



CSO land reform monitoring report in Cambodia 2018

An initiative of the Land Watch Asia Campaign¹

The Kingdom of Cambodia in its current form emerged from the election organized by the United Nations Transitional Authority in Cambodia (UNTAC) in 1993. Its current Constitution aims for a market economy, thus allowing the Cambodian people to own land as property. The Land Law was adopted in 2001. It recognized, through land registration, the ownership of Cambodian citizens to land they had continually occupied since 1979. This law also allowed the government to grant land concessions to companies, and social land concessions to landless poor families (Ke, 2016).


The Land Law and its consequent regulations have been in place for 15 years now. However, customary practice among non-indigenous groups over land and natural resources still exists, and remains widely accepted among the Cambodian people. However, these traditional practices are being eroded by prevailing policies and emerging human needs.

The Land Watch Asia (LWA) campaign began in 2007 with the aim to promote, advocate and lobby for land rights for farmers, indigenous peoples, and fisherfolk in seven countries

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in the region (Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, and the Philippines). To date, the LWA campaign contributed to the process of policy changes by catalyzing the advocacy work of partners and other campaigns by identifying strategic areas for policy advocacy. The main goal is to lobby governments through dialogues. In 2010, ANGO and LWA initiated the CSO Land Reform Initiative to build the capacities of CSOs in undertaking monitoring of land issues through evidence-based advocacy. This framework identifies indicators that will help CSOs critically examine whether the rural poor's land tenure is more secure, and whether their access to land was enhanced. This paper seeks to contribute to this initiative from the Cambodia side.

STUDY OBJECTIVES AND DATA SOURCES

This report is being undertaken:


- to provide an overview of the current policy and legal environment on access to land and tenure security, especially for the rural poor;
- to describe the current status of access to land and tenure security, land governance challenges; and,
- to identify strategic opportunities for advancing land rights for the Cambodian people, especially the rural poor.

This study was based mainly on review of secondary data and existing research studies from various stakeholders in both the public and NGO sectors. Some case studies were conducted for additional insights. The research team were not able to access the most updated data on the current year, as access to public data, especially online data, was limited.

LEGAL AND POLICY FRAMEWORK

The Royal Government of Cambodia (RGC) developed several legal frameworks and policies for land management, and established mechanisms to resolve land conflicts and prevent violence caused by land disputes.

The Land Law 2001 seeks to determine the regime of ownership for immovable properties for the purpose of guaranteeing the rights of ownership, according to the provisions of the 1993 Constitution (RGC, 2001; Dwyer and Young, 2016). Some articles in this law regulate the practice of granting economic land concessions (ELCs). For example, Article 59 limits the size of ELCs to not more than 10,000 hectares. Article 62 requires the concessionaries to commence their economic activities on ELC land within 12 months after its grant, otherwise it would be cancelled (ADIC, 2015). Also, Article 30 states that any person who has enjoyed peaceful, uncontested



possession of immovable property for no less than five years prior to the promulgation of the law, has the right to request a definitive title of ownership (provided that such property can lawfully be privately possessed).

The RGC also established a framework for land titling through a number of land registration mechanisms such as Systematic Land Title Registration (SLRT), Social Land Concession (SLC), Sporadic Land Registration (SLR), Communal Land Titling (CLT) and Directive 01 (ADIC, 2015). The involved agencies were the Ministry of Land Management, Urban Planning, and Construction (MLMUPC), Ministry of Interior (MoI), Ministry of Rural Development (MRD), Ministry of Agriculture, Fishery, and Forestry (MAFF), Ministry of Environment (MoE), and the Ministry of Economy and Finance (MEF).


Other legal instruments include the Sub-decree on Economic Land Concession No. 146 which determines the criteria, procedures, mechanisms, and institutional arrangements for initiating and granting new economic land concessions. It also provides for monitoring the performance of all ELC contracts, and for reviewing concessions entered into prior to the effective date of the sub-decree.

On land disputes related to ELCs, the RGC developed a number of policies and other legal documents to respond. Most importantly, Directive 01 was issued to temporarily suspend the granting of ELCs and to distribute land to the people. There was also the Inter-Ministerial Proclamations/Prakas on Strengthening ELC Management as a mechanism to reduce land disputes (NGO Forum on Cambodia, 2015).

The Law on Social Land Concessions (SLCs) was adopted through government's sub decree No. 19 ANK/BK, 19 March 2003. "Social land concession is a legal mechanism to transfer private State land for social purposes to the poor who lack land for residential and/or family farming purposes." This sub-decree defines the criteria, procedures and mechanism for the granting of social land concessions for residential use and/or family farming (ADIC, 2015a).

Sub-Decree 83 on Communal Land Titling, adopted by RGC in 9 June 2009 focused on "Procedures of Registration of Land of Indigenous Communities." It supports the rights and culture of IPs with the objectives to provide indigenous communities with legal rights over land tenure, to ensure land tenure security, and to protect collective ownership by preserving the identity, culture, good custom, and tradition of each indigenous community (RGC, 2009).

At the international level, Cambodia is a signatory State of many international conventions - the Universal Declaration of Human Rights (UDHR), the Universal Declaration of Rights of Indigenous People (UNDRIP), and the International Covenant on Economic Social and Cultural Rights (ICESCR).



In September 2017, Cambodia endorsed and supported the UN Declaration on the Right of Indigenous Peoples (UNDRIP). The UNDRIP is not legally binding instrument under international law; but it remains a powerful statement of principles reflecting international norms.

SUPPORT FOR SMALL-SCALE FARMERS AND RURAL PRODUCERS

As previously stated, the policy on SLCs was developed specifically for the purpose of distributing State land to the poor for residential and family farming purposes. SLCs were promoted through the Land Allocation for Social and Economic Development (LASED), a five-year project running from 2008 to 2013. The project received fund support from World Bank (11.5 Million USD) and the Government of Germany (1.2 Million USD) with technical assistance from Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). The main purpose of this project was to provide land to landless. The quantitative aim was to allocate 10,000 hectares of land to 3,000 poor households, with accompanying community development, livelihood, and agricultural support services in the provinces of Kratie, Kampong Cham, and Kampong Thom provinces.


The National Strategic Development Plan (NSDP) 2014 to 2018 states that, as of the end of 2013, 31,000 households received land under the SLC program. The World Bank reported in December 2014 that 3,148 households received land through SLCs under the LASED program. A 2015 study by Cambodian League for the Promotion and Defense of Human Rights (LICADHO) on LASED implementation in the four provinces indicated that the program failed to improve the livelihoods and tenure security of the residents on SLCs. The rates of resettlement on SLCs were less than 50 percent and only 41 percent of agricultural land was cultivated due to poor land quality, insufficient capacity, and conflict (LICADHO, 2015).

The MLMUP has issued thousands of land titles including to small landholders and indigenous peoples (IPs). However, land disputes continue to be a problem.

A study on small landholders and agribusiness engagement (The NGO Forum on Cambodia, 2017) clearly indicated that contract farming was beneficial to small landholders when such program was properly designed and adopted. But existing policies on land rights are no longer responsive to the evolving needs of small landholders.

SECURE LAND RIGHTS FOR INDIGENOUS PEOPLES

Sub-decree 83 on Communal Land Titling (CLT) was adopted specifically for the registration of land within the IP areas. However, data from a report on CLT (ADIC, 2018) indicates only 135 IP communities gained recognition from the Ministry of Rural Development (MRD), which is the first step in the process. Of these, only 120 communities applied or obtained the legal entity from the Ministry of Interior (MoI) which is the second step. Only 59 communities took the third



step – applying for CLTs with the MLMUPC – and only 22 CLT applications have been issued thus far. Some communities ended up pursuing formal land titling, which was viewed as being simpler. More than ten communities could not move forward with the process because of internal problems, boundary conflicts and landmine issues. The conclusion, therefore, is that the CLT process under Sub-decree 83 is complicated and very time consuming for IPs (AUSAID, 2016).

In addition, there was duplication and overlap in land granted to both ELCs and communities due to the lack of proper cadastral mapping. In some cases where CLTs had already been granted, communities remained under threat from in-migration and the ELCs. These threats are more severe for IP areas where registration is still on-going and where land titles have not yet been formally issued.

Furthermore, IPs are losing their land due to large-scale logging, resource extraction, and infrastructure development. This is exacerbated by a lack of political will and fragmented coordination among stakeholders and involved actors. Even after obtaining CLTs, communities remain vulnerable to illegal encroachment due to the lack of legal enforcement. There are also very strict but irrelevant conditions imposed by the government in the CLT process. For instance, in order to be recognized by the MRD as an indigenous community, the community must prove their 'indigeneity' and traditional way of life. This tends to “box people into certain positions that could actually limit their opportunities to change in ways that might advantage themselves” (CCHR, 2016).

LAND ACCESS AND CONFLICTS

It is important to note that after the Sub-decrees No. 46 and 47 were adopted on 31 May 2002, systematic and sporadic land registration commenced. These programs issued 2.6 million titles under Systematic Land Registration, and 600,000 titles under Sporadic Land Registration respectively by December 2014. Land registration and titling under Directive 01 commenced in June 2012, and by December 2014, the program issued 610,000 titles.

However, land disputes continually occurred due to land grabbing by powerful persons such as public officials and private investors. Poor people are the usual victims – resettled to areas where there is a lack basic infrastructure and essential services. Compensation offered to the victims is usually much lower than the market value of the land (ADHOC, 2016).

The Cambodia Socio-Economic Survey 2016 found that about two percent of households were previously in conflict with others over land ownership. But the numbers have dipped to 0.5 percent in 2016. Land conflicts in Cambodia have passed half a million cases since LICADHO began collecting data (LICADHO, 2014). Similarly, ADHOC cited that more than 770,000 people (six percent of the population) were adversely affected by land grabbing from 2000 to 2013 (ADHOC, 2013).

In 2014, the total number of land disputes was 352, with 68 cases resolved, 14 cases abandoned, and 270 cases (77 percent) unresolved (NGO Forum on Cambodia, 2015, p. 10). By 2016, there were 314 cases of land conflict covering 1,052,935.91 hectares that were not completely solved or awaiting resolution. The most number of conflicts were on residential land which covered 7,076.20 hectares and involved 645 families (The NGO Forum on Cambodia, 2016, p. 35).

Major causes of land conflicts

The major causes of land conflicts over the past 10 years relate to agriculture, urban development, manufacturing industries, mining rights, and the construction of hydropower dams (Sun, 2017).

According to The NGO Forum's annual statistics of land conflict, the main causes in 2015 were ELCs, infrastructure, military bases, and land grabbing by national and international investment interests. The granting of ELCs was the biggest reason for land disputes, with 97 cases, or 31.49 percent of the total land disputes that occurred that year (See Table 1).

Table 1: Causes of Land Disputes (2015)

Reasons for Land Dispute	No. of Land Disputes	No. of Provinces
Concession	1	1
Economic Land Concession	97	18
Military Purpose	16	7
Mineral Exploration or Extraction	2	2
Plantation/Farming	43	19
Private Company	15	7
Residency	28	11
Social Land Concession	9	6
State Development Area	21	9
State Land	58	20
Unknown	18	4
TOTAL	308	

Source: The NGO Forum on Cambodia. (2015). *Statistical Analysis of Land Disputes in Cambodia*. Phnom Penh: Research Advocacy and Communication Center (RACC). p. 32.

Residential land was the most common subject of disputes with 791,035.90 hectares followed by multi-purpose land with 123,281 hectares. Among the 97 cases of ELCs, 42 cases involved land grabbing by powerful persons, 30 cases involved threats, and 20 cases resulted in persons being detained. Fifty-one cases were reported to have affected indigenous people in nine provinces (The NGO Forum on Cambodia, 2015, pp. 28-30).

Table 2: Type of Land Affect by Land Disputes (2015)

Type of Land	No. of of Land Disputes	Land Size (ha)	Percentage
Agriculture Land	113.00	55,023.40	6.0
State Land (including community forest)	55.00	24,546.30	2.0
Multi-Purpose Land	72.00	123,281.00	12.0
Residential Land	61.00	791,035	79.0
Others	3.00	325.00	0.2
Unknown	4.00	806.00	0.8
TOTAL	308.00	995,017.60	100.0

Source: The NGO Forum on Cambodia. (2015). *Statistical Analysis of Land Disputes in Cambodia*. Phnom Penh: Research Advocacy and Communication Center (RACC).

The disputes caused by ELCs were further exacerbated by failure to enforce laws to protect the rights of local communities. For instance, social and environmental impact assessments (SEIAs) were not properly conducted (The NGO Forum on Cambodia, 2015).

As of September 2015, a total of 230 companies were granted ELCs, covering a combined area of 1,934,896 hectares.

Mechanisms for conflict management

Mechanisms to resolve land conflicts were established at almost all levels: Commune Councils (CC), the Cadastral Commissions (CC), Administrative Commissions (AC), the National Authority for Land Dispute Resolution (NALDR), and the courts (The NGO Forum on Cambodia, 2015).

- *Commune Councils (CC)* do not have the authority to render decisions on conflicts. Rather, they mediate between the parties and promote reconciliation. It was observed that most land conflicts were brought to the Commune Councils (The NGO Forum on Cambodia, 2015, p. 15).
- *Administrative Commissions* are temporary mechanisms tasked to conciliate disputes occurring in areas being surveyed under the Systematic Land Registration Process (The NGO Forum on Cambodia, 2015, p. 3).
- *Cadastral Commissions* are responsible for disputes over untitled land at district/khan, provincial/municipal, and national levels.
- *Mobile Working Groups for Land Dispute* are additional dispute resolution mechanisms lodged with the MLMUPC. There are 33 working groups and 30 mobile working groups formed for land dispute resolutions in all provinces and in Phnom Penh.
- The *National Authority for Land Dispute Resolution (NALDR)* is chaired by the Deputy Prime Minister with 26 ministries and authorities as members. This body takes up cases not in the hands of Cadastral Commissions or courts (The NGO Forum on Cambodia, 2015).

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- The *Court System* has three different levels – the Courts of First of Instance, the Appeals Court, and the Supreme Court (The NGO Forum on Cambodia, 2016, p. 24).

International Mechanisms. The RGC adopted the UN framework and created a number of legal instruments to meet the demands of international laws and regulations. However, the role of the UN is only to provide recommendations – it has no power to compel the government to comply. Cambodia accepted the recommendation yet deferred actual response to some recommendations from the Universal Period Review (UPR) and UN Special Rapporteur (UNSR) (Ke Bunthoern, 2016). Another international mechanism is the Compliance Advisory Ombudsmen (CAO) of the World Bank (Michael and Young, 2016).

Land conflict resolution

As of the end of 2017, the MLMUPC reported that it successfully resolved 3,655 cases for 19,374 families covering 6,068.20 hectares. The MLMUPC leadership noted a decline in the number of disputes. It said that the Ministry continues to work hard to register land and solve land disputes by all means possible (Khy, 2018).

The Cadastral Survey Commission solved 85 land dispute cases (37 cases wrongly authorized and withdrew another 11 complaints) for 326 families, which covered 44.5 hectares (Khy, 2018).

In 2016, the NALDR received 25 complaints. There were 204 complaints submitted to other ministries and institutions: 67 to the Parliament, 51 to the Cabinet of Prime Minister, 38 to Ministry of Interior, five to the Ministry of Royal Palace, 18 to Councils of Ministers, and 25 to Ministry of National Assembly-Senate Affairs. Another 182 complaints were submitted to the Forest Administration, Fishery Administration, MLUMPC, Ministry of National Defense, Anti-Corruption Unit, NGOs English Court, and European Union (The NGO Forum on Cambodia, 2016). There was no indication about how these cases were resolved.

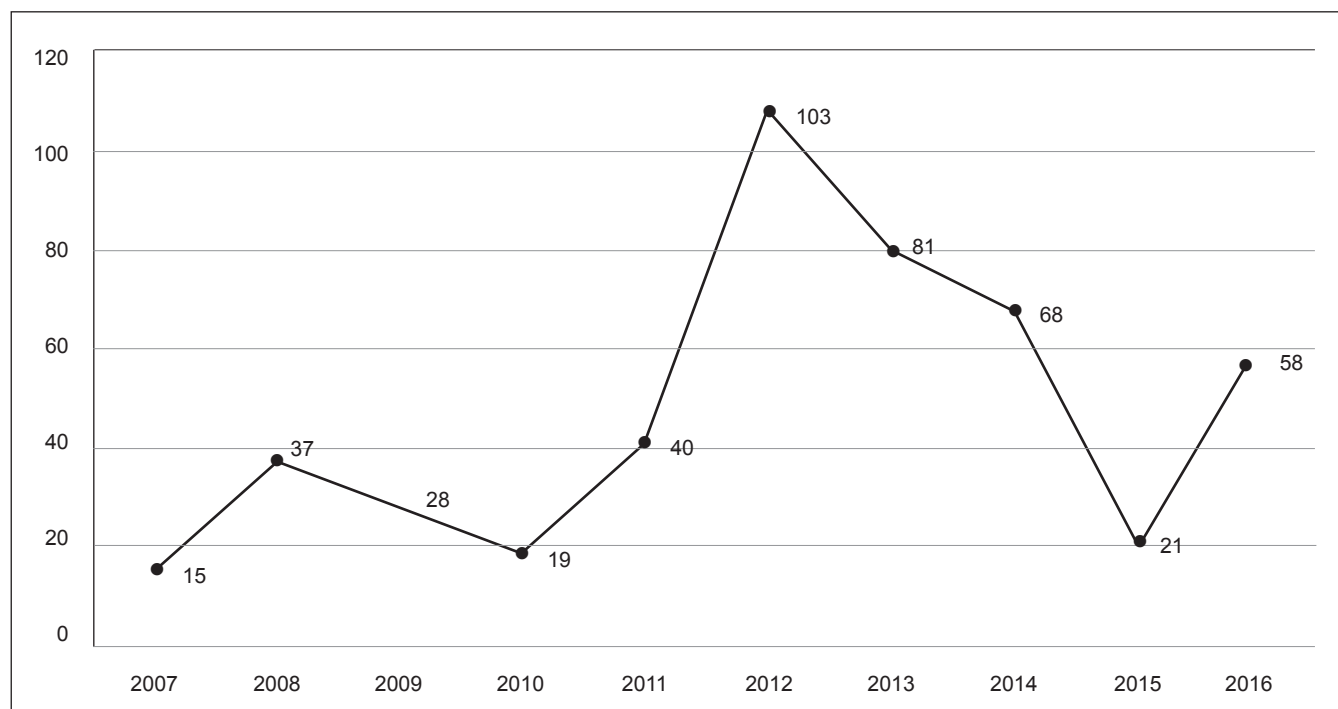
In 2016, the Courts of First of Instance received 98 complaints, the Appeal Court received 32 complaints, and the Supreme Court received 18 complaints (The NGO Forum on Cambodia, 2016, p. 24). There was also no indication on how these cases were dealt with.

Most of the cases of land conflict were resolved in each year up to 2016, based on Figure 1. This includes the peak period in 2012 to 2014. There is yet no data available from 2017 and 2018.

Measures for land conflict prevention

In 2012, the government issued the new policy (Directive 01) to stop granting new ELCs. It limited the duration of future leases to 50 years and promised to redistribute one million hectares of land to poor and dispossessed families. A representative of ADHOC noted that, “the situation

Figure 1. Land Dispute Solved by Years



Source: The NGO Forum on Cambodia. (2015). *Statistical Analysis of Land Disputes in Cambodia*. Phnom Penh: Research Advocacy and Communication Center (RACC). [Khmer Version].

has generally been improving and no new conflicts have emerged since the government stopped granting ELCs.” The unresolved ELC conflicts are difficult, however, and in the long run, new conflicts are expected to arise (Sun, 2017).


With regards to land titling, there is no problem with the policy. The problem is the capacity of the people to participate in the whole formal process of land titling from the beginning until issuance of the title. There is a lack of resources for the process of measurement and physical demarcation of land boundaries. These measures are necessary, since the rich and powerful can easily acquire official documents which they can show as proof of ownership (ADIC, 2017).

TRANSPARENCY IN LAND GOVERNANCE AND ADMINISTRATION

Women’s participation in decision-making

Chapter 4 of the Land Law states that “any person” can own immovable property, thus there is no discrimination against women with regards to land ownership.

Also, women are usually voted by the community to be leaders in the CLT Committees because they are reliable and are perceived to be more active than men. They are seen as especially good at communicating, providing ideas, and mobilizing people. However, they often decline



top leadership positions because household work limits the amount of time they can devote to community activities. Thus, they prefer to be the deputy leaders or members with less responsibility (Welthungerhilfe, 2016).

Transparency in formulating land use regulations, implementation and monitoring

Cambodia does not offer many opportunities for public involvement in legislative processes. Most laws, policies and development plans are drafted with little or no participation from the citizens. With the prevailing culture of silence, people do not seek information while the RGC does not freely disclose information. Also, the lack of adequate legislation governing freedom of information undermines local civilians who have little or no knowledge of the laws (CCHR, 2014).

At the district level, officials presiding over mechanisms for land dispute solution do not have the necessary documents and information to perform their functions effectively. They only have the boundary map between the community and the concession areas – they have no copy of the agreements between the company concerned and RGC. They also do not document the conflict between the community and ELCs. The same goes for the provincial mechanisms – the authorities do not have detailed knowledge about the investment plans of ELC companies although they may have received the directive letter from the parliament and ministry to review and reconcile the conflict cases (Meas and Keo, 2014).

Tenurial status: Public and Private Land

Article 16 of the Land Law states that people have the right to use public property in temporary, precarious, or revocable domains. Problems occur when people live in these public properties or use them to grow cash crops, but the local authorities do not inform them that they have to vacate the land if the State needs it. Conflict then ensues when the land is later converted to an ELC for instance, and there is no dialogue with the affected people.

Oftentimes, local authorities are unaware of new poor families who come to live within their jurisdiction. The authorities are also unwilling to identify agriculture land for those families (LICADHO, 2015).

A recent study done by STAR Kampuchea found that communities are less aware about district and provincial land dispute mechanisms because of limited access to information (ADIC, 2015a). Most people go to the commune councils to refer their problems, including land issues, because these councils are more familiar, easier to access and more dependable. They may also submit complaints to national mechanisms, the parliament, or other national institution they know. While many NGOs have supported a particular target area a long period, they have not yet fully informed people about land dispute resolution policies and mechanisms at various levels (Meas, and Keo, 2014).



Public policies, investments, and projects: Impact on tenure systems

Most companies obtain ELCs without doing detailed surveys and mapping on the ground. Local people in ELC areas are often unaware of the investment plans of the company concerned. Thus, they are surprised when company personnel arrive to conduct studies in the area. Protests often occur because of the lack of information, consultation, and decision-making among the people (ADIC, 2017).

Available public information on land and tenure

Information related to laws, policies and reports on land registration and dispute resolution is available on the websites of the relevant ministries and NGOs working in the land sector. For example, The NGO Forum on Cambodia updates its information on land dispute cases throughout the country annually (The NGO Forum on Cambodia, 2015). CCHR and LICADHO gather information on land issues using different methods, and report these in their respective websites. There is also a significant amount of data lodged in the Open Development Cambodia (ODC) website.

However, it is hard to find a complete set of information and updated data from these sites. The existence of different information sources has resulted in confusion regarding the data. For instance, the MLMUPC rejected the LICADHO Report 2015 and requested for more detailed information (Phnom Penh Post, 2015). Disagreement on the statistics of land conflicts is linked to the poor mechanisms of monitoring among stakeholders (ADIC, 2015).

In 2004, the RGC started to develop the Law on Freedom of Information (FOI). The National Assembly passed the legislation in December 2010. At the same time, there are provisions for FOI in existing laws such as Article 35 of the Constitution, the International Covenant on Civil and Political Rights of 1992, the 1995 Law on the Press, the 2005 Archive Law, and the 2010 Anti-Corruption Law. However, these are essentially “paper laws” that do not provide for free or easy access to important pieces of government-held information. Most people are only able to access public information regarding matters such as weather, traffic conditions, and public holidays. Although 94 percent of Cambodians felt it was important to be informed about domestic laws, 72 percent knew little or nothing about these laws. Access to information is also related to capacity, as most people are not familiar with printed or online sources of information. A large percentage of Cambodians get their information through radio and television (79 percent and 78 percent, respectively), and 50 percent by word of mouth. However, more than 83 percent agree that everyone has the right to seek, receive, and disseminate information freely (CCHR, 2014).

In May 2018, the MLMUPC collaborated with an NGO (STAR Kampuchea and its 16 partners) to produce a voice message information service that Cambodians could call for information on land issues. The pre-recorded messages covered five main topics: 1) Basic information on land; 2) Land rights; 3) Land concessions; 4) Land dispute solution mechanisms; and, 5) Filing



complaints. There were 53 sub-topics and sub-themes recorded and pre-tested with 108 people and revised before the launching. This initiative is an innovative way to empower and educate people for better access and control over land and natural resources. However, there has been no survey or evaluation conducted regarding how many people access the service and what impact it has had on public awareness and behavior change (STAR Kampuchea, 2018).

CONCLUSIONS


Land governance in Cambodia has been adaptive in response to constant social and economic changes. The existing laws and policies in Cambodia, along with international instruments, appear to be sufficient, but there is a large ground for improvement on the enforcement and real application of the law and its supporting guidelines. There are existing mechanisms that deal with land titling in the court system, sub-national units of governance, various Commissions (Cadastral, Administrative, and National Authority for Land Dispute Resolution) and various ministries. However, a systematic and sustained commitment to achieving outcomes for land titling needs to be in place.

There are several legal frameworks for land management laid out in policies and other related documents. The Land Law 2001 serves as a basic framework for land titling with its three main land registration schemes: Systematic Land Title Registration (SLRT), Sporadic Land Registration (SLR), and Directive 01. Under these schemes, more than 3.8 million titles have been issued and more than a million hectares of land have been cut from State land and reclassified, according to the MLMUPC. The Cambodian government aims to eventually register all privately held land in Cambodia and needs to accelerate land registration and title issuance, giving priority to land titling in dispute-free areas.

Other legal instruments by the State have been adopted to govern Economic Land Concessions, Social Land Concessions and Communal Land of IPs. ELCs were a major source of land conflicts, until the government stopped granting them. For SLCs, studies indicate that the program has been largely unsuccessful in improving tenure security and livelihood of the rural poor. The application process for indigenous communities for collective land title is lengthy and complicated, and very few IP communities were actually granted CLTs.

Land disputes have remained a basic feature of the land governance landscape. The driving forces are infrastructure development projects, economic land concessions/other land concessions, and individual land grabbing.

There was a continuing rise in the number of land conflicts from 2010 to 2012 but has since gone down from 2013 to 2015, but there is an indication of it going up again recently. The decline in the number of land conflicts coincided with the government's decision to not issue new ELCs in 2012, and to review existing ELCs, especially those with conflicts. Along with reforms within



the MAFF and MoE on the ELCS, new mandates in MLMUPC facilitated actions for resolving conflicts. MLMUPC successfully resolved 3,655 cases for 19,374 families covering 6,068.20 hectares. It also streamlines the number of complaints by transferring cases to the proper authority and withdrawing complaints not properly authorized. Other agencies like the Cadastral Survey Commission and NALDR also successfully acted on land complaints docked with them.

There is no systematic indication on how other complaints provided to the national agencies and the courts were resolved as of 2017 and 2018. The recent land disputes arising since 2016 were seen to be cases against powerful individuals that land grab un-titled lands of poor citizens.


Assessment of citizen participation in policy process showed little participation and a general lack of access to information from government. There was little consultation process in the drafting of laws. The sub-national authorities at Commune and District levels are not provided documents on ELCs. For conflict resolution, Cambodian citizens rely more on Commune authorities. Alternatively, they go directly to the national government to raise their issue, often by-passing district and provincial authorities.

Overall, the trend in land governance indicates a positive shift by the government towards ensuring the provision of land titles to its land-owning population. The growth in the number of households with land titles is an evidence of this. However, the more than three million titles issued represent only three-fifths of the total, and more than two million landowners are yet insecure about their land tenure. The reforms in this current mandate led to successful resolutions of land conflicts. It may offer a good opportunity for NGOs to tap into constructive dialogues for joint planning and responses on land issues.

RECOMMENDATIONS

Land rights, both for individuals and for communities, are critical for achieving sustainable development. With nearly half of Cambodia's total households still insecure about the status of their lands, there is a need to complete the process of enabling people's rights over legally claimed lands. There is also a need to resolve obstacles that deny mostly poor Cambodians these rights, particularly those that involve conflicts with moneyed and powerful people and companies. There is also a need to deal with rising demand for land, especially in the urban areas, which is leading to a rise in land disputes.

The main reason why the land-tenure granting process was slow was that the capacity of institutions involved in the process is weak. This can be seen particularly with the Cadastral Survey Commission which is tasked for land boundary demarcation, public posting and up to processing claims for titling. This slowness has to be fast-tracked through programs like the Sporadic Titling Scheme and Directive 1. The slowness of government bodies tasked with identification and verification is also evident in the tedious process for CLT at even the first step.




Secondly, there is a lack of systematic recording of land claims at the sub-national level. This is often a cause for conflict itself, as there are overlapping records of land against ownership listed, besides errors on names and location of land property. The lack of systematic records also facilitates land grabbing by the rich and powerful. The influence of the elites can also be seen in how the ELCs have ignored the legal requirements for appropriate demarcation including free-and-prior consent of affected communities. Also, ELCs are granted and maintained even without a development plan and actual investments in the area.

Land governance can be further enhanced by the government through effective programs, as follows:

- **Improve the Capacity of the Land-related Commissions.** This refers to ensuring skills training and adequate resources and equipment for land demarcation, mapping, and recording within the Cadastral Survey Commission up to the sub-national level.
- **Integrate land security into the sub-national platforms for governance.** Land ownership is intrinsically linked with the State earning revenues from the hold and use of the land. An important element in local governance is knowing the extent of resources, therefore, requiring assessment of ownership over resources. This will provide a second-basis for ascertaining land ownership.
- **Implement a system of land zoning.** This will define the areas of State resources by use. It could further delineate the areas which are alienable and disposable, areas where transitory possession may be allowed, critical areas where no development is allowed, areas under common usage that can be classified for CLT purposes, etc.
- **Undertake urban zoning, as there is a rapid increase in urban population.** This would enable government to pro-actively plan areas for settlement, industry, environmental niches, as well as determine areas for urban poor settlements.
- **Continue to focus effort on addressing land conflicts between local communities and ELC companies as well as powerful actors, especially engaging with local communities closely through the principle of free, prior and informed consent.**

In relation to NGO networks, the following recommendations are put forward:

- **Strengthen civil society support models.** Land rights reforms and recognition of local property and territories are politically contentious — government elites and private companies often want to access and control the same lands as local people. Locally-rooted civil society organizations should play a critical and more strategic role in this arena as land tenure issues tend to take a long time to resolve. The support models need to be closely linked to the affected communities as the lead and owner of the initiatives, but also innovative so as to be successful against the powerful opponents.
- **Scale up appropriate funding.** There is relatively little private philanthropic investment in land rights work. There is a need to link to institutions and agencies to support strengthening of community land and resource rights. International agencies and donors



should put in long term funding allocation to support NGO-and-government initiatives with clear performance indicators, especially on CLT and conflict resolution.

- **Getting the public support.** Land rights issues involve intangible and subtle details that are context-sensitive. Strategies should aim to gain traction with the public to bring land rights into the mainstream by providing sustainable solutions. ■

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ACRONYMS USED

AC	Administrative Commissions
ACU	Anti-Corruption Unit
ADHOC	Cambodian Human Rights and Development Association
ADIC	Analyzing Development Issues Centre
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
AUSAID	Australian Aid
CAO	Compliance Advisory Ombudsmen
CC	Commune Council
CCHR	Cambodian Center for Human Rights
CLT	Communal Land Titling
Co-TRAIN	Commitment 8- Transparent and Access to Information
CSC	Cadastral Survey Commission
CSO	civil society organization
ELC	Economic Land Concession
FOI	Freedom of Information
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
HH	Household
ICESCR	International Covenant on Economic Social and Cultural Rights
IPs	Indigenous Peoples
LASED	Land Allocation for Social and Economic Development
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
LWA	Land Watch Asia
LSS2	Lower Se San II

MAFF	Ministry of Agriculture, Fishery, and Forestry
MEF	Ministry of Economy and Finance
MoE	Ministry of Environment
Mol	Ministry of Interior
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MRD	Ministry of Rural Development
NALDR	National Authority for Land Dispute Resolution
NGO	Non-Governmental Organization
NSDP	National Strategic Development Plan
ODC	Open Development Cambodia
RACC	Research Advocacy and Communication Center
RGC	Royal Government of Cambodia
SEIA	Social and Environment Impact Assessment
SLC	Social Land Concession
SLR	Sporadic Land Registration
SLTR	Systematic Land Title Registration
UDHR	Universal Declaration of Human Rights
UNDRIP	United Nations Declaration of Rights of Indigenous Peoples
UNSR	UN Special Rapporteur
UNTAC	United Nations Transitional Authority in Cambodia
UPR	Universal Period Review
USAID	United States Agency for International Development

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