

# Cambodia: Land grabs and rural dispossession by government design

The land reform process in Cambodia is full of examples of injustice and human rights violations. Promises to improve the situation of the landless and land-poor citizens have remained unfulfilled. Development co-operation efforts have not changed this either.

As a post-conflict country, Cambodia has a particularly complex land legislation history. Under the Khmer Rouge Regime from 1975–1979, private land ownership was abolished and cadastral records were destroyed. During the ten-year long occupation by Vietnamese forces and several years of unrest that followed, rural areas in Cambodia were marked by large and unregulated movements of people and land possession by occupation of forestland and otherwise vacant land.

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## ■ Forest concessions with devastating consequences

Following the Paris Peace Accord of 1991, the end of major civil conflicts and the repatriation of refugees, a policy of forest concessions was introduced that had enormous social and ecological impacts, particularly in terms of increasing insecurity of land tenure and reducing forest cover. From 1993 to 2002, more than 30 forestry concession zones were established, covering about 6.5 million ha and around 70 per cent of forestland. After a decade of massive deforestation and forest degradation and mounting criticism by international donors, a moratorium on forest concessions was issued in 2002.

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*A family house knocked down by security guards of a tourism concession in Koh Kong province.*  
Photo: Andreas Neef

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## ■ The Land Law of 2001: Laying the foundation for land titling and land grabs

The Land Law of 2001 introduced new property rights categories, such as state public land (mostly forested areas) and state private land (land that can be converted into various forms of concessions). The law turned hundreds of thousands of rural people living on unregistered state public land into illegal occupants. To date, there is still no clear demarcation between state public and state private land, and there is no verifiable and enforceable procedure for assessing or contesting state claims to land in Cambodia.

Most state private land has been allocated by the government to domestic and foreign investors in the form of Economic Land Concessions (ELCs) without any public scrutiny over the last 15 years, primarily for agro-industrial plantations (see Box on page 21, above). Legally required environmental and social impact assessments and consultations with affected villagers have either not been conducted at all or have been of poor quality. Large-scale tourism development projects, such as the 3.6 billion US dollar tourism complex in a national park in Koh Kong province built by the Chinese Tianjin Union Development Group, have also triggered the forced dis-

placement of hundreds of families (see Photo). The human rights NGO ADHOC estimates that about 770,000 Cambodians are affected by land conflicts and dispossession.

Internationally operating financial institutions, U.S. and European multinational corporations, and both state-owned and private companies in neighbouring Asian countries are involved in either financing or operating ELCs. In one notorious case, two sugar companies (Koh Kong Plantation and Koh Kong Sugar Industry), jointly owned by the Thai company Khon Kaen Sugar Industry, Taiwanese Ve Wong Corporation and Cambodian Senator Ly Yong Phat, have exported sugar to one of the world's largest processors and sellers of cane sugar, Tate & Lyle, from two large ELCs that displaced hundreds of farming families. These sugar exports are facilitated by the Generalized System of Preferences (GSP) trading scheme of the European Union (EU), the so-called "Everything but Arms" policy, which has benefited Cambodia's trade with EU member states since 2001. In the resource-rich north-eastern provinces along the border with Vietnam, London-based NGO Global Witness has accused two large Vietnamese corporations, Hoang Anh Gia Lai (HAGL) and the Vietnam Rubber Group (VRG), of being responsible for the eviction of indigenous people to make way for logging and rubber concessions. Allegedly, their operations were bankrolled by the International Finance Corporation (the private lending arm of the World Bank) and Deutsche Bank. The widespread dispossession of the rural populace has contributed to an increase of rural poverty and a rapid social transformation of former land possessors into a landless and land-poor semi-proletariat that depend on selling their labour force. In several cases in Kratie province, villagers lost access to their swidden fields, pastures, water sources, village cemeteries and community forests and could only secure some of their rice fields after negotiations with the concessionaires. In Koh Kong province, coastal paddy farmers, fisherfolks and cashew-nut growers were forced into slash-and-

burn cultivation in a protected forest area after being moved 20 kilometers inland to make way for a large-scale tourism project. Meanwhile, systematic land registration – with technical and financial support from international donors – has been confined to the wet-rice areas of the central lowland plains, where conflicts over land are much less pronounced.

### ■ Fast-track land titling under Order 01

A dramatic change to land registration procedures was introduced by an ad-hoc land titling initiative under the so-called Order 01 – which started in 2012 following a moratorium on the granting of new Economic Land Concessions (ELCs) and a 'comprehensive review' of existing ones. Recognising the potential for widespread social unrest among the rural population, the Prime Minister sent more than 5,000 student volunteers to rural areas in order to measure and excise agricultural plots from selected ELCs and return them to the farming families who had originally occupied them. Order 01 has become synonymous with the

Prime Minister's 'leopard skin' policy, under which individually owned agricultural plots – like the dots in a leopard skin – are located in a wide expanse of land concessions or, less frequently, of state public or communally managed land. The implementation of Order 01 was controversial, as many contested sites were not covered by the survey and conflicts involving well-connected and powerful actors – military officials, political cronies and foreign concessionaires – were rarely resolved. Most contentious was the practice in indigenous communities, where potential beneficiaries from individual land titling were told to leave the community and give up their rights to all traditional lands, which created tensions and divisions among community members (see Box below).

### ■ The unfulfilled promises of Social Land Concessions

Relief for Cambodia's landless and land-poor citizens has long been promised through another element of the 2001 Land Law, the so-called Social Land Concessions (SLCs), which

#### Types of land concessions in Cambodia

The 2001 Land Law introduced various forms of land concessions. In principle, a land concession is a right to use State land for a clearly defined purpose set out in a legal document. **Economic Land Concessions (ELCs)** allow the beneficiaries to clear the land for agro-industrial exploitation, although in reality other uses are also common, such as clear-logging or tourism development. The maximum size allowed by the law is 10,000 hectares which can be granted for a duration of up to 99 years. **Social Land Concessions (SLCs)**, by contrast, are intended to provide agricultural and residential land for meeting the basic needs of poor families, families displaced as a result of public infrastructure development, repatriated families, families suffering from natural disasters, demobilised soldiers and families of soldiers who were disabled or died while executing their duty. A third category is **Use, Development and Exploitation (UDE) Concessions**, e.g. for mining or for providing a public facility, such as a port or airport.

#### Community land titling in rural Cambodia

Articles 23-28 of the 2001 Land Law introduced the concept of 'indigenous community property' as a form of collective ownership. However, the process of acquiring indigenous communal land titles is arduous and involves lengthy negotiations with three different ministries and their respective line agencies. Many indigenous communities in Cambodia lack the resources and the legal expertise to engage successfully in this process. By February 2016, only 11 indigenous communities (out of 166 that have filed an application) have received communal land titles, with help from international donors. The programme was largely by-passed by the fast-track individual titling that started in June 2012 under the so-called Order 01. Since then, no further donor funding has been allocated for this programme, and the community land titling process has stalled.



were formally introduced by the Cambodian government in 2003 as an instrument of 'distributive justice' (see Box on page 21, above). After initial failures, the Land Allocation for Social and Economic Development (LASED) project was instigated in July 2008 under technical, administrative and financial support from the World Bank and German Development Assistance (Deutsche Gesellschaft für Internationale Zusammenarbeit – GIZ). The project was plagued with a number of problems, such as (1) insufficient quantity and quality of land to be distributed, (2) lack of settling-in support, (3) missing health and educational infrastructure, and (4) overly long processes (of up to six years) from land identification to land distribution,

which led to an influx of opportunistic settlers and small-scale 'land grabs'. According to a recent NGO report, many families had already given up their plots in the SLC areas, leaving some of the eight sites more than half abandoned. Nevertheless, the project has been branded as an overall success by donors and project implementers who asserted that the original project objectives in terms of number of recipients, allocated land and increase of household income had been exceeded and that a viable framework for future SLC allocations has been provided. Yet, what is left out of most accounts is the fact that landlessness in rural Cambodia is primarily a result of the Cambodian government's own land policies and that over the painfully long duration of the LASED project the government had no difficulties in finding hundreds of thousands of hectares of suitable land for foreign and domestic investors.

### ■ Outlook on the future of the land sector in Cambodia

Have international donors learned any lessons from the mixed outcomes of their involvement in Cambodia's land sector? The World Bank is now preparing a second phase of the LASED project, planning to spend 25 million USD on improving conditions in the existing eight sites, in five other sites which had been set up with



*New settlers on a Social Land Concession in Kratie province.  
Photo: Andreas Neef*

Japanese development assistance and adding an entirely new site, which – according to media reports – is already being farmed by indigenous families some of whom may need to be resettled. German development agencies have become increasingly frustrated with the slow progress of land reforms in Cambodia, and GIZ recently withdrew its support of the land administration sector after nearly two decades of engagement with the Ministry of Land Management, Urban Planning and Construction (MLMUPC). Yet they may get involved in LASED's second phase, if the World Bank approves the project. The Cambodian government seems to be keen to go ahead with the further allocation of SLCs. A new minister with a reputation of a strongman who 'gets things done' was appointed to the MLMUPC in a cabinet reshuffle in April 2016. Shortly after his appointment, he established a new Depart-

ment of Social Land Concessions and set up a committee in charge of handling the high number of petitions and complaints submitted by evictees and victims of land conflicts.

Yet the Cambodian government will need to demonstrate a genuine and long-term commitment of redressing the massive injustices and human rights violations of its past land policies, if it wants to regain the

trust of the international community and its own rural constituency. A necessary first step would be to revoke all unlawful ELCs, particularly those that are larger than the 10,000 hectares permitted by the 2001 Land Law, which would free up sufficient land

resources for a serious redistributive land reform rather than simply a window-dressing exercise. On its part, the donor community needs to acknowledge that land allocation projects are not just about getting the technical and legal mechanisms right, but are fundamentally socio-political processes.

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