

Women's Perspectives: A Case Study of Systemic Land Registration in CAMBODIA

At the end of the Pol Pot regime, no family in Cambodia had any land titles. This is a serious issue today. In 2001, the Royal Government of Cambodia, embarked on the process of land administration with donors, in order to give access to land for the poor and develop land markets. The Ministry of Lands Management, Urban Planning and Consultation (MLMUPC) began systematic land registration after the 2001 Land Law was passed, as part of the Land Management and Administration Project (LMAP). Thus far, systematic land registration¹, in its first five year plan, from 2002 – 2007, has been implemented in 11 out of 24 provinces.

With that, Gender and Development for Cambodia (GAD/C) embarked on a research to see and identify the gaps in the process of land titling registration. The purpose of the study was to identify the emerging issues regarding women's access to land in Cambodia. This would entail looking at cases of separated, divorced, and abandoned relationships, paying attention as well to multiple marriages and domestic violence, before systematic land

registration was put into place in the country.

Since 2008, when the study was conducted, over 1 million titles have been issued to individuals and families during LMAP's first phase, both in rural and urban areas. According to the 2002 Interim Land Policy Framework, land policy must be responsive to women's needs, including the principle that titling will be available as joint ownership between husband and wife. The survey covered 2 provinces in Cambodia. Its results indicate that: 20% of land titles are issued in the wife's name; 5% in the husband's name; and 70% of titles are jointly owned by wife and husband. However, despite efforts of the Royal Government of Cambodia (RGC) to incorporate gender perspectives into land reform laws and policies, concerns linger about overall implementation.

Joint Ownership of Land

Joint land ownership is an indivisible right of ownership equally shared by husband and wife. Land ownership for women in particular can have an impact on intra-household decision making and their overall role in the household economy. Only land can give benefit to everyone. It is a

Based on the presentation of Ms. Ros Sopheap, Executive Director of Gender and Development for Cambodia, representing the Cooperation Committee for Cambodia. The presentation is gleaned from the same-titled publication.

¹ Systematic land registration is a State-initiated process of land titling through a determined jurisdiction, and is done on a commune by commune basis.

particularly critical resource for women when the household breaks down. In many cases, land ownership spells the difference between dependence on family support and the ability to form a viable, self-reliant female-headed household.

Individual or joint ownership can ensure that women have access to, and control over land. But within joint ownership are many cases of husbands deserting their wives or remarrying. Joint land ownership has posed several challenges for women, which the following cases seek to illustrate.

Vignettes of Separation, Divorce and Abandonment

Mrs. Saro is a 47 year-old mother of 5. Her husband left her 13 years ago when she was 7 months pregnant. He has never returned. The land given to her by the State is her main source of livelihood. However, upon examination of the land title, it was clear that the land had been registered jointly with her husband. This, in spite of the fact that she had discussed her husband's abandonment to the land registration officer. She worries, "*What if he [the husband] comes back and claims the land?*" She has child custody, while he already has another wife.

The story of Mrs. Saro is similar to more than 15 cases in the two provinces where the study was conducted. The women had thought their lands had been registered only in their names. The actual titles showed their names,

but they also included the names of their [former] husbands.

Then there is the story of Mrs. Nath, 46 years of age and a mother of 5 children, whose husband left her over 10 years ago. At the time of registration she was asked to provide a supporting letter from the commune council to confirm her husband's abandonment. She was told by the village chief that only in the event of her husband's death could they solely put her name on the land title; and that, were her husband simply somewhere else, she could not register alone and get an individual land title.

In Mrs. Nath's words: "It is unfair. He destroyed lots of property before he left. He is a gambler and always drunk. I told the land registration officers this and argued to put my name and only my name."

Land Adjudication Guideline (2004)

The Land Adjudication Guideline indicates the steps to follow in cases of separation, divorce, and abandonment. Both separation (or traditional divorce) and divorce are recognised for the purpose of systematic land registration.

Informal separation or abandonment is very common in Cambodia. In this case, the Guideline specifies that the land registration officer shall record the land as the individual property of the spouse who resides on and takes care of the land, even if the land was acquired



together. But it does not specify the timeframe, i.e., how many years of separation before the land can be registered with the remaining spouse. The duration of the separation is given only as an example: "Land given by the state in 1984 and that the separation took place in 1988 or 1989." Based on this example it has been interpreted that a minimum period of four to five years is needed to recognise the separation. Neither laws nor guidelines state an explicit period.

The new policy conflicts with the Constitution, which states that if a spouse has disappeared for more than one year and one day, it automatically counts as divorce. The spouse left behind can approach the village chief, file for divorce, and register the property in his or her name (most often it is the wife left behind). This was before the land registration policy was created.

Although everyone knows about the benefits of joint land ownership, interviews with Land Registration Officers and local authority revealed that this is not the case where detailed procedures stated in the Land Adjudication Guideline on separation are concerned. Officers are generally uninformed about the policy.

The consequences may be severe for women. In many cases in the provinces where the study was conducted, land

acquired during the marriage has been registered jointly, even if the husband had abandoned the wife for more than ten years.

Cases of Domestic Violence and Multiple Marriages

Thirty-five year old Mrs. Thavy, mother of four, was given land by her parents, which is now in the process of being registered. Over the course of the last ten years Thavy was the victim of an abusive relationship. *"When he needed money he put a knife to my neck until I gave it to him. Finally I decided to move and stay with my mother but he still comes and makes lots of noises."*

Mrs. Thavy says she will register her land under her mother's name, for fears that her husband will threaten and intimidate her to sell it for money were it in her name. The land has already been given but she has so far been unable to claim it.

Mrs. Sokha's husband is married to another woman. He and his new wife live in a different commune. According to Mrs. Sokha, *"My husband bought land in another commune with my money. I have all the receipts to prove this claim. What worries me is if he registers my land as joint property with his other wife."* Because after 30 years of marriage, she does not have a marriage certificate, she fears that she will not be able to claim her rights. She is trying to get a marriage certification, but she is deeply concerned: *What if he has already registered the second marriage? Will it*



mean that my marriage is not legal?"

The story of Mrs. Mak, mother of one son, follows. Mrs. Mak inherited land from her parents, but could not explain principles or implications of joint titling. She discovered that, much against her wishes, her land had been registered jointly with her husband, who had left her about 14 years ago. She was unaware that the land title is under her husband's name as well, since she told the land registration officer and commune chief to issue it in her name.

Unregistered marriages

Women face difficulties when their marriage is not registered. Many Cambodians do not register their marriages due to the costs and complications. Another difficulty is that they do not know how much a marriage certificate costs, since the law does not indicate such. Although GAD/C does not know the actual figures of couples that register, from their work in remote areas they found that in one village alone, about 95% do not have marriage certificates. GAD/C has worked on that problem. There have also been cases wherein the second wife is "smarter" and registers her marriage, and in the process she becomes the legal wife. In addition, many births in Cambodia are unregistered, posing problems for marriage. The legal age for marriage in the country is 18 years, but without birth certificates, ages cannot be firmly established. The general absence of birth certificates has also been a hindrance to migration.

In the city, the story is different, as people are generally able to pay for registration.

Other civil society interventions

Gender and Development for Cambodia is an organisation that works on human rights, women's issues, agriculture and health. It has a gender development network comprising some 60 NGO representatives. It advocates for law enforcement, and ensures that laws are gender-sensitive. As well, they have the Cambodian Men's network, initiated in 2000, also working to put an end to violence against women. Men and women are working together to push for development issues in the country. Finally, recognising the need to work with policy makers, GAD/C works closely with the Ministry of Women's Affairs and the Ministry of Interior. ■

