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National workshop on Indigenous Communal Land Titles
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Excellencies, distinguished guests, ladies and gentlemen,

Good morning. It is great pleasure to join you all today. I would like to begin by extending recognition and appreciation to my distinguished fellow speakers from the Ministry of Rural Development and the NGO Forum for convening this event, as well as to the organisers of this event for inviting me to take part.

The Office of the High Commissioner for Human Rights, together with our partners in Government and civil society, consider this to be a much needed event to address challenges and to facilitate the acceleration of progress on the titling of indigenous peoples' land in Cambodia.

Under the basic principles of universality, equality and non-discrimination, indigenous persons are entitled to the full range of rights established under international law. "However, given the collective character inherent in indigenous cultures, individual rights are not always adequate to give full expression to indigenous peoples' rights. The rights contained in the UN Declaration on the Rights of Indigenous Peoples seek to protect, in addition to individual rights, the collective rights of indigenous peoples because recognition of such rights is necessary to ensure the continuing existence, development and well-being of indigenous peoples as distinct peoples." So with a strong focus on equality, non-discrimination, collective rights and the right to development, the Office of the High Commissioner for Human Rights is proud to be working with the Royal Government of Cambodia as well as other development partners and civil society groups, and indigenous communities, in the promotion and protection of indigenous land rights.

I understand that indigenous peoples are spread across 15 provinces in Cambodia and that a remarkable 23 distinct 'mother tongues' have been identified in Cambodia. This diversity deserves to be celebrated, but it must also be protected and preserved.

The Royal Government voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in the UN General Assembly. The Declaration establishes a universal framework of minimum standards for the survival, dignity, well-being and rights of the world's indigenous peoples. The Declaration addresses both individual and collective rights; and outlaws discrimination against indigenous peoples and promotes their full and effective participation in all matters that concern them. I also take note that Cambodia was the first country in mainland Southeast Asia to recognize particular land rights for a certain group of people who are identified as 'Indigenous',

The 2001 Land Law is particularly significant because it legally recognized for the first time 'Indigenous Peoples' as a new category of people and established the concept of communal

land rights to Cambodia. The 2002 Forestry Law followed the trend by also recognising 'Indigenous Peoples'. These laws are important in both a symbolic and practical sense in that the question of collective identity and associated land and forest rights, including communal land rights, and their consequent impact on livelihood – even survival – are among the most pressing issues faced by indigenous peoples in Cambodia, as you well know.

Since these laws were passed, eight (8) communal land titles have been issued and the Royal Government of Cambodia has publicly pledged to provide ten communal land titles per year starting this year. Although it's a welcome improvement over the present situation, that rate would still mean that decades more would need to pass before indigenous titling will be resolved. I submit to you that the aim should be more ambitious.

Along with the legal recognition of the collective existence and land rights of indigenous peoples, the Royal Government has established divisions and directives within the Government that are designed to implement these rights.

And still the realisation of these rights in the lives of most Indigenous peoples throughout the country remains largely out of reach, without the allocation of sufficient structural and economic investment in the process. The process for applying for communal land titles is complex, expensive, slow and thus inaccessible for too many of these communities.

The same Law that gives a legal basis to indigenous identity in Cambodia also recognizes the State's right to issue land concessions. One of the oft-stated objectives of the indigenous rights movement in Cambodia is to leverage State implementation of the Land Law. In practice, this is happening to some degree, but the priority is being given to land concessions.

An estimated 22% of the country's surface has been transferred to corporations through various kinds of land concessions, much of it in the uplands where indigenous territories are located. Too often, it occurred without free, prior and informed consent, with Indigenous communities excluded from consultation processes with authorities and private actors. Indigenous communities without formal land titles are commonly deemed to be illegally settling on State land and are thus not provided with possession rights. Protest is too often met with violence. I landed in Phnom Penh as many were commemorating the death of the prominent environmental activist and human rights defender, Chut Wutty. I am ever mindful that environmental rights and indigenous peoples' rights can never be divorced from basic governance questions, justice and fundamental freedoms of expression and assembly.

The denial of land rights are a particularly acute problem for indigenous peoples, because not only does land insecurity put individuals and their families at risk of displacement and poverty, it also threatens the existence of their collective sociocultural identities and practices, which are tied to sustainable patterns of land tenure in particular places over long periods of time. The loss of spirit forests and burial forests destroys distinctive ways of life.

The consensus is that there are adequate provisions within the existing legal framework to allow the protection of indigenous people's lands in Cambodia. What is key now is to address enforcement and compliance. Although national laws hold critical significance for indigenous

peoples in pursuit of communal land rights, independent analysis suggests that they have not served to prevent persistent discrimination against indigenous groups, and that the choice of land concession regimes as the preferred strategy of economic development continues to deprive them of their rights.

While land titles are likely to be a task for the nation for many years to come, the real issue we must address here is not how to produce more paper titles, but how to effect proper, lasting, legally enforceable protection of indigenous rights. I challenge us to identify measures that can be taken to ensure that interim protection measures are properly enforced and that titled land is fully protected. Despite considerable effort, such basic problems as establishing the actual boundaries of disputed properties continue to plague indigenous communities.

Allow me to suggest some questions for this consultation, answers to which would help lay the path to a viable solution.

First, I would like to recognize that there is planning and that implementation is taking place. However, it is sporadic and the connections between them need to be more transparent and the communities themselves need to be more aware of the mechanisms, and have a stronger voice to influence the decisions that affect them. My first question is therefore: what process of consultation can be established and made obligatory before any further land concession is made? Whose responsibility is it to ensure that such consultations will take place?

Second, until lasting solutions are put into effect, how can the land and natural resources of indigenous communities be legally protected now? What interim measures should be taken while the boundaries are established, titles applied for and conferred, and problematic land concessions are resolved?

Third, to arrive at the lasting solution we all seek, how can the process of obtaining collective land titles be streamlined for indigenous communities? How can local and national authorities be prevented from creating new obstacles every time old obstacles are eliminated? In this regard, how can information about the possession of land titles be made transparent?

Fourth, we know that the indigenous communities that have initiated a process are heavily reliant on support of inter or non-governmental organisations in pursuing communal land titles. Land, while essential to protect their way of life, is not the entire picture. What technical and financial support is needed to protect the cultural heritage and rights of these groups?

These are questions that I'm confident, sadly, have been on the minds of everyone here for many years. The turning point for difficult questions often occurs when the ideas, energy and determination of those concerned – Government, civil society, international partners, and not least, indigenous peoples themselves – are channelled with common purpose through meetings such as this. It is imperative to prevent indigenous communities from being left further behind as Cambodia continues to make great strides on the path toward development.

Toward that end, I wish you a productive consultation and thank you for your attention.