Cambodia

Summary

Since the promulgation of the Land Law in 2001, Cambodia has proceeded on two tracks with the Land Management and Administration Project. The first track provides private state land for the poor who rely on land for basic needs; this is the Land Allocation for Social and Economic Development (LASED) Project. The second track provides land for big companies and investors seeking long-term concessions for agricultural and agro-industrial development.

There are various land issues that compound the reform effort. These issues have arisen as a result of increased global trade, high food prices, and energy costs. These issues are attributed, but not limited to the development of special economic zones (SEZs), economic corridors, real estate boom and urbanization, development of hydropower dams, and the improvement of the railway system. The Royal Government of Cambodia (RGC) and its development partners have been working to resolve problems in the midst of growing poverty of the landless, who count among the rural poor.

Civil society organizations (CSOs) have been exploring partnerships in support of land reform. One such partnership, Land Watch

List of Acronyms used

ABiC	Agri-Business Institute Cambodia	
ACI	Agrifood Consulting International	
ANGOC	Asian NGO Coalition for Agrarian	
	Reform and Rural Development	
CDC	The Council for the Development	
	of Cambodia	
CIDA	Canadian International	
	Development Agency	
CN\$	Canadian Dollar	
CSO	civil society organization	
DANIDA	Danish International Development	
	Agency	
ELC	Economic Land Concession	
GTZ	German Agency for	
	Technical Cooperation (Deutsche	
	Gesellschaft für Technische	
	Zusammenarbeit)	
ha	hectare	
LAMDP	Land Administration,	
	Management, and Distribution	
	Program	
LASED	Land Allocation for Social and	
	Economic Development	
LMAP	Land Management and	
	Administration Project	
LWA	Land Watch Asia	
MAFF	Ministry of Agriculture, Forestry,	
	and Fisheries	
MoE	Ministry of Environment	
NARLD	National Authority for Resolution	
	of Land Disputes	
NRMLP	National Resource Management	
	and Livelihood Program	
RGC	Royal Government of Cambodia	
SLC	Social Land Concession	
TWG	Technical Working Group	

An abridged version of the paper, "Land Monitoring Report: Cambodia", prepared by Ngo Sothath for STAR Kampuchea

A. Inputs	B. Outcomes: Land Tenure	
 Regulation Laws Sub-decrees Declarations Mechanisms Institutions for policy dialogues and monitoring of reform Project deliveries Financing State budget Aid disbursement 	 4. Ownership Number of titles issued Distribution of issued titles by types of ownership Percentage of land secured by any type of document Percentage of land secured by governmen title Percentage of land that can be used as collateral for loans 	
C. Outcomes: Access to Land	D. Outcomes: Land Disputes	
 5. Land access Distribution of land possession by size of landholdings Access through tenancy, sharecropping, and other means 	 7. Trend and Nature of Disputes Number of land dispute cases over time Attributes of disputes (geographical, urban/rural, etc) 	
	8. Dispute Resolution	
 6. Landlessness Landless and land-poor Land transaction Land grabbing Forced eviction 	 Number of cases received Number of cases resolved Number of affected households and population Area of disputed lands (hectares) 	

Table 1. Variables and Indicators for Land Reform Monitoring in Cambodia

Asia, has enabled CSOs to put together a set of monitoring indicators falling under four variables: inputs, land tenure, access to land, and land disputes (see Table 1).

The need for speedy and robust reform in Cambodia's agrarian structure is made imperative by report findings such as the increase in landless households. Although the reform program has made progress, it has been slow and imbalanced. While the RGC managed to pursue economic development goals through the participation of private companies through economic land concessions and other means, the attention to social land concessions for the poor who require land for basic needs has been less driven.

The recommendations for the RGC and partners are:

Government

- Accelerate land distribution to the poor and vulnerable to meet the targets of the LASED project.
- Ensure that the approved and granted projects in the form of ELCs, mining concessions, SEZs, hydropower dams, and others neither cause nor contribute

to landlessness, land grabbing, and forced eviction of poor people whose lands are in the project sites. Where there is inevitable overlapping, the government should have a clear and good compensation policy and process for the affected people.

CSOs

- In continuing its monitoring, CSOs should assess whether implementation has yielded fair benefits for the poor. CSOs should also draw valuable experiences and knowledge from other land reform programs and use this to inform the government and donors.
- CSOs should document and share positive impacts of land reform with the goal of encouraging more reform processes. Innovative practices can be sought and promoted, which will also make them more credible program partners.

Donors

• Work closely with both the RGC and the CSO counterparts to fund and monitor the reform program.

Context: the status of land reform

About 94% of an estimated six to seven million agricultural lands are considered small farms, only 0.5 to 1 ha in size. Many of these farms are in the hands of the land-poor who cannot support basic household needs. This group includes the 26% of rural households owning even less than 0.5 ha of agricultural land. Land tenure is uncertain for many. Only 36% of lands are covered with titles; most have been titled only in recent times through the systematic process of the Land Management and Administration Project (LMAP). This suggests that many landowners remain vulnerable to land grab or forced eviction. Among the poorest quintiles of the population, only 30% owned land secured by government title.

Studies point to a trend of landlessness that grew faster between 1997 and 2004. This is attributed to several factors including the increasing population, rising prices of land that spur land grab, land administration and management decisions that grant Economic Land Concessions (ELCs) to private companies often at the risk of dispossessing local communities whose lands may overlap with boundaries. Another factor is the slow implementation of the Social Land Concessions (SLCs) that could protect small farmers. Only 30% of the 3,150 households targeted have received SLCs as of 2010.

High estimates of victims of land grabbing and forced eviction underscore the imperative to address these issues. About 300,000 Cambodians have been dispossessed of lands since 2004 and about 150,000 people are living at risk of eviction under threat from development projects, land disputes, and land grab.

Land dispute cases showed an upward trend as well for the period 2001–2010. About 60% of the cases involved agricultural lands. Disputes resolution was at a low of 17%, with an almost equal percentage (16%) unresolved due to lack of information. Further, the resolved cases were not mainly accomplished through the RGC's Cadastral Commission or the NARLD, which were set up for this purpose.

State financing for land reform has remained constant over the period 2005-2010.The land reform budget is a meager 0.45% on average of the government's annual total budget. Aid disbursement for land reform, on the other hand, has been 3.8% of total aid for the years 2009 and 2010. Together with the government's budget, about \$40 million was made available for land reform expenditure between 2009 and 2010.

Conceptual framework

Adopting the framework introduced by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) and Land Watch Asia to the local situation in Cambodia, CSOs have finalized monitoring indicators as presented in Table 1.

Findings and Analysis

A. Inputs for Land Reform

1. Regulations

The Land Law of 2001 was intended to determine the regime of ownership for immovable properties in Cambodia for the purpose of guaranteeing the rights of ownership and other rights related to immovable property.

In 2003, the government launched the Land Administration, Management, and Distribution Program (LAMDP), a 15-year program to address the lack of farmers' land tenure, lack of management over natural resources, and inequitable distribution of land. Also in 2003, the government issued two subdecrees. The Social Land Concessions (SLCs) provided for the transfer of private state land to the poor. The Economic Land Concessions (ELCs) on the other hand, granted contracts for agricultural and agro-industrial development to private companies up to the size limit of 10,000 ha per concessionaire for a maximum of 99 years.

In the further implementation of the Land Law, there are other policies and regulations that pertain to state land management, registration of indigenous community land, commune land use planning, the management and use of co-owned buildings, illegal occupancy of state land, state land identification, classification and mapping, mechanism for the provision of agricultural extension services to farmers using social land concession, and strengthening of the Cadastral Commission performance at all levels.

2. Mechanisms

- a. The <u>Cadastral Commission</u> (2002) aimed to resolve conflicts at the district, provincial, and national levels related to unregistered, immovable properties.
- b. The <u>National Authority for Resolution of</u> <u>Land Disputes</u> (NARLD) aimed to resolve disputes beyond the jurisdiction of the Cadastral Commission that involved high-profile, influential people including senior police and military officials. Since the membership of NARLD includes these influential sectors, their suitability to resolve disputes has been criticized.¹ To clarify, if the land in dispute were

¹ Schwedersky, Lavinia Helen (2010). Mechanisms of Land Conflict Resolution in Rural Cambodia.

registered, even if these were high-profile cases, these remained with the court system.

- c. The <u>Technical Working Group (TWG)</u> <u>on Land</u> aimed to improve coordination among government, donor community, and participating NGOs. It also undertook the policy dialogue and monitoring of land reform programs.
- d. Other critical mechanisms were embedded in several major programs:
 - (2002-09):The LMAP Land Management and Administration Project was carried out in 11 out of 24 provinces, facilitating the issuance of about 1 million land titles through the systematic land titling process. The project strengthened the mechanisms for land dispute resolution by improving the capacity of Cadastral Commissions and providing legal assistance for the disadvantaged people. Donors like the World Bank, the GTZ (German Agency for Technical Cooperation), and the Government of Finland provided the initial budget of \$35 million. CIDA (Canadian International Development Agency) made available additional funds of CN\$10 million.
 - NRMLP (2006-10): The Natural Resource Management and Livelihood Program provided a mechanism for <u>livelihood support</u> for 707 communes in 14 provinces. The NRMLP aimed to produce the <u>Commune Land Use</u> <u>Plan (CLUP)</u> to define boundaries and allocations clearly, be it forestland, farmland, residential lands, or reserved lands.²
- 2 (http://www.ncdd.gov.kh/projects/natural-resource-

• LASED (2007-2012): The Land Allocation for Social and Economic DevelopmentProjectimplementedpilot measures in three provinces (Kratie, Kampong Cham and Kampong Thom) for granting social land concessions and <u>linked these SLCs with parallel</u> <u>measures for rural development</u>: infrastructure, training, and access to markets. The program aims to develop a countrywide implementation strategy.

3. Financing

State Budget Allocation

From 2005-2010, the government allocated about \$4.4 million per year to cover expenditure in the land sector. In absolute terms, the budget allocation has increased but in percentage terms, at only about 0.45% of the annual total budget, the allocation has remained constant over the same period. (See Figure 1)

Aid Disbursement

The land sector reform in Cambodia has been financed by a variety of donors not limited to those supporting the NRMLP, LMAP, and LASED programs. Based on the online database³ of Official Development Assistance, aid disbursement reached about \$35 million each year for 2009 and 2010 representing 3.8% of the total aid disbursement to Cambodia in both years.

Together with the government's budget, it suggests that about \$40 million was made available in 2009 and 2010 for land reform.

management-and-livelihood-project, accessed 22 Sept 2011).
 http://cdc.khmer.biz/OwnReport/own report result.
 asp?ActionQuery=Search (accesses 21 Sept 2011)

B. Land Tenure

There are five monitoring indicators for this variable as identified below.

1. Number of titles issued

Approximately 1.6 million land titles were issued covering 25% of the total land parcels (estimated between 6 and 7 million). About 1 million were secured through the LMAP's systematic registration process

during 2002-2009 while the 0.6 million titles were issued through sporadic registration process since 1989. The unsecured land (75% of total parcels) has remained subject to various threats.⁴

2. Distribution of titles by types of ownership

Majority of the land certificates (75%) covered rural lands while 25% covered urban areas. In terms of land ownership, 70% of the issued titles fell to shared properties of couples, followed by 20% to women. Another 5% were owned by men and the remaining 5% by monasteries.

3. Distribution of land tenure

Data from 2004-2007 showed percentage figures for the following:

- land secured by any type of document
- land secured by government title
- land used as collateral for loans

The government provided land titles to 36% of households as of 2007, up from 22% in 2004.

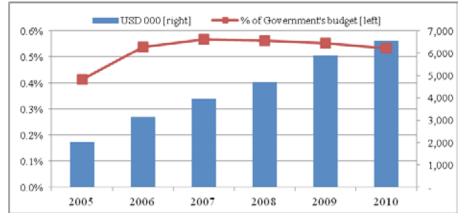
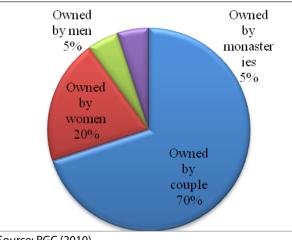


Figure 1: National budget and its allocation for land sector

The process was facilitated by the implementation of the World Bank-led LMAP (2002 to 2009). This reflects how, before LMAP, a large majority of Cambodians possessed lands without the state's recognition. Such limited access to land tenure implies that people are vulnerable to land grab or land dispossession.

The data also show inequality in terms of access to land tenures. In 2007, while 44% of the richest quintile owned lands with titles, only 30% of the poorest quintiles had the same security.

Figure 2: Distribution of land titles by ownership types



Source: RGC (2010)

⁴ SDP Update 2009-13, RGC, 2010

Source: Budget Law, from www.cambodiabudget.org (accessed, 21 Sept 2011)

C. Access to Land

1. Land access

• Distribution of land possession by size of landholdings

About 94% of the total farms in Cambodia are small (less than 3 ha). The rest are medium farms (about 5.5%) and large farms (0.8%).⁵

Between 2004 and 2007, data indicated that Cambodians who owned or operated agricultural lands remained unchanged at 74%. Further, in 2007, 89% of the poorest quintile owned or operated agricultural lands representing a 6 percentage-point increase from 2004. In contrast, the richest quintile having access to agricultural lands fell by 9 percentage points from 48% in 2004 to 39% in 2007.

• Access through tenancy, sharecropping, and other means

In terms of mode of access to land, 92% of the agricultural lands that are owned or operated are actually owned land. The rest or 8% is land operated through tenancy, sharecrop, or other means.

2. Landlessness

• Landless and land-poor

The land-poor (those owning about less than 0.5 ha land) is estimated at 26% of the households in rural Cambodia.⁶A later survey by CDRI (2008) estimated that 45% of the rural

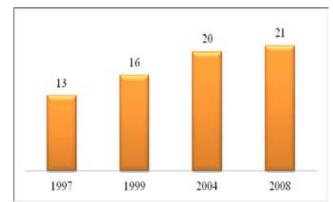


Figure3: Landlessness among rural households (% of rural households)

households in Cambodia possessed less than 1 ha per household.

The number of the landless among rural households has also increased over time and at a faster rate between 1997 and 2004. This has been attributed to a number of underlying factors, among these—the return of the Khmer refugees from Thai borders during 1993/1994; the natural population growth dynamic that led to newly-married couples who had never owned land; the deliberate sales of lands for either investment or consumption purposes. Land grabbing as well contributed to the increase of landlessness.⁷

Land transactions

In rural, LMAP sites, about 80% of the land transactions outside Phnom Penh between 1995 and 2001 involved purchases by the residents from Phnom Penh.⁸ About 62% of the land sales were between 1998 and 2004 and were made for the following reasons: to

⁵ 2005 Survey, Agri-Business Institute Cambodia

⁶ CSES 2004 cited by World Bank, 2006

Source: WB (2006) and CDRI (2008)

World Bank, Cambodia: Halving Poverty by 2015?Poverty Assessment 2006

⁸ Sophal, Chan and Sarthi, Acharya, (2002). Land Transactions in Cambodia: An Analysis of Transfers and Transaction Records, Working Paper No. 22. Phnom Penh: Cambodia Development Resource Institute (CDRI).

address health care issues (25%), business investment (24%), lack of profitability because of small size or poor soil or remote location (8%), to finance their food purchase (7%).⁹

• Land grabbing

Land alienation is common in ELCs granted to private companies for large-scale plantation. Studies show how the ELCs overlap with the community's land by 8% to 25% of the ELC size, involving more than 300 families per case. A CSO estimated that nearly 300,000 Cambodians have been the victims of land grab since 2004, which is roughly 1 out of every 50 citizens.¹⁰ In a sample survey by Oxfam, 13% of the landless reported not having been compensated for the land taken from them.¹¹

• Forced eviction

According to Amnesty International (2008), around 150,000 Cambodians are living at risk of eviction under threat from development projects, land disputes, and land grab. Between 1990 and 2008, a total of 26,600 families were evicted. This could have involved more than 100,000 people evicted in Phnom Penh.¹²

Land allocation

The LASED Project aimed to provide lands to 10,000 landless families. In 2010, the RGC reported that 12 provinces had already identified 36,917 ha for social land concessions for distribution to 14,791 targeted families. As of 2010, a total of 3,156 families had benefited, majority of them in the provinces of Kratie, Kampot and Kampong Cham.

D. Land disputes

1. Trend and nature of disputes

• Number of land dispute cases over time

According to the database of the NGO Forum (NGOF) on Cambodia, using data from its members and NGO partners, there were a total of 236 cases¹³ across the country as of 2009. Tracked since 2001, the cases of land disputes have been increasing, reaching a high of 39 cases in 2008 due to the real estate boom that year. The number of cases dipped in 2009 following the economic downturn in late 2008, but went up again in 2010.

On analysis, the incidence of land disputes is concentrated in provinces that have growing economic activities and abundant lands. Further, of the five provinces with the highest cases, in two of these provinces where the number of disputes is fewer (in Kandal and Phnom Penh), the number of households involved in the disputes is higher.

• Attributes of disputes

The phenomenon of land disputes is both rural and urban but largely rural. The NGOF (2010) reported that about 60% of the dispute cases involved agricultural lands in the rural areas.

A land dispute case involved about 201 ha of lands and 125 households on average. This

⁹ CDRI, (2007). Cambodia Land Titling Rural Baseline Survey Report. Phnom Penh: Cambodian Development Resource Institute (CDRI).

¹⁰ LICADHO, (2010). Freedom of Expression in Cambodia: The Illusion of Democracy. Phnom Penh: LICADHO

¹¹ Buddulph Robin, (2000). Interim Report on Findings of Landlessness and Development Information Tool (LADIT). Phnom Penh. Oxfam GB.

¹² Sahmakum Teang Tnaut cited in Housing and Land Rights Issues in Cambodia, 2009.

¹³ Sithi.org reported 226 cases across Cambodia, which involved about 47,000 victims (accessed 11 Sept 2011)

suggests that land disputes in Cambodia have involved about 47,500 ha of land and 30,000 households. The data indicate that 41% of the cases involved less than 50 households, 20% involved more than 200 households, and the disputes of larger land size are usually between the forest-dependent communities and the ELCs.¹⁴

Resolution of disputes showed that only 17% of 236 cases as of 2009 had gone through the process with some results. About 67% remained under processing. The remaining 16% of cases were dropped or of unknown status.

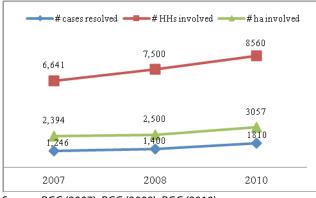
Further, out of 41 resolved cases, only two were settled by the Cadastral Commission and the other two cases by the NARLD. Of the 17% of cases resolved as of 2009, 42% were conciliated by the local authorities and 22% were resolved by the court system.¹⁵

2. Dispute Resolution

The number of dispute cases as well as the number of households and land areas involved has increased over time. Over the period 2007 to 2010, the number of resolved cases increased from 6,641 to 8,560. On analysis of these figures, a dispute case involved about five households and nearly 2 ha of land on average. (See Figure 4.)

The Cadastral Commission received 5,193 dispute cases in total but managed to get only 35% of the cases resolved. About 34% were pending cases, 5% withdrawn, and 25% rejected due to non-compliance with the jurisdiction of

Figure 4: Land disputes resolved by Cadastral Commission



Source: RGC (2007); RGC (2008); RGC (2010)

the Cadastral Commission (RGC, 2010). (See Figure 5.)

Major development projects

Various development projects, both in the planning stage and under implementation, have undermined the land sector in Cambodia. ELCs, mining concessions, hydropower dams, SEZs, and transports are the major ones that threaten land access.

Economic Land Concessions: There are 139 ELCs in total that have been granted to private companies in 18 out of 24 provinces.¹⁶ In 2010, 85 large-scale ELCs and 47 small-scale ELCs with less than 1,000 ha each were granted.¹⁷ Cancelled were 41 ELCs extending on about 380,000 ha. However, ELCs were not just granted by the Ministry of Agriculture, Forestry, and Fisheries (MAFF), but also by the Ministry of the Environment (MoE) for ELCs in the protected area. An estimated total

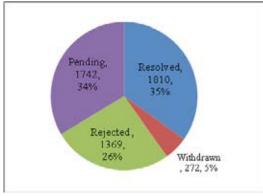
 ¹⁴ NGOF, (2010). Statistical Analysis on Land Dispute
 Occurring in Cambodia in 2009. Phnom Penh: NGO Forum on Cambodia

¹⁵ NGOF, 2010.

www.opendevelopmentcambodia.net, Accessed 22 Sept
 2011

¹⁷ www.elc.maff.gov.kh, Accessed 22 Sept 2011

Figure 5: Land disputes at Cadastral Commission



Source: RGC (2010)

of 1.5 million ha were granted by both the MAFF and MoE to ELCs¹⁸.

- Mining concessions: There are 61 mining concessions in 17 provinces granted to companies. Moreover, SEZs comprised a new development feature aiming to promote export and assembly industry. In 2011, about 21 SEZs were in operation in seven provinces, including Phnom Penh.¹⁹
- *Hydropower dams:* About 20 hydropower dams have been planned, approved, and put under construction in nine provinces²⁰.

Conclusion

Overall, the findings suggest that the agrarian structure in Cambodia is largely characterized by small farms; that 21% of rural Cambodian households are landless—a figure expected to rise if the trend in landlessness continues. So far, only 1.6 million titles (25% out of the estimated six to seven million titles in the country) were issued suggesting that the rest of Cambodians are vulnerable to land disputes and land grabbing.

Given limited access to land and land tenure, a speedy and robust reform in Cambodia's land sector is crucially needed. There has been some progress in the reform program, but the progress has been slow and imbalanced. While the RGC managed to grant 1.5 million ha to private companies through ELCs, only about 24,000 ha of social land concession have been allocated to benefit about 3,150 households (about 30% of the target).

To further accelerate the reform process and outcome, the following recommendations are being made:

Government

- Accelerate land distribution to the poor and vulnerable to meet the targets of the LASED project.
- Ensure that the approved and granted projects in the form of ELCs, mining concessions, SEZs, hydropower dams, etc. neither cause nor contribute to landlessness, land grabbing, and forced eviction of poor people whose lands are in the project sites. Where there is inevitable overlapping, the government should have a clear and good compensation policy and process for the affected people.

¹⁸ Ngo and Chan, 2010.

www.opendevelopmentcambodia.net (accessed 22 Sept 2011)

²⁰ Ryder, Grainne, (2009). Powering 21st Century: Cambodia with Decentralized Generation. A Premier for Rethinking Cambodia's Electricity Future. Phnom Penh: The NGO Forum on Cambodia and Probe International.

CSOs

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- CSOs should document and share the positive impacts of land reform with the goal of encouraging more reform processes. Innovative practices can be sought and promoted, which will also make CSOs more credible program partners.

Donors

• Work closely with both the RGC and the CSO counterparts to fund and monitor the reform program.

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