



Policy Brief: Land Issues after the 2013 National Assembly - Election and Recommendations

Key Messages

- **Violations of land rights have been persisting since the National Assembly elections of July 2013 and remain a prominent issue in Cambodia.**
- **Land disputes and land eviction cases are not being addressed by the Royal Government of Cambodia (the RGC).**
- **Development only benefits a small part of the population, with the poorest becoming poorer and the marginalized more marginalized.**
- **Potential social and environmental impacts must be assessed before Economic Land Concessions (ELCs) are granted.**
- **Land titling programs have been ineffective, particularly for the most vulnerable populations. The registration process for indigenous communities to receive collective land titles must be accelerated.**
- **All relocation sites must have basic services and appropriate and adequate compensation must be offered to affected communities.**

The policy brief is based on the Discussion Platform on “Land Issues after the 2013 National Assembly Election and Recommendations” held in Phnom Penh on 12 December 2013. The Discussion Platform was jointly organized by the Community Legal Education Center (CLEC), Equitable Cambodia (EC), and the Cambodian Center for Human Rights (CCHR) and was attended by more than 200 participants from 13 provinces including communities affected by land disputes, civil society representatives, and political parties.

Cambodia: Land in Conflict

Persistent violations of land rights are one of the most prominent human rights issues faced by Cambodians throughout the country. Land rights are relatively well protected under international and domestic law. However, this protection remains theoretical. Weak implementation of laws due to corruption, cronyism, and a lack of political will, has led to a substantial increase in conflicts between Cambodian citizens and land concessionaires. Land conflicts are also intensified by a politically-motivated judiciary, which fails to provide fair and prompt resolutions.

Over three million hectares of land – approximately 16.6% of land in Cambodia – have been granted through ELCs for industrial development. Communities living on the land are subjected to forced eviction and involuntary relocation, planned and implemented with no respect for due process of law or for basic human rights, and often with no adequate compensation.

“The land conflict is the cancer of Cambodia” Yorm Bopha, Boeng Kak Lake, Phnom Penh

Evicted communities often lose much more than their homes. Evictions violate a wide range of human rights and intensify socio-economic inequality, social conflict, and segregation. The despair of the affected population has grown so deep that protests have intensified. The demands of the protesters are often unanswered by the RGC, while the protests are regularly met with excessive use of force by the authorities and the unjustified arrests and charging of land rights activists.

The prevalence of land conflicts appeared to be decreasing prior to the 28 July 2013 National Assembly elections. However, just days after the election, incidents of land grabbing were widely reported by the media and adversely affected communities, marking a worrying increase in land-related conflicts. A farmer in Oddar Meanchey province, for example, had his property and cassava crops destroyed by military personnel, allegedly to make way for a military base development. Meanwhile, 40 villagers in Preah Vihear were threatened with eviction by their village chief as retaliation for voting for the opposition.

In the current volatile post-elections political context, affected communities gathered in Phnom Penh to discuss the state of land rights in Cambodia in the aftermath of the July 2013 National Assembly election and to work on recommendations for the future.

Land Grabbing in the Name of Development

Throughout the past decade, rising global demand for land, accompanied by a rapid economic expansion, has had disastrous effects on the security of land tenure for many of Cambodia’s poorest people. Through the allocation of ELCs, beneficiaries are given the right to lease State-owned land for a maximum of 99 years, for the purposes of industrial agricultural use. The RGC has previously claimed that ELCs are vital to economic growth, and bring numerous social and economic benefits. However, as noted by the United Nations Special Rapporteur on the situation of human rights in Cambodia, Surya P. Subedi, *“no comprehensive evidence-based report has been officially*

published about the benefits of land concessions.”

“People become poorer and poorer in the name of development,” Yang Sophorn, Andong village

Cambodia’s economic development is marred by a lack of transparency. There is no complete and accessible list of ELCs. Access to information surrounding land deals and bidding processes, land investment, review of land concessions, and the decision-making criteria continues to be elusive. Many land concessions are granted with no consultation. The lack of transparency facilitates an environment of corruption, where both the authorities and businesses ignore the human rights of affected Cambodians. It is estimated that 20% of the total land allocated through concessions is held by five senior Cambodian Peoples’ Party (CPP) Senators. Land concessions overall are poorly regulated, leading affected populations to believe that development in Cambodia is only benefiting a small part of the population.

The RGC should monitor and scrutinize the companies that are awarded ELCs to ensure that companies comply with the domestic legal framework, do not encroach on people’s land, and allocate adequate compensation to displaced persons.

Ineffective Land Titling Programs

The Khmer Rouge dissolved all private ownership. Today, millions of Cambodians still lack land titles, creating greater insecurity and vulnerability to land grabbing and forced evictions. On 14 June 2012, Cambodian Prime Minister Hun Sen

launched a new accelerated land titling campaign to be implemented by youth volunteers. The program covered areas where families live without proper legal documentation on State land granted as economic or forestry concessions. However, the program’s effectiveness has been very limited. It reportedly excludes disputed areas and indigenous collective land, excluding the most vulnerable populations of the titling program.

PhoPha, from Kampong Speu province, explained that the initial happiness of seeing the youth volunteers measure her land, quickly disappeared when the authorities intervened to give her land to companies who wanted to use the land. *“They seized our certificates record factsheet and then gave our land to the companies. So I would like to ask the government to help us to get my land back, because I have lived in the area since the Khmer Rouge”,* she said. Pha added that when her community protested the alleged land grab, the company brought in soldiers and bulldozers and demolished eight houses.

“Now, I have the title but I don’t have the land” Pi Chanra, Battambang Province, Bavel district

Pi Chanra added that in his experience, although youth volunteers came to measure his land and deliver certificates, the company continues to occupy the land.

Indigenous Land

Indigenous communities often live in resource-rich areas of great interest to developers. To date, only five indigenous communities have obtained a collective land title. This is due to a lack of political

will and an inaccessible, lengthy and very complex registration process. With no land titles, indigenous communities are more vulnerable to land grabbing. It is no coincidence that indigenous communities face such difficulties in obtaining collective land title: many live on natural resource-rich land, where there are significant interests in mining and logging.

Land concessions, land disputes and evictions threaten the existence of indigenous communities in Cambodia, affecting their traditional life in many ways. As reported by Khut Chanra, an indigenous person from Mondulkiri Province, the RGC signed a sub-decree granting 7000 hectares of land as an ELC and 3000 as a Social Land Concession (SLC) that includes the communities' spiritual forest and land where they collect and harvest food. For indigenous communities in Cambodia, land is central to their way of life and culture: in addition to being the main food source, land is used for burial sites and has spiritual meaning, such as the "spirit forest" where religious ceremonies are practiced.

Impact of the land conflict

Land conflict in Cambodia has had disastrous social and economic impacts on the population, especially on the most vulnerable groups – women, children and indigenous communities. It has also caused irreparable environmental damage.

The poor are becoming poorer and the marginalized more marginalized. Affected populations struggle to feed their families with no access to land. One of the participants explained that for them not having land means not having access to food. In addition, the right to adequate

housing is not respected, with people resettled to live in simple tents at relocation sites. Eviction and relocation also have a particular impact on women and children. As an illustration, two participants explained that it is difficult to accompany their children to school while they are demonstrating to get adequate compensation or their land back. Finally, land grabbing and greater poverty can influence people to leave Cambodia, as one participant recalled an entire village fleeing to Thailand after their land was grabbed.

An Unresponsive Government

In light of these hardships and despair, many appeal to the government to help them resolve their land conflict or to recognize their rights, but in most cases their appeals remain unanswered.

When involved in a land dispute, when their land is taken away wrongfully, and when no compensation is given to them, affected communities are left with no means to seek redress. The existing resolution mechanisms are ineffective and known to be biased, which is exacerbated by the judicial system's lack of independence.

"I vote for you to develop the country, not to grab my land" Pich Limkhuon from Borei Keila, Phnom Penh

Recommendations

The RGC should:

- Make all information on social and economic land concessions, classification of State land and protected areas available and publically accessible;
- Conduct social and environmental impact assessments before the granting of land concessions;
- Respect people's ownership and possession rights and avoid further exclusions from the RGC's land titling program;
- Accelerate the registration process for indigenous communities to receive collective land titles; and suspend the youth volunteer titling campaign of Directive 1 in areas populated by indigenous peoples, since volunteers have reportedly forced people to accept private land titles instead of collective land titles;
- Grant greater mandate to commune authorities to resolve land conflict cases, and provide local authorities with relevant training to ensure that they abide by the land and human rights standards when handling land conflict cases;
- Ensure that all relocation sites have basic services, including access to electricity, water, sanitation, public education, health and security services;
- Ensure that appropriate and adequate compensation is offered and accepted by affected communities;
- Ensure the independence of the judiciary to limit political influence;
- Organize meaningful, inclusive, and public consultation with affected communities when development projects are going to take place.

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