THE ROLE OF INGOS IN THE STRUGGLE FOR LAND SECURITY IN RATANAK KIRI, CAMBODIA

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INTRODUCTION

Ratanak Kiri province is located in northeast Cambodia on the border of Laos and Vietnam. It has a population of 150,466, composed of 250 villages with the majority of the population coming from indigenous background — 41.2 percent of which are living in poverty. Traditionally the indigenous communities of Ratanak Kiri province have depended on the forest for five key purposes: swidden (rotational) agriculture, collecting non-timber forest products, residential plots, spirit forests and burial forests. Forests are sacred within indigenous religion as it is the home of the spirits and gods. Communities have been able to sustain the natural ecosystem of the northeastern forest through their thoughtful environmental maintenance. Despite Cambodia’s turmoil history, indigenous groups of Ratanak Kiri had been able to maintain much of their culture and traditions up until recent history.

Ratanak Kiri province is one of the least densely provinces of Cambodia, with seemingly uninhabited forests right along international borders of Vietnam and Laos. This, along with its productive soil, has made it a key has been a key target for national agriculture development. Ratanak Kiri has become a hub for industrial agriculture exports with land being handed over to national and international companies at an alarming rate in the form of Economic Land Concessions (ELCs). Land loss is changing the social, political and ecological environment of Ratanak Kiri. In 2007 the indigenous communities of Cambodia had already lost 30 percent of their land which subsequently increased instances of poverty by 40-58 percent nationally. The process of land transfer from government to companies is made easier by the fact that all land ownership documents were destroyed during the Khmer Rouge period of 1975-1979.

The government has outlined in the 2001 Land Law it’s strategy of addressing indigenous land insecurity to be through Communal Land Titling — the process of registering traditional indigenous land for communal management. Individual Land Titling (ILT) across Cambodia has been successful in providing official record to Khmer people of their land ownership, however, the Communal Land Titling (CLT) of indigenous land has proven to be complex, costly and time consuming — leaving the majority of communities in Ratanak Kiri (248 out of 250) without any formal communal land ownership documents to date. NGOs, rights groups and other stakeholders have taken hold of this strategy and have been in the process of implementing it for over a decade.

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2 Rabe, Directive 01BB in Ratanak Kiri Province, Cambodia
3 Sarah Colm, Options for Land Security Among Indigenous Communities: Ratanakiri, Cambodia (Non-Timber Forest Products Project, Cambodia. 1997)
5 Rabe, Directive 01BB in Ratanak Kiri Province, Cambodia
7 Christoph Sperfeldt, Farrah Tek and Billy Chia-Lung Tai, An Examination of Policies Promoting Large-Scale Investment in Farmland in Cambodia (Cambodian Human Rights Action Committee, 2012)
This paper works to question whether or not this strategy is the best way forward, and if not, which strategy would be more effective for the protection of indigenous land by looking at the key challenges being faced by stakeholders in the struggle for indigenous land rights. Further, this paper works to identify a potential role for INGOs to further promote indigenous land security in the future as local NGOs and international organizations such as GIZ and the International Labour Organization have played the most significant roles to date.

BACKGROUND

In order to grasp land security issues in Ratanak Kiri it is important to first understand the relevant laws, procedures and processes that guide land tenure in Cambodia. The following section provides a brief description of these frameworks, including: ELCs, CLT, ILT and Directive 01.

a) Economic Land Concessions
As outlined by the Royal Government of Cambodia’s (RGC’s) 2001 Land Law, ELCs are a key development strategy for the country. A land concession is “a legal right provided by a competent authority with regard to its discretion for any natural person, legal entity or group of persons to occupy land and exercise thereon the rights set forth by law⁸”. Sub-decree #146 outlines that ELCs should be improving living standards while having minimal social and environmental impact. As per the 2001 Land Law ELCs are to be granted through a participatory process with surrounding communities while both environmental and social impact assessments are to be conducted with satisfactory compensation granted to those affected by land loss. Unfortunately, it has been observed that this process is rarely followed and community members are instead pressured to accept inadequate compensation or nothing at all⁹.

As per the provincial land department of Ratanak Kiri, there are 20 companies currently active in the province who’s concessions take up approximately 180,000 hectares of fertile land (16.7 percent of total land). This is contradictory to the number of concessions listed by Open Development Cambodia (2015) which reports 30 active companies spanning over 201,747 hectares of land (18.7 percent of total land). Complete data on ELCs in Cambodia does not yet exist and contracts are generally finalized behind closed doors without community participation as many of the transactions are illegal¹⁰.

b) Communal Land Titling
Guidelines for CLT are provided in the 2001 Land Land articles 23-28. CLTs can be granted to an indigenous group that has received legal entity status, proving their compliance to traditional indigenous practices. This process is intended to protect the traditions and good customs of the indigenous people through land tenure. In Cambodia to date eight CLTs have been granted, only two of which were in Ratanak Kiri province. Another eleven villages in Ratanak Kiri are said to be in the final stage of the process and

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⁸ Royal Government of Cambodia, The 2001 Land Law, article 48
⁹ NGO Forum, New Actions and Existing Polices: The implementation and impacts of order 01 (The NGO Forum of Cambodia, 2015)
are simply waiting on the government to register the land. In total, 70 villages in Ratanak Kiri are engaged in the CLT process through NGO facilitation (out of 250 villages total).

c) Individual Land Titling
An alternative to CLT is to register land through ILT. This consists of a simple process of land demarcation and registration. Interpreted benefits of ILT for indigenous communities, beyond the obvious speed of registration given the simplicity of the registration process, include the ability to sell the land and to use land as credit\textsuperscript{11}. Observed consequences tend to be over a loss of communal land, culture and community cohesion.

d) Directive 01, 2012
Directive 01 was a motion by Prime Minister Hun Sen in 2012 to put a moratorium on the granting of any new ELCs while reviewing existing concessions to assess their accordance with the law. This directive put 1,500 youth volunteers in motion to issue 6100,000 ILTs for 1.2 million hectares of land from June 2012 - December 2014\textsuperscript{12}. Directive 01, put into place shortly before the 2013 election, is argued by some respondents to have been an act to show the government's positive engagement in land security issues while actually clearing up more private state land for ELCs in the future.

**RESEARCH QUESTION**

This research aimed to identify the key challenges faced by indigenous communities in Ratanak Kiri, Cambodia and assess the progress of ongoing efforts to strategize future INGO participation in the struggle for land security. Stakeholder interviews remained focused on the following three topics: the relevance of Communal Land Titling, the role of women in land security, and recommendations for INGO participation.

**HYPOTHESIS**

Given the ongoing struggles and slow progress within the CLT process, it is anticipated that there will be opportunity and acceptance for an increase role of INGOs in the struggle for indigenous land rights in Ratanak Kiri. It is anticipated that this role may likely be as a national coordinator, capacity building of local government structures or through indirect interventions such as creating livelihood opportunities or increasing education, to promote long term sustainability.

**METHODOLOGY**

Research was conducted from May 11 - August 7, 2015 in Phnom Penh and Ratank Kiri, Cambodia with the support of CARE Cambodia. Research was conducted through a literature review, semi-structured interviews with key stakeholders and observation. A total of 59 stakeholders were engaged in the research process including seven government officials, five NGOs, three rights groups, 34 indigenous community members, six INGO staff, one small grant funder, one international organization and one

\textsuperscript{11} NGO Forum, New Actions and Existing Policies
\textsuperscript{12} NGO Forum, New Actions and Existing Policies
independent consultant. Of all respondents 68 percent were men while 32 percent were women. Semi-structured interview questions were developed for each stakeholder group based on their engagement in indigenous land issues. Interviews were conducted in English, Khmer or indigenous languages based on respondent needs with the support of CARE translators.

It should be noted that not all stakeholders relevant to indigenous land security were engaged in the interview process. For example, due to limited time and scope, executives from ELC companies were not contacted. This perspective is missing throughout the report and could be helpful in contextualizing information in the future.

As the subject of land rights and security within the Cambodian context is highly contentious, all respondents that took part in the research through the interview process will remain anonymous throughout the report.

RESULTS

The following section outlines some of the key barriers to indigenous land security and — specifically the CLT process — which were revealed through the literature review, stakeholder interviews and observation process. These issues were assessed as a means of reviewing the relevance of the CLT process for indigenous communities of Ratankiri despite significant obstacles to direct future interventions for INGOs.

CHALLENGES

a) Economic Land Concessions
It has been recognized across Asia that large scale agricultural developments and land grabs have resulted in increased landlessness, poverty, exclusion, human rights violations and lost livelihoods\(^\text{13}\). The overall economic impact of ELCs to the people of Cambodia was continuously questioned throughout literature and in stakeholder interviews.

The study by Buglaski and Thuon (2015) on the impact of Vietnamese company HAGL on community members showed that 90 percent of those that accepted compensation from the company were dissatisfied. Many have accepted the deals due to threat of losing the land regardless\(^\text{14}\). Seventeen indigenous villages lodged complaints against HAGL in 2014, amongst them being annihilation of sacred graveyards and two cases of sexual assault\(^\text{15}\). Other perceived negative impacts of ELCs include: decreased health of people and animals, climate change, increased work load and loss of livestock that are shot on concession land\(^\text{16}\). Work on plantations is perceived to be like slavery and therefore not of interest to the majority of indigenous communities\(^\text{17}\).

\(^{13}\) RIB Asia: Responsible and Inclusive Business, *Conflicts Over Land: A Role for Responsible and Inclusive Business* (RIB Asia, 2014)
\(^{14}\) Buglaski and Thuon, *A Human Rights Impact Assessment*
\(^{15}\) Daniel de Carteret, *Sexual abuse among claims against HAGL* (Phnom Penh Post, 2014), May 14
\(^{16}\) Buglaski and Thuon, *A Human Rights Impact Assessment*
\(^{17}\) Contradictory to other research and interviews, one provincial government department in Ratanak Kiri took significant time to clarify the belief that NGOs are misinterpreting ELCs. It was argued that while community members...
b) Land Disputes
Four respondents identified land disputes as a major challenge to land security. Land conflicts are rising not only with ELC companies but also between neighbour communities as everyone wants to hold on to as much land as possible. The CLT process comes to a halt if clear boundaries cannot be defined and mapped for approval by the land department (which is not identified until the last stage of the CLT process). Worsening the situation is the observation that human rights defenders in cases of land conflicts being criminalized.

Another provincial government department in Ratanak Kiri argued that no recent land disputes existed in the province with ELCs. They recognized that some had existed in the past but that they have been resolved now. One rights group stated in the interview process that 60 land conflicts had been registered in Ratanak Kiri since 2002 but only five of these conflicts had been resolved. Commune council officials felt they did not have the power and necessary tools (e.g. updated commune level maps) in place to adequately address land disputes.

c) Poor Coordination
Coordinating CLT efforts between communities, NGOs and government officials was a common barrier to indigenous land security found in both literature and stakeholder interviews, as said by eight respondents. Coordination efforts are complicated by the general complexity of the CLT process, distrust between critical stakeholders, unequal access to information and the number of stakeholders involved\textsuperscript{18}. It was observed that many stakeholders, especially amongst local NGOs, appear to be working in competition for funds rather than coordinated efforts. Further, there was no consensus on the role of coordinating bodies Duetsche Gesellschaft für Internationale Zusammenarbeit (GIZ) and the International Labour Organization (ILO) in the CLT process.

d) Political Will and Capacity
Through the interview process it is was clear that many stakeholders saw the willingness of government bodies to implement CLT as a barrier to the process. The government has a current goal of registering ten villages per year for CLT but they are not lined up to meet this target. Respondents see the government as responsible for making the CLT process longer and more complex and using limited funding as an excuse to take no action. Government officials were described by several respondents as being a potential beneficiary of the ELC activities, taking pay-offs from companies to develop land in Ratanak Kiri despite illegality. Higher trust can be observed between community members and NGOs rather than with government officials. It is believed by two respondents that the overall lack of motivation to implement the CLT law comes from a lack of ownership over the indigenous land laws from its inception. The national land department told one respondent frankly that the CLT component of the 2001 Land Law “was pushed on us by outsiders” and therefore they have little ownership and motivation for implementation.

e) Community Capacity

\textsuperscript{18} Subedi, Report of the Special Rapporteur
The majority of stakeholders interviewed reported low community capacity and education as a major barrier to implementing the CLT process. With a lack of education and problem solving skills comes increased struggle in improving community understanding of rights as well as increased vulnerability to deception by companies and other powerful tycoons. Minimal understanding of land rights and value has added to the speed and quantity of land loss for indigenous communities, making the CLT process almost irrelevant in some villages due to a lack of available land for titling. The capacity of indigenous women was observed to be especially low in terms literacy and communication skills, as reported by five respondents. Desk research proved to support an overall feeling amongst indigenous community members that women could take part in higher level decision making, however, they simply do not possess the skills.

f) ILT Compromising Community Unity

The interview process revealed that many community members, feeling stuck in the CLT process for years already, turned to the ILT scheme through Directive 01 as a means to quickly protect their land from further loss — especially for those communities living near ELCs\(^19\). ILTs also provide a sense of modernity in comparison to the traditional communal norms. Respondents argued that community members who opted for the ILTs were not fully aware of the repercussions. Government departments state, as per the 2001 Land Law, that individual titles can be re-registered into communal titles. However, it is clear that this is an arduous process.

Rabe’s 2013 study of the impact of ELCs in Ratanak Kiri calls for the recognition that ILTs are inappropriate for indigenous communities. Of all provinces included in a review of Directive 01 by the NGO Forum (2015), community members of Ratanak Kiri were the least likely to associate ILT with increased land security. Yet, it is generally acknowledged by all respondents that the majority of indigenous villages have a small group of community members opting for ILTs. This is causing a break in community unity\(^20\). It was observed and believed by the majority of stakeholders that communities with stronger harmonization on land management issues are better able to face boundary disputes and companies as a united body. One respondent argued that while ELC companies are powerful, they are often at a loss when community members actually fight back against land grabbing.

g) Soil Fertility and Erosion

Indigenous community members are converting fallow fields into cash crops, abandoning traditional agricultural practices and deteriorating soil quality in order to keep the land from being taken by outsiders. It has been noted that fallow fields are extremely vulnerable to land grabbing\(^21\). Cashews, mangoes, tobacco and cassava are the main cash crops produced by indigenous communities\(^22\). Crops planted continuously without fertilizer are bound to undermine soil fertility, and deplete crop yields over time\(^23\). A study by Sophea et al. (2012) in Kampong Cham showed current cassava production efforts to be unsustainable unless better attention is paid to restoring nutrient depletion.

\(^{19}\) Rabe, Directive 01BB in Ratanak Kiri Province, Cambodia
\(^{20}\) Rabe, Directive 01BB in Ratanak Kiri Province, Cambodia
\(^{21}\) Rabe, Directive 01BB in Ratanak Kiri Province, Cambodia
\(^{22}\) Sau Sisovanna, The Cambodian Development Triangle Area (BRC Research Report No. 11, 2012)
\(^{23}\) Reinhardt Howeler, Nutrient inputs and losses in cassava-based cropping systems - examples from Vietnam and Thailand (International Workshop on Nutrient Balances for Sustainable Agriculture Production and Natural Resources Management in Southeast Asia, 2001)
Despite soil issues, there is a general consensus amongst respondents that cash cropping is improving the standard of living for indigenous community members and should be continued. However, current practices are perceived as unsustainable. Threat of soil erosion and depletion is especially concerning for indigenous communities as cash cropping is observed to be the main source of income for the majority of households. As crop yields decrease so will household income. One respondent anticipates that indigenous farmer’s indebtedness to pesticides and other non-organic farming materials will continuously increase if soil erosion and degradation are not addressed as soon as possible.

Further exacerbating issues of soil fertility and erosion is the scale and speed of deforestation in Ratanak Kiri province. Cambodia has the fifth fastest rates of deforestation in the world, losing seven percent of its forest coverage from 2000 to 2012\(^{24}\). While the management of forests has not been fully integrated within the scope of this research, the links between ELCs, soil productivity and forest management are clear. Years of illegal logging in the province has had significant impact on water content in the soil and atmosphere — affecting water, food and economic security\(^{25}\).

**RESULTS**

**a) Relevance of Communal Land Titling**

Despite the above mentioned barriers which hinder the implementation of the CLT process, almost all respondent interviewed overwhelmingly believed that CLT proved to be the best solution available for indigenous land security (with two respondents recognizing that significant land loss has made ILT more relevant in some villages). Provincial and national government officials also agreed with CLT, seeing it as a law they are obligated to implement, but were more adamant to emphasize that it is the right of the communities to choose between CLT and ILT. Some respondents eluded to the fact that CLT may no longer be appropriate in another five to ten years, yet still saw it as a necessary first step in protecting land security today. As stipulated by the 2001 Land Law, CLT is the method by which all stakeholders are held accountable in terms of indigenous land security. Stakeholders were observed to be questioning the efficiency of the CLT process and searching for ways to improve it rather than searching for alternatives to the system. Given this working environment, it is recommended for INGOs to support implementation of the CLT process through any future efforts to improve indigenous land security given its present relevance.

**b) Role of Women**

Marginalized for their ethnicity, gender and socio-economic status, indigenous women of Ratanak Kiri are becoming even more vulnerable as land grabs jeopardize their livelihoods, food security and traditions. Those that resist land grabs are often subject to threats and violence\(^{26}\). Indigenous women had traditionally played a major role in agriculture in Ratanak Kiri, taking responsibility for seed storage and management\(^{27}\).

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\(^{25}\) Ratha, *Villagers Fear Loss of Forest*


\(^{27}\) Muoy and Man, *Farmer's Participation in Agriculture Experimentation. Balancing the Change: Experiences in natural resource management decentralization in Ratanakiri, Cambodia* (CBNRM, 2005)
This role is being lost as fields are being converted into cash crops and men are taking over seed management.

When asked about the role of indigenous women in promoting land security, no respondents had any clear ideas on how women could be empowered through land rights activities beyond that of their male counterparts. One organization with experience in gender-sensitive land rights projects saw the obligatory integration of women in activities as quality reducing due to women’s low educational levels. It was believed by the majority that land issues are dealt with by men and women alike in their villages, with one respondent seeing women as stronger in boundary demarcation and men stronger in coordination and communication. Women’s ideas are felt to be represented in advocacy efforts despite the fact that women are not often present in protesting.

RECOMMENDATIONS

Given the above the situation it is pertinent that INGOS begin to mainstream land security issues into their programming in Ratanak Kiri province. Whether working directly to address the systemic issues exacerbating land insecurity or working indirectly to empower indigenous community members to better face land issues in the future, any work in Ratanak Kiri should be mindful of the complex dynamics at play surrounding land tenure. The following section outlines potential intervention areas for INGOS which are broken down into two sectors: direct intervention and indirect intervention.

a) DIRECT INTERVENTION

As a result of this research process, the three project activities believed to be most efficient and impactful in the struggle for indigenous land security are:

1. Improve national coordination efforts on CLT
2. Strengthen community harmonization
3. Develop community agricultural productivity

1. Improve National Coordination Efforts on CLT
It is observed that significant expertise exists already on the technical implementation of the CLT process. Six NGOs are already active in Ratanak Kiri on this process and government funding is not enough to keep up with current efforts. Rather than mimicking the work of these NGOs — as recommended by the majority of stakeholders interviewed — it is recommended that an INGO plays a co-facilitator role between local NGOs, the ILO and the Royal Government of Cambodia.

For long term sustainability of CLT coordination and facilitation efforts it is recommended that an INGO can technically support and empower the Department of Ethnic Minority Development (DEMD) to take over the official coordination role. The DEMD is a sub-department within the Ministry of Rural Development — which is already heavily involved in the CLT process. Given their expertise on indigenous affairs and ownership over indigenous development issues, they have been identified through the research as the government department with the most potential to take ownership over CLT

2. Strengthen Community Harmonization
A key problem faced by stakeholders in the CLT process is that community members are frequently changing their mind and opting for the ILT regardless of the stage of CLT
progress. It is expected that the CLT process can be more efficient if INGOs can work with communities not yet engaged to strategically plan their long term community land needs. This would consist of community vision planning and follow up visits which allow community members to personally assess what land registration options best suit their needs. Additionally, time can be taken to clarify how to best engage women within the land security process. If communities have worked together through this process and are all in agreement it will be easier for technical organizations to come in and begin land demarcation without further conflict. Engagement in community harmonization activities should be done at the village, commune and provincial levels to build a strong and active voice amongst all those affected by land loss in the province.

3. Developing Community Agriculture Productivity
While issues of soil fertility and erosion are increasing no organizations appear to be addressing it in Ratanak Kiri. Engaging community members in capacity building on this topic can work to increase profits of cash cropping in the long run while avoiding the anticipated debt cycles that come from high pesticide dependence. It is observed that long term planning for agricultural practices is minimal. By engaging community members in strategic planning for agricultural production, soil fertility and erosion can be further minimized while increasing long term profits and food security from the land. While not actually working to decrease community vulnerability to land loss, soil fertility and erosion have the potential to cause long term food security issues for indigenous communities. Farming mechanisms must be adapted to suit current land quantities for sustainability and to meet short term needs. This activity will work to help communities to better manage the land that they have.

b) INDIRECT INTERVENTION

2. Education
A key barrier to land security is low community education and capacity. Improved literacy and critical thinking skills can help to decrease future land loss sustainably while improving the ability of indigenous community members to engage in the complex CLT process.

2. Alternative Livelihoods Opportunities
A lack of livelihood opportunities was also believed by many stakeholders to be a source of widespread individual land sales. It is anticipated that improved livelihood opportunities and financial security will significantly reduce the amount of land lost in this way. Women can especially be empowered through alternative livelihood opportunities.

3. Rotational Community Savings Groups
It is observed that some cases of land loss could be prevented if access to credit was readily available, decreasing the need for individual land sales for fast cash. INGOs can expand savings groups opportunities to improve access to emergency finances for indigenous communities.

CONCLUSION
The struggle for land security in Ratanak Kiri province, and all across Cambodia, has been ongoing for decades. Significant efforts have been taken yet minimal progress has
been observed to date. Despite donor or government fatigue in this area of interest, great hope remains on the improvement of indigenous land security in the years to come. With many organizations becoming experts in this field, community members capacity constantly improving and strong government leaders coming into the relevant government departments, much opportunity for progress exists today. INGOs can work within this framework to build on progress, move forward working from the lessons learned of over ten years of CLT implementation and build upon improving community capacities to help the indigenous population of Ratanak Kiri to finally realize their right to land.

Development efforts for Ratanak Kiri’s indigenous community members are likely to be unsustainable if not working towards future land security. Many community members have already lost too much land. Communities must begin to adapt to the changing environment they live while ensuring that no more is lost and resolving land conflicts to return indigenous communal land to the rightful owners. INGOs must work within this framework to bring the highest standard of living to the indigenous committees of Ratanak Kiri — fighting poverty, inequality and gender injustice in the process.

REFERENCES


