of land grabs through economic land concessions given by the state for agro-industrial, mining, and tourism projects, and their alarming impact on indigenous peoples. Basically, the methodology of the data collection used here is based on surveys and interviews of indigenous populations living in the Srae Preah Commune, Keo Seima district, Monduliri Province.⁶⁶ These provided quantitative and qualitative results, allowing the paper to draw very precise mapping of the region. The data collection included data about gender and type of household wealth.⁶⁷

Some indigenous representatives warned about “the relevance of existing statistical frameworks for reflecting their world views and have highlighted their lack of participation in data collection processes and governance”. The risk of bias is real and would mostly undermine the position of indigenous peoples as well as blur realities of their obviously diverse situations.

Despite the dangers, few solutions have been developed to help the indigenous cause. The first proposal is the decolonization of indigenous data sovereignty.⁶⁸ Experts proposed “recommendations on how data collection and data disaggregation on indigenous peoples can be done and how and what indicators should be used to measure implementation of the Millennium Development Goals and now the newly adopted Sustainable Development Goals”.⁶⁹ Data issues are connected to the 17th Sustainable Development Goal.

Simultaneously, it becomes obvious that more data is needed to be able to monitor progress among indigenous peoples and ethnic groups.⁷⁰ As stated in a report by the United Nations Secretary-General’s Independent Expert Advisory Group on the data revolution for sustainable development: “Data are the lifeblood of decision making and the raw material for accountability. Without high-quality data providing the right information on the right trend, at the right time, designing, monitoring and evaluating effective policies becomes almost impossible”.⁷¹ This underlines the essential purpose and main issues of data collection and usage.

The same researchers state that “there are certain difficulties in measuring human rights achievements in terms of quantitative data or statistics, given that assessing the enjoyment of human rights will always contain a strong qualitative element. Nonetheless, experiences in developing indicators to measure progress in implementing human rights in other contexts have shown that it is possible to gather statistically useful data for human rights compliance”.⁷² This shows that one main goals of data use in sustainable development is to relate progress and monitor human rights’ evolution. To counter the incompleteness of data and lack of representativity of data collection, “data should be generated to measure how the rights of indigenous peoples to access and ownership of lands, territories and resources are being met; how their participation in decision-making and control over their own development processes are progressing; what control over data and knowledge they are achieving; and what discrimination and exclusion they experience in regard to their social, economic and cultural rights”.⁷³ The target is decolonization of indigenous sovereignty. Data collection methodology should be driven by the principle that indigenous peoples should decide what to do with these data themselves.⁷⁴ The work of Professor Chidi Oguamanam presents indigenous data sovereignty as a “critical tool to advance the Indigenous vision of self-determined de-

velopment as part of the logic of broader self-determination”.⁷⁵ This fits with the scope of UN actors such as the World Bank and the International Finance Corporation, considering indigenous data sovereignty as a tool for “development”, as data nowadays have profound economic value and should be helping sustainable growth. In that sense, it is essential to understand that indigenous peoples are essentially protesting against the acts of appropriation of data that worked against their claims for sovereignty and self-determination. Such claims correspond completely to the idea of the CARE principles. Finally, debates led to a separate Indigenous Sustainable Development Index to sit alongside the SDGs. This approach is in line with a growing demand for the United Nations Permanent Forum on Indigenous Issues (UNPFII was created in 2000) to increase its focus on indigenous peoples’ development agendas and propose a more specific and progressive policy approach.

If NGOs’ goals are to help and speak out against land grabbing practices, data collection could be harmful for minorities as it publicly underlines their financial struggles or gives an accurate representation⁷⁶ of their presence in the regions. The NGOs’ fight has a potential negative impact on these communities and the control lost over indigenous data by indigenous peoples.

B. Cadastral Administration’s Intrusive Data Collection within the Scope of Land Registration

This administrative mechanism for land registration started in 1989. Current land registration has reached 4,976,095 titles, of which 4,777,771 titles were issued to land-owners,⁷⁷ 68.25% of the estimated 7 million

parcels that are eligible for registration as of June 2018.⁷⁸ However, a large portion of the population remains unaware of this cadastral tool.⁷⁹ The legislation went through several updates with time. To sum it up, “the concepts of indigenous peoples’ right to land management based on their ancestral practices have been transformed into social rights by the Land Law of 2001, the Law on Forestry of 2002 and the Protected Areas Law, all of which form part of a legal recognition of indigenous peoples in Cambodia.”⁸⁰ There are two procedures existing for land registration. The first one, Sporadic Land Registration, corresponds to the situation where an individual land occupant initiates the process of land registration. This mechanism is not the one the indigenous peoples are generally using. However, we will proceed to a quick description to see the legal development of the mechanism. As it began, guidelines were incorporated in the Land Law of 1992 (with articles 203-217). Then came along a myriad of sub decrees and circulars⁸¹ in order to provide a specific procedure on the registration and to make it more efficient and faster. Finally, the current procedure allows “an individual who has occupied land [to] request authorities to register their land at state cadastral offices [...] They can submit an application form at the office of the commune/Sangkat where the property is located.”⁸²

The second type of land registration is systematic land registration that covers collective land titling. The “Collective Land Titling pilot project was launched in 2003, in order to formulate what became the Sub-Decree 83 on the Procedures for Land Registration of the Indigenous Communities Land, finally adopted in June 2009”,⁸³ starting the current procedure indigenous peoples are using. “The latter refers to the registration of land in an entire village or commune”⁸⁴ and can take multiple forms. As previous research from ODC has shown, “the most prominent is the communal title available to indigenous communities”.⁸⁵ The other form is the monastery property (structures within Buddhist monasteries belonging to the Bud-

dhist religion⁸⁶). The Land Law of 2001 introducing communal title was troublesome and unclear, thus was followed by the sub-decree No. 83 Procedure of Registration of Land of Indigenous Communities and the Circular of the Ministry of Rural Development on the Procedures and Methods of Implementing National Policy on the Development and Identification of an Indigenous Community in 2009. Under this process, the government needs to declare a specific location for such registration. The sub-decree gives details of the framework by which indigenous communities can acquire collective title. There are then three stages⁸⁷ described by ODC⁸⁸:

- ▶ First, the Ministry of Rural Development issues a letter of recognition that the community is an indigenous community (as of June 2018,⁸⁹ 141 communities had achieved this).
- ▶ Second, the Ministry of Interior registers the community as a legal entity (128 communities have achieved this.).
- ▶ Finally,⁹⁰ the Ministry of Land Management, Urban Planning and Construction surveys the land and ultimately issues titles (24 communities have been granted land titles).

This last stage includes obligatory fieldwork on Indigenous lands, where land possessors will have to cooperate with cadastral officials by proving evidence relevant to land tenure when registration starts. After prior notification, “the official liable for surveying and demarcation can access to land in the determined area for surveying and demarcating the border of each land parcel and can invite relevant landowners to clarify the border of their occupied land parcels⁹¹”.⁹² This survey is made to distinguish clear delimitation of the lands and to know exactly the identity of the people living on them, as “the official responsible for adjudication will ask for further information relevant to the

identification of landowners”⁹³ in order to “fill in the data-collecting form”.⁹⁴

Following data collection, “the cadastral officials will make the cadastral index map and a list of landowners to add to the Land Register⁹⁵”.⁹⁶ Finally, there is a first public display, in several places, of the documents (called screening documents⁹⁷), in case of a third-party dispute. After this, all the collected data is available in the cadastral administration and free to access for the public.

We could mention the stalemated situation⁹⁸ of so many communities wanting to access land titling and struggling against the different parts of the administration, although, we will focus on breach of privacy as one of the main concerns for the indigenous peoples. This breach of privacy for the minorities involves the problem of having to fill in surveys with personal data as such as the identity (Name, Age, Sex) of everyone living on a specific location, as well as being forced to go through official investigations on their private lands. The requirements for this is understandable from the administration’s point of view, but also quite intrusive for indigenous peoples. The data collection process and the public access to it later on, is a growing concern to the minorities living in the forest lands and mountains in Cambodia. The increasing criticism from indigenous representatives is to be expected.

Finding a balance between the privacy of the indigenous peoples and the publicity of land titling (which is a fundamental aspect of the legal concept) sounds neither a priority nor a possibility due to the opposition of the parties involved. Thus, while the legal framework in Cambodia in theory protects indigenous communities’ land rights, in practice they are left without protection, completely vulnerable to land grabs and related violations.

The impact of NGO studies should be considered as well as the central role of

the Cambodian administration in the land titling process, in order to prevent harm to indigenous communities. There are duties of prevention of abuse, awareness, fairness and making sure the staff involved obtain educated consent from the population. These principles are milestones on the path to the emerging legal framework around data protection in Cambodia. The international understanding around privacy and data protection is already strong, with an extensive literature and constant developments in international law and comparative law. Such fertile intellectual ground has to produce a vigorous framework to reach a final product in regulation, as it could be a turning point for Indigenous peoples' rights to privacy.

3. The Relative Substance of the Recent Cambodian Data Protection Regulation

The reflection around data protection in Cambodia is relatively new and is being constantly updated under the influence of international law. The substance of the Cambodian Law shows a current lack of legal efficiency of Cambodian data protection including indigenous peoples. However, it is clear that data protection in the field of legislative work is in progress, arguably thanks to international influence.

A. The Current Lack of Legal Efficiency of Cambodian Data Protection Including Indigenous Peoples

No specific regulation exists to protect indigenous peoples' data in Cambodia. Cambodia has not yet enacted any comprehensive data protection legislation for citizens, meaning that even if some laws are mention data protection, there is no such thing as an effective overall data protection regime in Cambodia yet. The fact that "Cambodian law does not specifically define the term 'personal data' or discuss what specific information constitutes personal data"⁹⁹ is a good illustration of the current state of the legal framework. The line between personal and non-personal data in Cambodia is still to be properly defined, and the same goes for sensitive personal data.

In addition to the fact that there is no specific regulation on data protection, "there are no regulatory or enforcement authorities that are specifically tasked with handling, overseeing, or implementing personal data protection matters in Cambodia".¹⁰⁰ Nonetheless, a few regulations provide some hints about what could govern privacy and data protection in Cambodia.

The ground floor of such a framework includes the Constitution, Penal Code, Code of Criminal Procedure, Civil Code, law on telecommunications and the press law. A key consideration is article 40 of the Cambodian Constitution¹⁰¹ protecting the rights of privacy of residence, and to the secrecy of correspondence by mail, telegram, fax, telex and telephone. Article 65b of the Law on Telecommunications¹⁰² states vaguely that subscribers have some basic rights to privacy, not giving any specific provisions on data transfer, data retention, data breach and data breach notifications. Article 7 of the Press Law¹⁰³ specifically applies to the obligation for journalists to respect the right to privacy of individuals.

The Penal Code does give a more specific data protection in comparison to the previous examples. Articles 301¹⁰⁴ and 302¹⁰⁵ of the Penal Code "generally prohibit people from intercepting or recording private conversations, or recording a person's image in a private location, without his/her consent. Violations of these clauses are punishable by imprisonment of between one month and one year and a fine of KHR 100,000 to KHR 2 million",¹⁰⁶ according to lawyer Jay Cohen in 2020. Further examples in this Code have the same sanctions as article 314¹⁰⁷ on professional secrecy, "prohibiting unauthorised breaches of

professional secrecy by any person who holds, by reason of his/her position, profession, function, or mission, information of a confidential nature". Article 318¹⁰⁸ on secrecy in correspondences and telephone conversations prohibits "the malicious opening, destroying, delaying, diverting, or intercepting of correspondence sent to a third party"; article 319¹⁰⁹ forbids "malicious intercepting or jamming of telephone communications or any telecommunications messages".

IT crimes (fraudulent access or maintaining access to an automated data processing system) are quite similar in terms of sanctions, unless there are aggravating factors leading to the doubled sentence with article 427 of the Penal Code.¹¹⁰ If penal law goes deeper in details for data violations, the scope remains constrained to very specific situations that are not broad enough to talk about in terms of a proper data protection for the public, let alone in the case of indigenous peoples.

The Code of Criminal Procedure offers a "basic privacy framework for searches of suspects involved in criminal proceedings" via article 83, meaning that all the intelligence gathered about individuals is to be kept confidential.

Finally, article 10 of the Civil Code includes privacy as a personal right while defining the concept of personal rights as "Personal rights include the rights to life, personal safety, health, freedom, identity, privacy, and other benefits and interests." This legal provision may be interpreted as protecting individual personal data as part of the right to privacy. Article 11 of the Civil Code gives the right to an injunction in situations where there is a serious and imminent danger that may justify an infringement of that person's personal rights.

To conclude on the Civil Code, article 12 could hypothetically constitute legal provision for a person to seek an order to remove, for example, any storage of his or her personal data collected unlawfully.

From these few laws, no efficient control or legal mechanism can actually be found, as most of them are too vague and do not provide sufficient legal ground, thus "none of those law has anything substantial"¹¹¹ and "none of these addresses (or is comprehensive enough to address) how privacy and personal data should be collected, stored and processed".¹¹²

However, important progress is expected to appear in these legal fields. One recent example showing clear improvement with a more detailed kind of law is the E-Commerce Law,¹¹³ "which contains provisions for the protection of consumer data that has been gathered over the course of electronic communications".¹¹⁴ This law finally defines "data". Unfortunately there is no definition of personal data or data protection as such. Basically, this new regulation applies to electronic commerce service provider a general obligation to obtain consent before gathering and storing personal data from consumers. There is no time limitation for the data storing and a global obligation for "reasonable security measures to avoid the loss, modification, leakage, and/or unauthorised disclosure of all consumer data" according to article 32. Regarding sanctions, data violations can result in either revocation or suspension of relevant licenses, imprisonment from one month to three years, and/or fines ranging from KHR 100,000 to 10 million. Despite the pivotal role that could potentially arise from this text, this law is "restricted in scope to virtual and/or digital data protection".¹¹⁵ Still, the legally binding dimension of the E-Commerce Law is uncertain and needs some clarification.

Notwithstanding recent developments in data protection policy and the growth in recognition for privacy rights, most of the required work is yet to be done. No public regulation appears to be useful for protecting indigenous peoples' right to privacy. Data protection regulations are out of range for the data collection featured by the NGOs or by the administrative land registration procedures. At the end of the day, indigenous

peoples' data is definitely not protected by the data protection law against any kind of breach of privacy within the general legal framework in Cambodia. More importantly, no specific regulation for indigenous data sovereignty is even in sight for now. Just as the communal land registering processes globally are failing to help and provide legal protection for indigenous territories and their lifestyle, data protection in Cambodia cannot support or defend indigenous data sovereignty at the moment. Although most of the regulations concerning data and privacy are not legally enforceable yet, some hopes emerge from the strong influence of international and regional laws.

B. Data Protection Legislative Work in Progress and International Influence in the Burgeoning Cambodian State of Law

Some of the latest evolutions in data protection in Cambodia show Cambodian government willingness to develop the data protection field. Further developments are expected for data protection, such as the scope of the work in progress on the draft cybercrime law “which contains specific data protection clauses that address preservation of data during criminal investigations, search and seizure of computer data for use as evidence, and potential safeguards for suspects to prevent data privacy abuses, [...] data espionage, illegal interception of non-public computer transmissions, and data interference, among others”. However, this regulation has been put on hold for additional work since 2016, which depicts the difficulties for new regulations in the data protection framework.

Some associations have expressed concerns about data protection development while analysing the Sub-Decree on the Establishment of the National Internet Gateway. The Cambodian Center for Human Rights, the Cambodian Center for Independent Media and IFEX, among 42 other NGOs, warned that the legislative instrument would violate “Cambodia’s international human rights obligations and its Constitution, by threatening human rights online and offline in Cambodia, particularly the rights to freedom of expression, access to information, and privacy”.¹¹⁶ A quick analysis of article 14 of the NIG Sub-Decree raises questions about potential risks to data protection and data confidentiality, as it mandates a general retention and sharing of personal data. The Cambodian Government is building a system for the mass collection of personal data through companies in such a broad and limitless way that it endangers the international right to privacy (Article 17 of the ICCPR includes the right to the protection of personal data). The sub-decree does not provide “a clear list of the types of information or data that can be retained and shared, and instead includes a vague catch-all provision ‘other information as required’, under which companies may be required by the Government to provide access to any form of personal data on demand”.¹¹⁷ The lack of safeguards to protect individual rights can be alarming as a constitutional breach against Cambodian personal rights.

On a side note, the implementation of such system is not aligned with any requirement for sufficient protection for data security. It therefore increases drastically the risks to data security from third-party interference or hackers. As described by IFEX, “centralizing internet traffic and data under an NIG creates a central point of vulnerability for malicious actors, while mandating the retention of data without also ensuring the capacity of service providers to adequately address the resultant increase in data security needs, compounds this risk”.¹¹⁸

Recent news coming from the Government indicate that Ministry of Interior lawyers and data specialists are working on a first draft of a sub-decree on the management, use, privacy safeguards and security of data the government has collected that can potentially be used to identify individuals. Consequently, Ministry Secretary of State Bun Hun, head of the Legislation Council, said they were collectively trying to determine rules for the management, use and privacy protection for identifying data that would serve public interests, promote service provision quality and develop the nation in a highly efficient and secure manner. As such, the senior official declared that some clear difficulties arose, as “currently, individuals’ data and identities can be taken and used without any guarantees for the protection of their privacy or the security of their data and without legal protection”.¹¹⁹

The senior official openly admitted the critical situation about data and the obvious weaknesses of the Cambodian regulation. In response, the work committee is revising this sub-decree to facilitate future data protection laws. Tob Neth, Deputy Director-General of the General Department of Identification, provides guidance and warns about the need of a clear regulation within the sub-decree scope. The experts’ group also has to properly examine what is personal data¹²⁰ and how data identifying individuals can be safely stored or used without affecting their privacy. Affiliated Network for Social Accountability Executive Director San Chey underlined the need of coherence considering individual privacy rights, as it should be an incorporated guideline into the government’s digital policies. The idea of a government digital policy is quite recent in Cambodia, although the Government is already at work polishing the draft of a 2021–2035 policy framework for Cambodia’s evolving digital socioeconomic environment, in order to develop economic growth.¹²¹

As the Government is working on building a more efficient data protection system and as a proper national data protection

policy emerges, the influence of regional and international law is significant in the development of Cambodian regulation.

The proactive and inclusive influence of the Association of Southeast Asian Nations (ASEAN)¹²² is fundamental in the modernization of data protection policy in Cambodia. ASEAN recently achieved a milestone with the ASEAN telecommunications and information technology ministers meeting (telmin) framework on personal data protection in 2012, adopted in November 2016. The purpose of this framework is to build a common ground for members in the data protection area facilitating cooperation, and overall to strengthen the protection of personal data in ASEAN as it would enhance the growth of regional and global trade and the flow of information. The declaration states that “Participants recognise the need to protect and prevent misuse of an individual’s personal data and will endeavour to take into account and implement in their domestic laws and regulations the following Personal Data Protection Principles (the ‘Principles’) in accordance with this Framework”.¹²³ The principles are listed as : “Consent, Notification and Purpose, Accuracy of Personal Data, Security Safeguards, Access and Correction, Transfers to Another Country or Territory, Retention and Accountability”. This example of cooperation demonstrates the general movement towards a better protection of data, including in Cambodia as a member of the ASEAN. However, it is difficult to create real legal momentum around the ASEAN initiative alone – the development “of data protection regulation in ASEAN has so far been uneven”.¹²⁴ Only 4 countries out of 10 have proper personal data protection laws (Singapore, Malaysia, Philippines and recently Thailand).¹²⁵ In Cambodia’s case, the expert from ASEAN INSIDERS identifies “micro level efforts being made across banks, law firms and insurance firms to comply with the EU GDPR in their company policies”.¹²⁶ This shows that despite the direction towards a data protection policy, a lot of work remains to be done.

There is also some influence of European regional law over Cambodia. The European Union's General Data Protection Regulations (GDPR) has both a direct effect on private actors' policy in Cambodia (as they want to comply to the European Union regulation to support trade) and an indirect on Cambodia with a ripple effect through ASEAN policy, thus affecting Cambodia. The GDPR put in place higher standards, stricter laws, and tougher sanctions in the EU with extra-territorial application. Simultaneously, European regulation is overseeing the "usage of data of its citizens by companies in terms of data, privacy, security and transparency not only in its region but also companies or organisations worldwide that process or hold data of EU residents".¹²⁷ Knowing that ASEAN is an important trading partner with Europe, "many of the ASEAN countries are reviewing their own data protection laws and may develop a similar regulatory framework to protect their citizens and enable local businesses to operate globally through some sort of comity in regulatory approach".¹²⁸ Few examples speak for themselves better than the review of Malaysian Personal Data Protection ACT 2010 to fit with European GDPR standard. Singapore's Personal Data Protection Act 2012 includes some of the EU GDPR principles (such as customer consent for data collection, processing and disclosure); in preparing the Philippines Data Privacy Act in 2016, Philippine regulators asked for recommendations to ensure compliance with data privacy laws.

ASEAN's latest work in this field is the approval of the new Data Management Framework (DMF) and Model Contractual Clauses for Cross Border Data Flows (MCCs), on 22 January 2021. These two documents enhance and promote harmonization for data flows and data governance practices across South-East Asia. There is no obligation for member states to adopt these, although the purpose is to gather all members around that cause.

More specifically, the DMF "is designed to provide practical guidance for all private

sector businesses operating in any ASEAN Member State and help them implement a data management system based on good management practices and fundamental principles, using a risk-based methodology", according to Lexology experts. Such a mechanism takes its foundations in the six constitutive components: "Governance and oversight, Policies and procedural documents, Data inventory, Impact/ risk assessment, Controls, Monitoring and continuous improvement".¹²⁹ DMF is supposed to bring transparency and mutual trust between individuals and foreign companies for sustainable business practice.

MCCs are also facilitating business throughout standardized "contractual terms agreements relating to the cross-border transfer of personal data between businesses in the region, and which are meant to encapsulate key data protection obligations and reduce negotiation and compliance costs"¹³⁰ and easily delimitate the parties' responsibilities and obligations about data protection.

The implementation of these two new tools could lead to more data protection practice within the business area, preparing the way for other laws to develop.

To conclude on ASEAN scope of influence, it is clear that the organization brings a wind of modernization and homogenization, dragging all the countries of the region, including Cambodia, to improve their legal systems around data protection, improving growth and human rights, possibly benefitting indigenous peoples too.

4. Conclusion

The current situation of indigenous peoples in Cambodia does not put these minorities in any position of power. Their concerns about land access and data protection are clearly not a state priority, which is more focused on economic development. Nonetheless, the latest developments in the Cambodian legal system are showing a slow movement towards modernization of data protection, potentially helping Indigenous peoples, and moving towards Indigenous data sovereignty.

Regional and international influences are definitively helping through the movement of legal harmonization facilitating business exchanges. In the end, the indigenous peoples' case is just one example of a wider data protection struggle, but the indigenous context requires going a step further to identify specific and appropriate protection. The data protection in the Cambodian legal system is basically a patchwork of various regulations barely defining what data is and only starting to recognise and protect rights. Most of the work needed remains to be done to achieve, one day, a fair protection of indigenous peoples' data.

REFERENCES

1. United Nations. Permanent Forum on Indigenous Issues Sixth session 14-25 May 2007. http://www.un.org/esa/socdev/unpfii/documents/6_session_tebtebba_iwgia.pdf, Accessed 14 March 2021
 2. CCHR Report "Access to Collective Land Titles for Indigenous Communities in Cambodia" (the "Report"), https://cchrcambodia.org/admin/media/report/report/english/2016_02_11_CCHR_Report_Access_to_Collective_Land_Titles_ENG.pdf Accessed 14 March 2021
 3. 1 IWGIA, 'The Indigenous World 2006' (2006) <http://bit.ly/21bgrsZ>
 4. CCHR Report "Access to Collective Land Titles for Indigenous Communities in Cambodia" (the "Report"), https://cchrcambodia.org/admin/media/report/report/english/2016_02_11_CCHR_Report_Access_to_Collective_Land_Titles_ENG.pdf Accessed 17 March 2021
 5. CCHR Report "Access to Collective Land Titles for Indigenous Communities in Cambodia" (the "Report"), https://cchrcambodia.org/admin/media/report/report/english/2016_02_11_CCHR_Report_Access_to_Collective_Land_Titles_ENG.pdf Accessed 17 March 2021
- Open Development Cambodia enumerated 3 different stages of collective land registration: The Ministry of Rural Development issues a letter of recognition that the community is an indigenous community. (As of June 2018, 141 communities had achieved this). The Ministry of Interior registers the community as a legal entity. (128 communities have achieved this). The Ministry of Land Management, Urban Planning and Construction surveys the land and ultimately issues titles. (24 communities have been granted land titles.) These 3 different ways to be granted lands are allowed by the Sub-decree No.83 (framework by which indigenous communities can acquire collective title). <https://opendevdevelopmentcambodia.net/topics/communal-land/> Accessed 14 March 2021
6. Indexmundi. "Cambodia Demographics Profile 2014", http://www.indexmundi.com/cambodia/demographics_profile.html, Accessed 17 March 2021
 7. Moul Phath, Seng Sovathana. Country technical note on indigenous peoples' issues: Kingdom of Cambodia. IFAD/AIPP, November 2012. Accessed 28 March 2021. https://www.ifad.org/documents/38714170/40224860/cambodia_ctn.pdf/02148186-48e9-4c08-bc09-b3565da70afb
 8. Minority Rights Group International, World Directory of Minorities and Indigenous Peoples

- Cambodia : Indigenous peoples, November 2017, available at: <https://www.refworld.org/docid/5b9b75bf7.html>, accessed 14 March 2021.
9. According to Phath and Sovathana : „Kingdom of Cambodia: Country Technical Note on Indigenous Peoples’ Issues“, page 9, 2012, there are 24 groups of indigenous minorities in Cambodia. https://www.ifad.org/documents/38714170/40224860/cambodia_ctn.pdf/02148186-48e9-4c08-bc09-b3565da70afb , Accessed 28 March 2021.
 10. Cambodia,” Ethnologue, <https://www.ethnologue.com/country/kh>, Accessed 20 March 2021
 11. NGO Forum on Cambodia. “Indigenous People Rights Project.”, <https://www.ngoforum.org.kh/indigenous-people-rights-project/> Accessed 20 March 2021
 12. OpenDevelopment Cambodia, Ethnic minorities and indigenous people, 15 July 2016, <https://opendevdevelopmentcambodia.net/topics/ethnic-minorities-and-indigenous-people/>, *Last update on 31 May 2019, Accessed 20 March 2021*
 13. O RGC 2001b. Land Law 2001, Phnom Penh, Cambodia, p. 1409. Article 23
 14. The Indigenous World 2019 Edited by: David Nathaniel Berger https://www.iwgia.org/images/documents/indigenous-world/IndigenousWorld2019_UK.pdf
 15. Human rights watch, World report 2020, Cambodia’s chapter <https://www.hrw.org/world-report/2020/country-chapters/cambodia>, Accessed 28 March 2021
 16. International Work Group for Indigenous Affairs (IWGIA). The Indigenous World: Cambodia. IWGIA, 2019, p 254 https://www.iwgia.org/images/documents/indigenous-world/IndigenousWorld2019_UK.pdf, Accessed 28 March 2021
 17. Minority Rights Group International, World Directory of Minorities and Indigenous Peoples - Cambodia : Indigenous peoples, November 2017, available at: <https://www.refworld.org/docid/5b9b75bf7.html>, Accessed 28 March 2021
 18. The Indigenous World 2019 Edited by: David Nathaniel Berger https://www.iwgia.org/images/documents/indigenous-world/IndigenousWorld2019_UK.pdf
 19. Open Development Cambodia, Communal land, 4 August 2015 <https://opendevdevelopmentcambodia.net/topics/communal-land/>, Accessed 28 March 2021.
 20. NGO Forum on Cambodia. “Indigenous People Rights Project.” Accessed 26 June 2016. <https://www.ngoforum.org.kh/indigenous-people-rights-project/>
 21. OpenDevelopment Cambodia, Ethnic minorities and indigenous people, 15 July 2016, <https://opendevdevelopmentcambodia.net/topics/ethnic-minorities-and-indigenous-people/>, *Last update on 31 May 2019, Accessed 20 March 2021.*

22. International Work Group for Indigenous Affairs (IWGIA). The Indigenous World: Cambodia. IWGIA, 2016. Accessed 26 June 2016. https://www.iwgia.org/images/publications//0740_THE_INDIGENOUS_ORLD_2016_final_eb.pdf
23. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
24. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
25. International Covenant on Civil and Political Rights (ICCPR)
26. International Covenant on Economic, Social and Cultural Rights (ICESCR)
27. Convention on Biological Diversity (CDB).
28. Convention on the Rights of the Child (CRC)
29. “Supposedly” here means that the legal framework officially exists but is not effective in practice.
30. Article 25 provides for collective ownership of land, while Article 26 recognizes the role of traditional authorities, mechanisms and customs in decision-making and exercising ownership rights. Under Article 28, no authority outside the community may acquire any rights to immovable properties belonging to an indigenous community.
31. Decisions 39 COM 11 (2015); 37 COM 12.II (2013).
32. IFAD, Country Technical Notes on Indigenous Peoples’ Issues KINGDOM OF CAMBODIA. https://www.ifad.org/documents/38714170/40224860/cambodia_ctn.pdf/02148186-48e9-4c08-bc09-b3565da70afb, 2012, Accessed 20 March 2021.
33. IFAD, Country Technical Notes on Indigenous Peoples’ Issues KINGDOM OF CAMBODIA. https://www.ifad.org/documents/38714170/40224860/cambodia_ctn.pdf/02148186-48e9-4c08-bc09-b3565da70afb, 2012, Accessed 20 March 2021.
34. Ministry of Rural Development (MRD). “National Policy on the Development of Indigenous Peoples (NPDIP).” http://ebooks.libraryrule.com/images/pdf_file_item/a0ef14d817e9190a33e2389e11639c50.pdf Accessed on 29 March 2021
35. Ethnic minorities and indigenous people 15 July 2016 <https://opendevelopmentcambodia.net/topics/ethnic-minorities-and-indigenous-people/#ref-95458-8>, Last modification 31 May 2019, Accessed 29 March 2021.
36. IFAD enumerates few NGOs that have been consistent is the struggle for land protection : “The Indigenous Peoples NGO Network (IPNN) is a network working on indigenous land rights in Cambodia. It is composed of numerous active NGOs based in Phnom Penh and in different provinces in the north, north-east and other parts of Cambodia. The Indigenous Rights Active Members (IRAM) is a network formed in 2003, composed of indigenous leaders from about 15 provinces. IRAM has been coordinating local and national events, raising awareness and mobilizing indigenous leaders to advocate on rights to land and natural resources. There are also many organizations supporting and empowering indigenous

communities. IFAD's 2008-2012 Country Strategic Opportunities Programme (COSOP) for Cambodia includes indigenous peoples as a target group. IFAD's assistance will focus on the needs of ethnic minority communities and advocacy on behalf of indigenous peoples, especially in natural resource management, investment in rural infrastructure, land titling for secure access to land and provision of land through social land concessions in order to address the issue of landlessness." IFAD, Country Technical Notes on Indigenous Peoples' Issues KINGDOM OF CAMBODIA. https://www.ifad.org/documents/38714170/40224860/cambodia_ctn.pdf/02148186-48e9-4c08-bc09-b3565da70afb, 2012, Accessed 20 March 2021.

37. GA Res. 217 (III) A, UDHR, art. 12 (Dec. 10, 1948)
38. UN Doc. A/HRC/17/27, para 58 (May 16, 2011)
39. Mr THIO Tse Gan, Cyber Risk Leader, Deloitte Southeast Asia Data and privacy protection in ASEAN – what does it mean for businesses in the region? <https://www2.deloitte.com/content/dam/Deloitte/sg/Documents/risk/sea-risk-data-privacy-in-asean.pdf> Accessed 17 March 2021
40. The Law on E-Commerce which was passed by the National Assembly on 8 October 2019 during its 3rd session of the 6th legislative term
41. <https://www.lawinsider.com/dictionary/data>
42. Jay Cohen is a Partner and Director of Tilleke & Gibbins' Cambodia practice, Cambodia - data protection Overview <https://www.dataguidance.com/notes/cambodia-data-protection-overview>, August 2020, accessed 21 March 2021
43. Consumer Data Protection Act, passed the Virginia House of Delegates 29 January 2021
44. Written by Aashish Aryan is a Principal Correspondent With The Indian Express, Edited by Explained Desk, New Delhi Explained: What is non-personal data? <https://indianexpress.com/article/explained/non-personal-data-explained-6506613/> Updated 27 July 2020, Accessed 19 March 2021
45. Ibid, "For example, the metadata collected by ride-hailing apps, telecom companies, electricity distribution companies among others have been put under the community non-personal data category by the committee."
46. A Guide for Policy Engagement on Data Protection | PART 1: Data Protection, Explained 09/98 Data Protection, Explained, Privacy International, <https://privacyinternational.org/sites/default/files/2018-09/Part%201%20-%20Data%20Protection%2C%20Explained.pdf>, 2019, Accessed 19 March 2021
47. Research Data Alliance International Indigenous Data Sovereignty Interest Group. (September 2019). "CARE Principles for Indigenous Data Governance." The Global Indigenous Data Alliance. GIDA-global.org, 17 October 2019 https://static1.squarespace.com/static/5d3799de845604000199cd24/t/5da9f4479ecab221ce848fb2/1571419335217/CARE+Principles_One+Pagers+FINAL_Oct_17_2019.pdf Accessed 30 March 2021.
48. Indigenous data sovereignty : toward an agenda / editors: Tahu Kukutai, John Taylor,

Centre for Aboriginal Economic Policy Research College of Arts and Social Sciences The Australian National University, Canberra RESEARCH MONOGRAPH NO. 38 2016 <https://press-files.anu.edu.au/downloads/press/n2140/pdf/book.pdf>, Accessed 07 April 2021

49. Research Data Alliance International Indigenous Data Sovereignty Interest Group. (September 2019). "CARE Principles for Indigenous Data Governance." The Global Indigenous Data Alliance. GIDA-global.org, 17 October 2019 https://static1.squarespace.com/static/5d3799de845604000199cd24/t/5da9f4479ecab221ce848fb2/1571419335217/CARE+Principles_One+Pagers+FINAL_Oct_17_2019.pdf Accessed 30 March 2021.
50. Ibid
51. "The emergence of the global data revolution and associated new technologies can be a double-edged sword for indigenous peoples. If indigenous peoples have control over what and how data and knowledge will be generated, analysed and documented, and over the dissemination and use of these, positive results can come about. The collection and disaggregation of data on indigenous peoples and the documentation and transmission of their knowledge to younger generations can be facilitated. They can be the primary beneficiaries of the use of data, their knowledge and their cultural heritage. xxiii Preface If, however, indigenous peoples lose control because there are no existing laws and policies that recognise their rights and regulate the behaviour of institutions and individuals involved in gathering and disseminating data and knowledge, marginalisation, inequality and discrimination will persist. The respect of their right to have their free, prior and informed consent obtained before data are gathered and disseminated is crucial to prevent this from happening". Indigenous data sovereignty : toward an agenda / editors: Tahu Kukutai, John Taylor, Centre for Aboriginal Economic Policy Research College of Arts and Social Sciences The Australian National University, Canberra RESEARCH MONOGRAPH NO. 38 2016 <https://press-files.anu.edu.au/downloads/press/n2140/pdf/book.pdf>, Accessed 07 April 2021
52. www.go-fair.org
53. Research Data Alliance International Indigenous Data Sovereignty Interest Group. (September 2019). "CARE Principles for Indigenous Data Governance." The Global Indigenous Data Alliance. GIDA-global.org, 17 October 2019 https://static1.squarespace.com/static/5d3799de845604000199cd24/t/5da9f4479ecab221ce848fb2/1571419335217/CARE+Principles_One+Pagers+FINAL_Oct_17_2019.pdf Accessed 30 March 2021.
54. Research Data Alliance International Indigenous Data Sovereignty Interest Group. (September 2019). "CARE Principles for Indigenous Data Governance." The Global Indigenous Data Alliance. GIDA-global.org, 17 October 2019 https://static1.squarespace.com/static/5d3799de845604000199cd24/t/5da9f4479ecab221ce848fb2/1571419335217/CARE+Principles_One+Pagers+FINAL_Oct_17_2019.pdf Accessed 30 March 2021.
55. GIDA, <https://www.gida-global.org/history-of-indigenous-data-sovereignty>, Accessed 30 March 2021
56. Indigenous data sovereignty : toward an agenda / editors: Tahu Kukutai, John Taylor, Centre for Aboriginal Economic Policy Research College of Arts and Social Sciences The Australian National University, Canberra RESEARCH MONOGRAPH NO. 38 2016 <https://press-files.anu.edu.au/downloads/press/n2140/pdf/book.pdf>, Accessed 07 April 2021

57. GIDA <https://www.gida-global.org/care> Accessed 30 March 2021
58. Indigenous data sovereignty : toward an agenda / editors: Tahu Kukutai, John Taylor, Centre for Aboriginal Economic Policy Research College of Arts and Social Sciences The Australian National University, Canberra RESEARCH MONOGRAPH NO. 38 2016 <https://press-files.anu.edu.au/downloads/press/n2140/pdf/book.pdf>, Accessed 07 April 2021
59. Ibid
60. Ibid
61. See Martin Bell and Tahu Kukutai, National Institute of Demographic and Economic Analysis, The University of Waikato, Hamilton, New Zealand, Whither the census? Continuity and change in census methodologies worldwide, 1985–2014 Journal of Population Research 32(1):3-22 file:///C:/Users/arthu/Downloads/Whither_the_census_Continuity_and_change_in_census.pdf March 2014
62. “In Canada, the decision to replace the 2011 long-form census with the voluntary National Household Survey had a major and detrimental impact on the quality, coverage and disaggregation of indigenous data (Smylie & Firestone 2015). In 2015, the newly elected Canadian Government acted quickly to reintroduce the long-form census”. Indigenous data sovereignty : toward an agenda / editors: Tahu Kukutai, John Taylor, Centre for Aboriginal Economic Policy Research College of Arts and Social Sciences The Australian National University, Canberra RESEARCH MONOGRAPH NO. 38 2016 <https://press-files.anu.edu.au/downloads/press/n2140/pdf/book.pdf>, Accessed 07 April 2021
63. “Statistics New Zealand has developed the Integrated Data Infrastructure (IDI), which links individual-level census records with data across the government Indigenous Data Sovereignty system in preparation for a shift to a fully administrative census. While the IDI data are anonymised, other data-linking initiatives occurring within and across government agencies in Aotearoa/New Zealand are not anonymised and are intended for use for operational purposes such as ‘targeted’ interventions.”, Ibid.
64. CCHR Report “Access to Collective Land Titles for Indigenous Communities in Cambodia” (the “Report”), https://cchrcambodia.org/admin/media/report/report/english/2016_02_11_CCHR_Report_Access_to_Collective_Land_Titles_ENG.pdf, Accessed 14 March 2021
65. Sochanny Hak and Andreas Neef both work in the Development Studies, School of Social Sciences, Faculty of Arts, The University of Auckland, and John McAndrew is a Research Consultant, Impact of Government Policies and Corporate Land Grabs on Indigenous People’s Access to Common Lands and Livelihood Resilience Northeast Cambodia, Land 2018, 7, 122, file:///C:/Users/arthu/Downloads/land-07-00122.pdf, published by MDPI 19 October 2018, Accessed 05/04/2021
66. “This article draws on a mixed-method approach comprising panel data from household questionnaire surveys, in-depth interviews, and participant observation. Household livelihood surveys were conducted in 2003, 2012, and 2018. Based on random samples of 25 percent of the respective population, these surveys were conducted in all six villages of Srae Preah Commune” p. 3 and precise mapping of the region p.4. Ibid
67. “The data were disaggregated by gender and type of household wealth (better-off, above

poor, poor, and very poor households) and cross-tabulated among relevant variables to examine their associations” p.5 Ibid

68. See Kwet Michael, A Digital Tech New Deal: Digital Socialism, Decolonization, and Reparations for a Sustainable Global Economy, 10.2139/ssrn.3670986, SSRN Electronic Journal, 1 January 2020/Jathan Sadowski, When Data Is Capital: Datafication, Accumulation, and Extraction. Big Data & Society, <https://doi.org/10.1177/2053951718820549>, January 2019

The decolonization of the Indigenous data sovereignty has to be “understood as the continuous devaluation and suppression of Indigenous knowledge systems in contemporary data environments, in the imposition of technologies and infrastructure that maintain inequitable power relations and in the capitalist extractive logics that are embodied in many state data practices and relations”

Maggie Walter, Tahu Kukutai, Stephanie Russo Carroll and Desi Rodriguez-Lonebear INDIGENOUS DATA SOVEREIGNTY AND POLICY Routledge Studies in Indigenous Peoples and Policy file:///C:/Users/arthu/Downloads/9781000214208.pdf, 2021

69. Tahu Kukutai, John Taylor, Centre for Aboriginal Economic Policy Research College of Arts and Social Sciences The Australian National University, Indigenous data sovereignty : toward an agenda, Canberra RESEARCH MONOGRAPH NO. 38 2016 <https://press-files.anu.edu.au/downloads/press/n2140/pdf/book.pdf>, Accessed 07 April 2021
70. Balestra, C. et L. Fleischer « Diversity statistics in the OECD : How do OECD countries collect data on ethnic, racial and indigenous identity? », OECD Statistics Working Papers, n° 2018/09, Éditions OCDE, Paris, <https://doi.org/10.1787/89bae654-en>, 2018
71. Secretary-General's IEAG 2014: 2
72. Tahu Kukutai, John Taylor, Centre for Aboriginal Economic Policy Research College of Arts and Social Sciences The Australian National University, Indigenous data sovereignty : toward an agenda, Canberra RESEARCH MONOGRAPH NO. 38 2016 <https://press-files.anu.edu.au/downloads/press/n2140/pdf/book.pdf>, Accessed 07 April 2021
73. Tahu Kukutai, John Taylor, Centre for Aboriginal Economic Policy Research College of Arts and Social Sciences The Australian National University, Indigenous data sovereignty : toward an agenda, Canberra RESEARCH MONOGRAPH NO. 38 2016 <https://press-files.anu.edu.au/downloads/press/n2140/pdf/book.pdf>, Accessed 07 April 2021
74. In terms of approaches and methodologies, it was stressed in these UN forums that indigenous peoples should control these data and that their effective participation in data gathering and research should be ensured. Furthermore, resulting data should be available for use by them in policy articulation, in planning and in monitoring and evaluation efforts.” Tahu Kukutai, John Taylor, Centre for Aboriginal Economic Policy Research College of Arts and Social Sciences The Australian National University, Indigenous data sovereignty : toward an agenda, Canberra RESEARCH MONOGRAPH NO. 38 2016 <https://press-files.anu.edu.au/downloads/press/n2140/pdf/book.pdf>, Accessed 07 April 2021
75. Chidi Oguamanam, Professor working at centre for international governance innovation,

indigenous data sovereignty: retooling indigenous resurgence for development CIGI Papers No. 234 (2019), <https://www.cigionline.org/sites/default/files/documents/no.234.pdf> 1 December 2019

76. See Open Development Cambodia for more mapping <https://opendevdevelopmentcambodia.net/topics/communal-land/> and Registered indigenous communal land - Datasets - OD Mekong Datahub (opendevdevelopmentcambodia.net)
77. Ownership is defined in the Land Law 2001, Chapter 1 – Principles of Ownership Article 4 ; The right of ownership, recognized by Article 44 of the 1993 Constitution, applies to all immovable properties within the Kingdom of Cambodia in accordance with the conditions or set forth by this law. This is an unofficial translation prepared by the Ministry of Land Management, Urban Planning and Construction with the support of the World Bank, ADB TA 3755-CAM, GTZ and Finnmap. https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiErY3tNrvAhV4_XMBHSpaB1UQFjACegQIBhAD&url=http%3A%2F%2Ffaolex.fao.org%2Fdocs%2Ftexts%2Fcam27478.doc&usg=AOvVaw2z9V6yJMLYTsXiodnrfbFa
78. Ministry of Land Management, Urban Planning, and Construction, Report on Total Result of Implementing 2017 Action Plan and Ongoing 2018 Action Plan, (January 12, 2018), p. 7, Accessed 29 March 2021.

Can't find newer ones in English, with new numbers.
79. Description of the current registration land procedure by Sras Hem, Dean of College of Law, The University of Cambodia The Land Registration Process in Cambodia: Background, Procedures, and Outcomes Cambodian J. Int. Stud.3 (2019), 5-31 https://uc.edu.kh/CJIS/Article_Land%20Registration%20in%20Cambodia_2019_HS.pdf Accessed 29 March 2021.
80. Ratana Pen and Phalla Chea, Heinrich Böll Stiftung Foundation, Large Scale Land Grabbing in Cambodia, Failure of international and national policies to secure indigenous peoples rights to access land and resources https://ticambodia.org/library/wp-content/files_mf/1453192908LARGESCALELANDGRABBINGINCAMBODIA.pdf 2019
81. 2001 Land Law (art. 229.) / Sub-decree on Sporadic Land Registration, No. 48 ANK.BK, 2002. / Circular on Procedural Implementation of Sporadic Land Registration, No. 01 DNS/SD, 2004. / Circular on Procedural Implementation of Sporadic Land Registration, 14/DNS/SRNN, 2009. / Sub-decree on Amendment of Article 9 and Article 13 of 2002 Sub-decree on Sporadic Land Registration, 121/ANK/BK, 2016
82. Sub-decree on Sporadic Land Registration, art. 7; Circular on Procedural Implementation of Sporadic Land Registration, p. 1.
83. Ratana Pen and Phalla Chea, Heinrich Böll Stiftung Foundation, Large Scale Land Grabbing in Cambodia, Failure of international and national policies to secure indigenous peoples rights to access land and resources https://ticambodia.org/library/wp-content/files_mf/1453192908LARGESCALELANDGRABBINGINCAMBODIA.pdf 2019
84. Description of the current registration land procedure by Sras Hem, Dean of College of Law, The University of Cambodia The Land Registration Process in Cambodia: Background,

Procedures, and Outcomes Cambodian J. Int. Stud.3 (2019), 5-31 https://uc.edu.kh/CJIS/Article_Land%20Registration%20in%20Cambodia_2019_HS.pdf Accessed 29 March 2021.

85. Open Development Cambodia Communal land, 4 August 2015 <https://opendevdevelopmentcambodia.net/topics/communal-land/> *Last updated: 28 November 2018, Accessed 01 April 2021*
86. Land Law 2001, Article 20
87. To start off with the process, it is required that the community have bylaws and internal regulations governing land use and management (Sub-Decree No.83, Article 8).
88. Open Development Cambodia Communal land, 4 August 2015 <https://opendevdevelopmentcambodia.net/topics/communal-land/> *Last updated: 28 November 2018, Accessed 01 April 2021*
89. Human Rights Council 2018. *Report of the Special Rapporteur on the situation of human rights in Cambodia*, August 2018. http://cambodia.ohchr.org/en/news/annual-report-2018-special-rapporteur-situation-human-rights-cambodia-rhona-smith%20Report%202018%20of%20SR%20-%20A_HRC_39_73_EN.pdf Accessed 28 November 2018
90. To be completely accurate we have to add on a side note that on top of these 3 stages, the Sub-decree sets out what land can be registered as communal, with on one hand the State Private Land (Residential land or Land on which the community has built houses as well Land on which the community practices traditional agriculture such as actual cultivated land, rice and farm land, and on the other hand State Public Land that has already been registered with the State (Reserved land necessary for sifting cultivation which has been recognized by administrative authorities and agreed by the neighbours / Spiritual forest land, can be one or more plots, for each community shall not exceed seven (07) hectares in total size / Burial ground forest land (cemeteries), can be one or more plots, for each community shall not exceed seven hectares in total size). If communal land is in public state land, a sub-decree is required to change that portion of land to private state land, to allow title to be granted.
91. Sub-decree on Procedure to Establish Cadastral Index Map and Land Register, art. 4; Circular on Procedural Implementation of Establishing Cadastral Index Map and Land Register, pp. 3-4.
92. Description of the current registration land procedure by Sras Hem, Dean of College of Law, The University of Cambodia The Land Registration Process in Cambodia: Background, Procedures, and Outcomes Cambodian J. Int. Stud.3 (2019), 5-31 https://uc.edu.kh/CJIS/Article_Land%20Registration%20in%20Cambodia_2019_HS.pdf Accessed 29 March 2021.
93. Ibid.
94. Ibid.
95. Sub-decree on Procedure to Establish Cadastral Index Map and Land Register, art. 10; Circular on Procedural Implementation of Establishing Cadastral Index Map and Land Register, p. 5.

96. Description of the current registration land procedure by Sras Hem, Dean of College of Law, The University of Cambodia The Land Registration Process in Cambodia: Background, Procedures, and Outcomes Cambodian J. Int. Stud.3 (2019), 5-31 https://uc.edu.kh/CJIS/Article_Land%20Registration%20in%20Cambodia_2019_HS.pdf Accessed 29 March 2021
97. See Sub-decree on Procedure to Establish Cadastral Index Map and Land Register, arts. 10 and 11; Circular on Procedural Implementation of Establishing Cadastral Index Map and Land Register, p. 6.
98. Despite the legal framework progress for land registration, the process of issuing land titles for indigenous communities has been slow (Monika Luke. 2013. "Human Rights Assessment of the German-Cambodian Land Rights Program." German Institute for Human Rights. <https://landportal.org/library/resources/mlrf2186/human-rights-assessment-german-cambodian-land-rights-program-lrp>). Some communities have worked for 4–8 years with significant help from NGOs before achieving title. Also, the price to access to land titling remains too high for most of the indigenous communities in Cambodia.
99. Jay Cohen, Partner and Director of Cambodian Office Tilleke & Gibbins DATA PROTECTION LAWS OF THE WORLD Cambodia file:///C:/Users/arthu/Downloads/Data-Protection-Cambodia.pdf 4 April 2021, accessed 09 April 2021
100. Nitesatra, Legal Academy of Cambodia 5 August 2019 Personal data protection and privacy law in Cambodia <https://www.nitesastra.com/personal-data-protection-and-privacy-law-in-cambodia/> Accessed 12 April 2021.
101. Article 40 of the Cambodian Constitution: "Citizens' freedom to travel, far and near and legal settlement shall be respected.

Khmer citizens shall have the right to travel and settle abroad and return to the country. The rights to privacy of residence, and to the secrecy of correspondence by mail, telegram, fax, telex and telephone shall be guaranteed.

Any search of the house, material and body shall be in accordance with the law."
102. Article 65b of the Law of Telecommunication : "Subscribers shall have the basic rights... to privacy, security and safety of using the telecommunications service, excepted otherwise determined by other specific law; ..."
103. Article 7.7 of the Press Law: Each journalists association shall establish a code of ethics to be implemented within the association which includes the following primary principles which journalists are obliged to follow: Respect the rights to privacy of individuals. https://www.wto.org/english/thewto_e/acc_e/khm_e/WTACCKHM3A3_LEG_36.pdf
104. Article 301 Cambodian Penal Code : Intercepting or recording private conversation : "Intercepting or recording words uttered in private or confidential circumstances without the consent of the person concerned, except where authorised by law, shall be punishable by imprisonment from one month to one year and a fine from one hundred thousand to two million Riels" P124 http://www.sithi.org/admin/upload/law/Criminal_Code_Book_with_cover_Jan_2014.pdf

- 105.** Article 302 Cambodian Penal Code : Violation of privacy (recording of a person's image) : Recording the image of a person who is in a private place, without the person's consent of the person concerned, except where authorised by law, shall be punishable by imprisonment from one month to one year and a fine from one hundred thousand to two million Riels.

Consent shall be presumed if the person concerned was notified of the recording, but did not object to it. P125 http://www.sithi.org/admin/upload/law/Criminal_Code_Book_with_cover_Jan_2014.pdf

- 106.** Jay Cohen, Partner and Director of Cambodian Office Tilleke & Gibbins, David Mol, Pichrotanak Bunthan and Marina Sar Advisors at Tilleke & Gibbins International Ltd. DATA PROTECTION IN CAMBODIA <https://www.dataguidance.com/notes/cambodia-data-protection-overview> Accessed 12 April 2021.

- 107.** Article 314 Penal Code : Breaches Of Professional : "Any person who, by reason of his or her position or profession, or his or her duties or mission, is entrusted with secret information, shall be punishable by imprisonment from one month to one year and a fine from one hundred thousand to two million Riels, if he or she discloses such information to a person not qualified to receive the information. There shall be no offence if the law authorises or imposes the disclosure of the secret.". http://www.sithi.org/admin/upload/law/Criminal_Code_Book_with_cover_Jan_2014.pdf

- 108.** Article 318 Penal Code: Breaches of privacy of telephone conversation: "Maliciously listening to or interfering with telephone conversations shall be punishable by imprisonment from one month to one year and a fine from one hundred thousand to two million Riels. The same penalties shall be applicable to the malicious interception of or interference with, or viewing or listening to messages transmitted by means of telecommunication". http://www.sithi.org/admin/upload/law/Criminal_Code_Book_with_cover_Jan_2014.pdf

- 109.** Article 319 Penal Code : Attempt "An attempt to commit the misdemeanours defined in this Section shall be punishable by the same penalties". http://www.sithi.org/admin/upload/law/Criminal_Code_Book_with_cover_Jan_2014.pdf

- 110.** Article 427 Penal Code : Unauthorized access to or remaining in automated data processing system : "Fraudulently accessing or remaining within an automated data processing system shall be punishable by imprisonment from one month to one year and a fine from one hundred thousand to two million Riels. Where the act causes the destruction or modification of data contained in that system, or any alteration of the functioning of that system, the sentence is imprisonment from one to two years and a fine from two million to four million Riels." http://www.sithi.org/admin/upload/law/Criminal_Code_Book_with_cover_Jan_2014.pdf

- 111.** Nitesatra, Legal Academy of Cambodia 5 August 2019 Personal data protection and privacy law in Cambodia <https://www.nitesastra.com/personal-data-protection-and-privacy-law-in-cambodia/> Accessed 12 April 2021.

- 112.** Ibid

- 113.** The impossibility of finding this law in English has largely limited the scope of research,

but if one is to retain the scope and spirit of the law one must keep in mind that this law aims to manage electronic commerce in the Kingdom of Cambodia and internationally, to establish the legal and commercial realities of electronic commerce and to give the public confidence in the use of electronic communication. See part of the law translated <http://www.perfecttranslationservices.com/en/news/law-on-e-commerce>

114. DLA Piper, *DATAPROTECTION LAWS OF THE WORLD* <https://www.dlapiperdataprotection.com/index.html?t=law&c=KH>, Last modified 1 March 2021, Accessed 12 April 2021.
115. Ibid
116. Cambodian Center for Human Rights (CCHR), *Cambodia urged to discard sub-decree that would detrimentally impact human rights online*, <https://ifex.org/cambodia-urged-to-discard-sub-decree-that-would-detrimentally-impact-human-rights-online/18> February 2021
117. Ibid
118. Ibid
119. Long Kimmarita, reporter at Phnom Penh Post, , Ministry of Interior working on privacy protections for data, Phnom Penh Post <https://www.phnompenhpost.com/national/ministry-interior-working-privacy-protections-data>, 27 January 2021
120. "Individuals' data can be anything from addresses and phone numbers to ID or account numbers. It also can include very private details like their health condition, finances or political affiliations", Long Kimmarita, reporter at Phnom Penh Post, , Ministry of Interior working on privacy protections for data, Phnom Penh Post <https://www.phnompenhpost.com/national/ministry-interior-working-privacy-protections-data>, 27 January 2021
121. See Thou Vireak, reporter at Phnom Penh Post, *Digital policy framework in view* <https://www.phnompenhpost.com/business/digital-policy-framework-view>, 18 February 2021
122. Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967 in Bangkok by the five original member countries: Indonesia, Malaysia, Philippines, Singapore, and Thailand. Brunei Darussalam joined on 8 January 1984, Vietnam on 28 July 1995, Laos and Myanmar on 23 July 1997, and Cambodia on 30 April 1999. The regional organization is a regional grouping that promotes economic, political, and security cooperation among its ten members
123. *ASEAN telecommunications and information technology ministers meeting (telmin) framework on personal data protection*, <https://asean.org/storage/2012/05/10-ASEAN-Framework-on-PDP.pdf> ADOPTED AT Bandar Seri Begawan, Brunei Darussalam, 25 November 2016
124. Nadarashnaraj Sargunraj Partner Zaid Ibrahim & Co., *Personal Data Protection in ASEAN*, ASEAN INSIDERS https://www.zicolaw.com/wp-content/uploads/2020/09/ASEAN-INSIDERS_PDPA-in-ASEAN-3.pdf, September 2020
125. "The latest country in ASEAN to enact data protection laws is Thailand, with the Parliament passing the Personal Data Protection Act in early 2019. Indonesia has been mulling over it and had a draft legislation which has yet to make its way through the legislative process".

Nadarashnaraj Sargunaraj Partner Zaid Ibrahim & Co., *Personal Data Protection in ASEAN, ASEAN INSIDERS* https://www.zicolaw.com/wp-content/uploads/2020/09/ASEAN-INSIDERS_PDPA-in-ASEAN-3.pdf, September 2020

126. Ibid

127. Ibid

128. Ibid

129. Gabriela Kennedy is a partner of Mayer Brown and head of the Asia IP and TMT group. She is also co-leader of Mayer Brown's global Intellectual Property practice and a member of the firm's global Cybersecurity & Data Privacy practice, Karen Lee is a counsel in the IP & TMT group of Mayer Brown in Singapore, and is part of the firm's global Cybersecurity & Data Privacy practice, *Finding Harmony - ASEAN Model Contractual Clauses and Data Management Framework Launched*, Mayer Brown, <https://www.lexology.com/library/detail.aspx?g=be41251e-f5f0-4062-a02b-5bffbb8f16ad>, 8 February 2021. Here is a chart describing DMF principles:

Governance and Oversight	Set out roles and responsibilities in the organization for implementing and executing the DMF and ensuring adoption, operation and compliance
Policies and Procedural Documents	Put in place data management policies and procedures to support the implementation of the DMF and ensure a clear mandate within the organization
Data Inventory	Identify and understand the data that the organization is in possession of, so as to better manage datasets and establish a data inventory
Impact/Risk Assessment	Self-tailor own parameters in order to categorise data based on an assessment of the impact to the organization if the confidentiality, integrity or availability of the data is compromised
Controls	Develop and implement risk-based controls in accordance with the assigned data categories to prevent, detect and correct errors during data processing
Monitoring and Continuous Improvement	Improve and keep the DMF up-to-date by performing continuous monitoring, measurement, analysis and evaluation activities

130. Ibid

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