

## Citizens' Action against Forceful Land Acquisition in Cambodia

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### Significance of Land in the Lives of People in Cambodia

Land is the spiritual base of the Cambodian rural population. Any form of misfortune, disease or death is looked upon as a result of some ill deed performed which is detrimental to the land. Besides this the forests provide an important source of livelihood. With the land concessions in place, the people are often stopped from accessing these forests to collect non timber forest produces. At times, the compensation provided by private companies is not in proportion to the loss, or sometimes the land is not fertile and has limited access to a source of water. What has been shared (during interviews) and can be found in numerous studies/reports is the use of force and intimidation by companies taking control of the land. Company officials are often accompanied by armed guards and the villagers are just told that henceforth the land belongs to the company with no discussion or regard for their rights.

### Why Ratanakiri?

In Cambodia as in many other countries land is an extremely important resource and valued for its rootedness. Today people in rural and urban Cambodia are being systematically alienated from their lands, homes and livelihood. This change is taking place because of demographic and economic pressures but the people are also being dispossessed from their lands by those with political power and money. Cambodia has approximately 10.7 million hectares of tropical forests of various types, which are fast falling victim to chainsaws and bulldozers. It has numerous streams, lakes, wetlands and rivers with a large variety of fishes and other aquatic lives. In Cambodia like in many other developing countries development is becoming increasingly synonymous with private investment. As in many countries in Asia, the dominant development model prioritises integration with regional and global markets, and rapid economic growth regardless of the ecological and social consequences.<sup>2</sup>

Ratanakiri Province



This case study focuses on the affected local communities in Ratanakiri Province where locals have not been consulted and have received little or no compensation for the loss of their land.<sup>3</sup> Ratanakiri was selected as the study area as it falls under the category of most affected areas. The other most affected provinces are Kratie, Stung Treng, Kompong Speu, and Kompong Cham. The north-eastern provinces of Ratanakiri and Mondulakiri are predominantly populated by indigenous people, and there are also

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<sup>2</sup> World Rainforest Movement, <http://www.wrm.org.uy/index.html>

<sup>3</sup> During the 1960s, especially in the north east of Cambodia, many highlanders were evicted from their traditional lands to make way for rubber plantations. The plantations, Prince Norodom Sihanouk's assimilation policies in the north east and the bombing by the US Air Force meant also that the north east was prime recruiting ground during the first years of the Pol Pot's Khmer Rouge.

significant indigenous populations in Kratie and Stung Treng Provinces. The communities in these areas have come under pressure from land alienation through 'land grabbing', and illegal or coercive land sales. This dramatic land grabbing by national and international business corporations has triggered citizens' movements demanding their rights. In most cases these movements have received support from institutionalised CSOs providing professional and legal expertise when required. Encroachment on agricultural and grazing land, and the resulting loss of livelihoods, is the most commonly-voiced concern by the communities.

The CSOs working in Ratanakiri and other provinces of Cambodia have increased their activities within communities, from awareness building to providing adequate legal help, as demanded by the villagers approaching them for guidance and support. Quite often the stories revealed that the NGOs provide evictees with emergency food and other relief that the government has declined to do.

### **Resistance at the Community Level/ Observations from the Field**

The three case studies below are a reflection of the stories of resistance at the community level in Cambodia. These stories cannot be boxed into types instead through each story runs a thread of common themes, generating insight into how communities negotiate spaces. The community/ village population react in unique yet similar ways to land grab within their communities.

*Mr. Swen Waio, Kung Batang Village, Lumpank District, Ratanakiri Province* (a former police officer, now works on his agricultural land) The deforestation that started 2005 onwards gave rise to the confrontation between the villagers and the private company which took over the forests.. Our conversations revealed that he wanted to take legal recourse to help his community. He was selected through consensus by the village people as they regarded him as knowledgeable and someone they trusted. The respondent shared that the companies have tried to bribe him into submission but he has refused to give in. The problem arose as the people of Batang (Tampowan ethnic group) were pushed out of their land during the Pol Pot regime. A fact shared in the following pages. Now the community was trying to get back this land, which a neighbouring village was also laying claim to. In the interim period the land was sold to a company by the other village. They approached the district and provincial officials who deferred taking any action till the elections and post elections the Commune Council did not act upon it.<sup>4</sup> The village leader was accepting bribes and working for the company ignoring the concerns of the community. The respondent shared that they received no cooperation from the Commune Council and sadly the Council elections became embroiled in partisan politics. The apathy shown by the Council<sup>5</sup> was identified as one of the biggest challenges faced by the community. "*Council*

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<sup>4</sup> Cambodia's decentralisation process commenced in 2001 with the enactment of laws on commune administration, management and elections. With the commune council elections in February 2002, Cambodia took a bold step towards deepening democracy; 1,621 councils were elected, resulting in 11,261 councilors taking office and assuming responsibilities for local governance and local development. Commune is defined as a legal entity, and a system of local governance. [http://www.pactcambodia.org/Programs/Program\\_LAAR.html](http://www.pactcambodia.org/Programs/Program_LAAR.html)

<sup>5</sup> Joakim Ojendal and Mona Lilja (ed) 2006, *Beyond Democracy in Cambodia*, pg 192. Historically, the communes have not delivered any public service. From the early twentieth century, they dealt mainly with policing and security issues, and after the Khmer Rouge regime the pre-occupation with security arrangements continued, along with population statistics, issuing of birth, death, marriage certificates, and the recruitment of local defence militia. But change has come about over time to improving relations between the population and authorities and making people participate in the development process.

*threatens people and stops them from fighting for their land.*<sup>6</sup> In a post conflict society it is important for the local authorities to be transparent and fair in their dealings to win back the trust of the community, to take forward the process of post conflict reconstruction.

It was shared that the change in agricultural techniques had led to a decrease in output. Similarly, the availability of meat for consumption has also been affected as rivers and forests are now under the control of companies. As a result the people have to go buy the same or look for more forested land as their access to rubber/ resin etc. has stopped. Land grabbing<sup>7</sup> has led to a lack of access to forest products and animals etc. Villagers have migrated to other provinces in search of employment opportunities. The companies usually do not wish to employ the locals as they rely heavily on technology for their work or (in Batang they were not offered jobs) people are brought from outside to work on the land. There was widespread misuse of the judiciary, terming them and any form of protest illegal. As a member of the community Mr. Swen Waio stated that he was happy to work with NGOs as long as they did not create trouble in the village.

Travelling to some of the indigenous villages during the rains and meeting with community members gave us a first-hand experience of the conditions of the road, making travel in monsoons nothing short of a risky activity. *Sakmotr Leu, Village, Seda Commune, Lumphat District in Ratanakiri Province* was our destination, where we met with the deputy village head who was sitting outside his home with some other villagers. (They have been living on this land since Franco Colonial times). In Sakmotr Leu there were two ethnic groups Tampon and Lao (with 2-3 families.) The village has a primary school (1-5 Std) after which children go to the province to pursue higher education, this year only one girl had gone to study in the province and was staying in a hostel. The hospital is in the commune at a distance of three kilometres from this village, the village has a health volunteer provided by an NGO. There were hand pumps in the village, which had been provided by NGOs.



Village burial grounds

One of the primary issues of concern identified was land acquisition by companies. They have direct interface with the government during meetings at the provincial, state and commune level and the Commune Council meets once a month. This village has already had three confrontations in the past; the trigger for the latest protest was in 2011. For the last one month (post writing the letter) the company had stopped work. We were also told that the people had good relations with other villages and supported each other during the protests.

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<sup>6</sup> Personal interviews with Mr. Swen Waio

<sup>7</sup> In Cambodia the most blatant case of land alienation today is taking place through land grabbing and illegal transactions. Instances have been recorded across provinces and Ratanakiri falls in one such worst affected province, with more than half of the country's indigenous population.

When the first time the company tried to take over the land, the locals resisted and around hundred people came forward to stop the company. This included the women and youth of the village. The company sued the villagers (no individual in particular) as it was thought that this would act as a deterrent in the future. People from the village went and spoke with the company's representatives asking them to stop; as a result the company stopped work for a while, but resumed operations later. This took place in December 2011 and the locals were completely unaware of the land acquisition that was underway. Five people from the commune and the police met with the company officials and they presented them with an approval letter. The environmental Department of the province had identified the land without any consultation with the villages affected and the families whose land was being occupied.

As mentioned earlier, the companies had been wanting to take over the "sacred mountains" since 2002; this is significant as forests and burial grounds are considered to be an essential aspect of the indigenous culture and agricultural/livelihood systems in the region. The reduced land holding has led to a change in the agriculture patterns. In the past they grew rice, but now (since 2000) they have started growing cashew (this is being done just by observing neighbouring villagers, with no technical support.)



Visit to Ou Ya Dav District,  
Village Kong Yu, Pate Commune

Over the years around 40 families moved to live closer to the road as there was not enough space in the village. Currently the village comprises of 180 households with a population of 1000 families.

Families still continue to go to the "mountain" to collect forest produce. Encroachment has led to a loss of access to forests and non-timber forest products. The village has a meeting hall and is receiving support from numerous NGOs, ISCO (Indigenous Community Support Organisation), AMA<sup>8</sup>, ADHOC – which largely make them aware about the Land Law, and the process of writing a complaint application.<sup>9</sup>

We met with a man a native of the village, who identified himself as an activist (working with an organisation on a three year long project, agriculture, and eco related.) The village comprises of 57 households. Since 2004 they have been adversely affected by land grabbing and instances of deforestation. In the past they had practiced shifting agriculture, but this was no longer in practice and the crops being produced currently were not good. The practice of monoculture agriculture at the cost of rice cultivation and slash and burn has led to the direct displacement of the communities from their land holdings, leaving the farmers impoverished.<sup>10</sup> This village has been in direct conflict with timber companies since 2006. (The company is owned by influential people connected with government officials in Cambodia.) In 2004 the commune leader asked the villagers to "sell land" (a story repeated in different parts of the country) as it belonged to the country or they would anyway take it.<sup>11</sup> This is

<sup>8</sup> Armenian Marketing Association NGO

<sup>9</sup> ADHOC - Cambodian Human Rights and Development

<sup>10</sup> <http://www.timberwatch.org/index.php?id=99>

<sup>11</sup> The Rights of Indigenous Peoples in Cambodia, IPNN), NGO Forum on Cambodia, page-12, Feb 2010.

similar to the case documented of Busra commune where community members reported being forced to “sell” their land to the company (rubber plantation). They sold 50 hectares, but the timber company occupied 500 hectares. It was also shared that the company would not hire the villagers as they were not qualified enough for the jobs. In Kong Yu families received 400 USD for their land and unmarried men and women an additional 50 USD and this was accepted as a ‘gift’ given along with a trouser. The commune leader supported the community, but since he belonged to the opposition party he could not do much. The community was unhappy with the village leader, who was to prepare a five year plan for the village, but that has yet to happen. Indigenous people in this case and others report that they are frequently told by government officials that the land under dispute is State land (even their agricultural land), that they have no rights to it, and they have two options – settle now, or risk losing it in the future without any compensation, a claim documented by the Indigenous People NGO Network (IPNN). With regard to the involvement of NGOs in the village he felt it was a good thing as they provided legal aid to the villagers.

## **Stakeholders**

There are numerous stakeholders directly or indirectly involved in the appropriation of valuable land. In some cases conflicts have arisen between neighbouring villages due to the displacement caused during the reign of the Khmer Rouge Regime, powerful government officials (national and provincial level), military, foreign companies, and business groups. When listing down stakeholders local communities, civil society organisations and international donor agencies (European Union, World Bank & UN) must be included. The government is assisting big business houses with foreign investment to buy land at minimal cost from poor families dependent on the land for their homes and livelihood. In some cases the villagers were not even aware of their rights and details of the document. The land given to the companies is at variance with the land finally occupied by these companies. The companies often take more land than the legal limit and in some cases the loopholes in the legal provisions have been exploited to benefit companies, with a complete disregard for Cambodian legislation (particularly the 2001 Land Law). Cases of human rights abuse and malicious arrests and threats to those protesting are rampant across the country. Military personnel are also heavily involved in grabbing land, sometimes for themselves and sometimes on behalf of state officials, private companies and other powerful interests. This has also led to instances of civilian deaths.<sup>12</sup> The international stakeholders are also receiving a lot of flak from civil society; campaigners have accused the World Bank of facilitating and legitimising land grabbing that directly harms the local populace. Civil society members have asked for a more transparent and rights based approach applicable to development based interventions.<sup>13</sup> They have asked for inclusion of a human rights framework and proper implementation of existing national laws designed to protect the land rights of the locals. Some of the prominent civil society organisations playing a significant role are ADHOC, NGO Forum on Cambodia, Cambodian League for the Promotion and Defense of Human Rights, Cambodian Human Rights Action Committee, Highlanders Association, 3S Rivers Protection Network. Some of these organisations were interviewed for the study.

## **The Phenomenon of Land Grabbing!**

Today, Cambodia is still struggling to recover from the consequences of the Khmer Rouge, and the years

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<sup>12</sup> A LICADHO Briefing Paper November 2005

<sup>13</sup> New claims of rights abuses in World Bank-funded 'land grabs', 3 July, 2012  
<http://www.brettonwoodsproject.org/art-570786>

of civil war that preceded and followed it. Poverty remains a massive problem with over 36 per cent of people living below the official poverty line. The number of people dying from curable and preventable diseases is very high, largely because health care is limited and access to appropriate medicines is inadequate. In education, at each successive level the student dropout rate grows increasingly large. As a result, a quarter of the population is illiterate.<sup>14</sup> Internationally, Cambodia is known for the brutal Khmer Rouge Regime of 1975-79, that resulted in the deaths of at least 1.7 million people. Things look better now with relative peace in the nation and a maturing civil society raising people's voices.<sup>15</sup> However, even though the nation is moving towards building a democracy; concerns are being raised about the precarious nature of human rights and the burning issue of land grabbing. The global rush for land in developing countries has made the poor poorer in these countries. This land grabbing is taking place where the original users or owners of the land are poor smallholder farmers or people using communal land.

This study looks at such instances of grabbing of agricultural land and forests taking place in rural Cambodia. The sold or leased land is mainly used for producing cash crops, food or bio-fuel. The promotion of cashew and other cash crops like coffee as valuable upland crops has been proven to exacerbate short-term deforestation in the Cambodian uplands as local villagers and immigrants from Vietnam and Lao PDR scramble to clear land for the cash crops. Dependence on cash cropping has shown to intensify debt and landlessness of the rural poor (*The Agricultural Sector in Cambodia: Trends, Processes and Disparities. Jan-Peter Mund*). Large scale monoculture is further affecting the crop yield. The land grabbers are mainly international corporations, businesses and institutions, but national investors are also involved, often supported by international actors in the form of investment, loans or trade agreements. In this study land grabbing is defined as land acquisitions or concessions with a complete disregard for human rights, no prior or informed consent of affected land-users, no conduct of impact assessment in the region, non-transparency of contracts and a largely non-participatory approach with regard to the communities/ families holding the land and the companies/ government occupying the land. Within Cambodia there is concern that the European Union's preferential trade agreement "Everything but Arms (EBA)", is fuelling the alarming rise of land grabbing. Despite the EBA's objective to support development in the least developed countries, the agreement does make it more profitable for Cambodia's elite to grab land from farmers with small holdings.

Land ownership in Cambodia has historically been tied to land use rather than formal title. Land was acquired through cultivation (although it theoretically belonged to the country's rulers). As recently as the 1960s, population density in much of rural Cambodia was low, allowing families to expand the land area they cultivated as they grew, clearing the country's extensive forests without significant ecological impacts. Land was not traded. Attempts by French colonists (1800s-1930) and the post-colonial government (1953-1975) to introduce formal private ownership were partially successful in the rice growing plains, but unsuccessful in upland and forest areas.<sup>16</sup> However, even where settled agriculture

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<sup>14</sup> The Culture of Impunity and Violence Must Stop, May 30,2012  
<http://www.licadhocambodia.org/pressrelease.php?perm=282> <http://www.licadho-cambodia.org/cambodia.php>  
(Cambodian League For The Promotion And Defence of Human Rights)

<sup>15</sup> The Culture of Impunity and Violence Must Stop, May 30,2012  
<http://www.licadhocambodia.org/pressrelease.php?perm=282>

<sup>16</sup> This is a situation also prevalent in other post-colonial states, where land transfer regulation and developmental programmes have led to land and social alienation instead of leading to socio-economic development of the population.

was the norm, the notion of land as private property contrasted with traditional ownership practices.

### **Policies towards land and land acquisition**

If we trace Cambodia's land issue it is not a new problem and has been in existence since the Khmer Rouge Regime (1975 – 79), which banned private property and introduced large scale forced evacuations, relocation of its population and destroyed land titles. Landlessness left the population vulnerable to poverty. Civil war in the 1960s and 70s caused thousands to abandon their lands and seek refuge in Phnom Penh. The Khmer Rouge takeover moved most of the population to rural agricultural production camps, uprooted communities from their traditional lands, expropriated all property, destroyed most land records and collectivised all the lands. Many people fled to refugee camps or sought asylum overseas.

“(..) the economic concessions are not meeting the promise that formed their rationale, namely to stimulate private enterprise, contribute to state revenue, reduce rural poverty, generate jobs for local people.” Peter Leuprecht, Land concessions for economic purposes in Cambodia: A human rights perspective. November 2004, p5

As resettlement started in the 1980s and 1990s, land was occupied and documents issued by a range of different officials. The Constitution adopted in 1993 provided for legal private and public State ownership of land, and the Land Law was introduced in 1992, which allowed people to apply for land certificates to confirm occupancy and use rights. Formal land certificates were received by only a few applicants. In many of the cases the land was seized by socially and economically powerful members of the community. So the best plot of land was seized by those already economically sound and the poorer sections of the population had to settle for whatever was left. In the current scenario with a rising population and increasing land prices, land grabbing has emerged as a serious problem in Cambodia. Cambodia had to start from scratch to develop and implement a legal framework for land and natural resource management. Rural land grabbing has taken many forms, including appropriation of land for development projects such as roads. However, the most extensive land grabbing is due to economic land concessions (ELCs). What we are witnessing today is story after story of forced eviction and a total disregard of human rights by people well connected with the political elite. The UN Special Rapporteur on Adequate Housing visited Cambodia in July 2005 and described the situation as “a frenzy” by the rich and powerful to acquire land. It is important to note that the loss of land for the people is not only a loss of residence and livelihood, but also of spiritual life. It has led to the uprooting of a population's social fabric and loss of an ancestral way of life.

- Although Cambodia shows an economic growth of approximately five per cent per year, this increase in the national richness is concentrated in the hands of a few individuals to the detriment of the majority of the population.
- The territory of Cambodia comprises 6.5 million hectares that are considered arable and up to 2.7 million considered as reasonably productive. However, between 1993 and 1999, the Cambodian Government conceded more than a third of the most productive territories for purposes of commercial activities such as forestry, agriculture, mining, tourism and fishing, to mainly foreign companies.

## Weak implementation of the law

Economic land concessions in Cambodia normally involve very large tracts of land and are similar to long leases; they are usually given for 70 years with a right of extension. The Land Law provided a general framework for economic land concessions. This improved framework is being abused leading to serious social, economic and cultural consequences; leading to the dispossession and impoverishment of the local population. A process of the government issuing deeds to all land in Cambodia, including deeds in the name of the government for land occupied by concessions or eligible for concessions, and deeds in the names of ordinary people for lands they occupied prior to the passage of the Land Law. It is legally unclear what will happen when issuing a deed for an area already committed to a concession if the area includes poor Cambodians who occupied it prior to the passage of the Land Law. In the rare cases where a dispute between the concessionaires and local populations is handled according to legal procedure, in the past the peasants usually did not have any representatives and were given no legal, but now a change can be seen and citizens are coming forward to raise their voices and at a certain juncture CSOs step in by providing the much needed support through legal aid, and their expertise on rights. Compensation is sometimes offered by the private companies (rice, gifts, and materials to rebuild their house elsewhere) but many individuals interviewed during the course of the study testified that they either did not receive anything or only a negligible portion of what had been promised to them. Sometimes, the peasants are given other land in compensation, but too often this land is infertile, and does not have a source of water close by. Moreover, these lands are often far away from services such as schools or hospitals.

Expropriation thus encourages the peasants to migrate towards Phnom Penh where the number of poor coming from the countryside increases continually and drastically. Also the damage to the environment cannot be left unaddressed. In the absence of timely and thorough impact assessments great damage has been brought about leading to flooding, landslides, poor crop yield and the release of toxins and chemicals into Tonle Sap (a source of fresh water and fish) and the spread of diseases due to contamination.

The laws in place are being exploited in the name of development and huge sections of the population have been left out of the developmental process. The Land Law (2001) provides for collective land titles for indigenous land. It provides indigenous ethnic minorities with a right to register their traditional residential and agricultural lands under communal titles. This is a positive inclusion and the Cambodian Government should be applauded for the same.<sup>17</sup> The Sub-Decree on Economic Land Concessions, adopted in December 2005, is

an important advance in establishing the legal and regulatory framework for the grant and management of concessions, including requirements to conduct public consultations and environmental and social

### **Cambodian Land Law 2001**

There are two broad categories of land

1. "State Property", which includes "State Public Property", such as forests which are supposed to be protected from commercial exploitation, and "State Private Property" designated for economic and social development (including redistribution for social purposes)

2. "Private Property", which includes land that can be owned by individuals and communities or which is legally possessed by individuals under the Land Law of 2001.

Source: APRODEV, December 2011

<sup>17</sup> Cambodia is administratively divided into villages, communes, districts, provinces and the national level

impact assessments. However, additional legislation (sub-decree) to give titles for indigenous land was not adopted until 2009. It is considered by many to be overly bureaucratic, inconsistent with the rights provided in the Land Law, and contains clauses, which undermine indigenous rights to collective land recognised under international norms.

While unlawful Social Land Concessions have come to the fore as a means of grabbing prime real estate in Phnom Penh, the same has been done in the countryside through the creation of ELCs – the granting of state land to private companies for agro-industrial exploitation. These concessions have failed to bring about change in the lives of the people. Introduced in 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 purpose.”<sup>18</sup> This was supposed to be a weapon for the poor and landless, but the process is not being followed and there is a complete disregard for planning and consultation.

Land concessions must be based on a specific legal document, issued by the competent authority prior to the occupation of the land, and must be registered with the Ministry of Land Management, Urban Planning and Construction. Economic land concessions can only be granted over state private land, for a maximum duration of 99 years. These concessions cannot establish ownership rights over land. However, apart from the right to alienate land, concessionaires are vested with all other rights associated with ownership during the term of the contract.<sup>19</sup> Under ELC provisions “Land concessions areas shall not be more than 10,000 hectares” Article 59 Land Law 2001. Within months of this decree being announced concession over 10,000 hectares were made and continue to be given. In addition to these illegal ELCs, eight other concessions larger than 10,000 hectares were already in existence at the time the Land Law was passed. The 2005 sub-decree on ELCs set out the procedures whereby such concessions would be reviewed and reduced to the legal limit. However, a report three years later by the NGO Forum on Cambodia found that only two of these concessions had actually been reduced, while three owners of oversized ELCs were simply refusing to renegotiate their agreements.<sup>20</sup> Another common practice is to create oversized ELCs by simply placing two or more smaller concessions next to each other. This is being done even though concessions of over 10,000 hectares provided to one person or two different companies owned by the same person are prohibited under the law. In addition to this there is no transparency regarding the awarding of ELC contracts by the government. As per the law such records should be available in the public domain. Cambodians have been dispossessed by this land grabbing, starting with more than 360,000 refugees from the Khmer Rouge whose land was seized by Hun Sen for the government in the 1990s.

### **Citizen Action: Innovative Forms of Protest and Supportive Actions by CSOs**

The visit to Banlung Town, Ratanakiri Province provided us with an opportunity to speak with not only

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<sup>18</sup> Land Grabbing and Poverty in Cambodia: The Myth of Development, Cambodian League For The Promotion And Defence of Human Rights (A LICADHO Report), May 2009. Article 2, Sub Decree on Social Land Concessions (2003) it established new inter-ministerial/ departmental bodies that would approve and manage the concessions – rather than leaving this to executive fiat. It required detailed information about land ownership, intended usage and allocation criteria to be submitted before approval, as well as stipulating how these plans be publicized.

<sup>19</sup> Economic land concessions in Cambodia A Human Rights Perspective, UN Cambodia Office of the High Commissioner for Human Rights, June 2007

<sup>20</sup> A LICADHO Report, May 2009.

community leaders directly affected by land grabbing in the region, but also CSOs working with communities. Interviews with these organisations and community members revealed that they are a part of the larger civil society movement unfolding in Cambodia.

- During one such confrontation between the villagers and the company, the villagers attacked company officials and wrote to the governor asking him to clarify which part of the land belonged to the village and what had been given to the company.<sup>21</sup>
- While visiting one indigenous village it was shared that the village received support from numerous NGOs like ISCO, Ama, ADHOC – largely making them aware about the Land Law, and the process of writing a complaint. He shared that the involvement of NGOs was a good phenomenon as it helped build understanding of the law/ legal aspects of land rights. They have applied for community status but the process was stalled as a result of the company's entry.
- In Kong Yu Village the villagers approached the courts in 2007 with the help of a NGO named CLEC (Community Legal Education Centre.) The company has suspended work for the time being and is yet to hear from the courts and once they do they will approach CLEC.

The representative of ADHOC said that the powerful/influential people in society were twisting the law and taking up land while the local population was left with limited land holdings. The detailed process for land registration was further hindering the process as this requires follow up with multiple ministries (three) often leading to bureaucratic delays. First and foremost the application goes to the Ministry of Rural Development, which checks the authenticity of the claim (i.e. of the ethnic group). After their approval a community is elected and an application sent to the Ministry of Interiors and then the Ministry of Land and Construction, a time consuming process as shared by the respondent. The respondent also shared that people of influence were taking land from the minority groups often through the use of force and intimidation.

ADHOC works towards providing legal assistance on land and housing rights to ethnic groups.<sup>22</sup> The organisation works with multiple stakeholders i.e. the ethnic minority groups, landlords and the local government involving genuine citizens' participation in the process. The organisation started its work among ethnic communities in 1998 increasing awareness about their rights; laws etc. and has had a long association with community members. Our discussions revealed that *"Land is being bought from landholders and if they refuse to do so they are threatened into selling the land."* This is being carried out with a complete disregard for essential pre-conditions to the grant of concessions, such as the registration of land as State Private Land and conduct of public consultations and environmental and social impact assessments. The International Covenant on Civil and Political Rights, to which Cambodia is a party, upholds the rights of minorities and indigenous peoples to enjoy their own culture, and profess and practice their own religion, and use their own language. The Human Rights Committee has commented that these cultural rights include the enjoyment of ways of life that are linked to land and the use of land and natural resources. It was also communicated that before ADHOC's intervention in the region, at times illiterate villagers were made to sign on papers without them being given adequate

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<sup>21</sup> Personal interview with a community member

<sup>22</sup> ADHOC: a Cambodian human rights NGO with a strong presence in communities affected by land grabbing. It works with local authorities where possible to try to advocate for economic land concessions to be implemented in accordance with the law and with genuine citizens' participation in the process.

information about the document.

The CSO has increased its involvement by going beyond awareness raising and working directly with the people. The CSOs are approached by local people when faced with a problem. They do not charge the people a fee (unlike the government departments which charges a fee.) It was communicated that this change was something that the government was not happy about. In the past the organisation was just approached with complaints by the people, but since 2005 they have built networks among local people within the community (in order to carry out the work more effectively). So currently the area of coverage which was Ratanakiri Province has spread to around 20 communities covering more than ten thousand people. The leader of the community is selected by the people (consensus candidate). After which the elected leaders undergo a training (9 days a year) course on awareness generation with a focus on human rights and law, good governance, conflict resolution and advocacy related themes. These community leaders further lobby with the government. ADHOC provides support to community members during protests against private companies. In a significant shift in some instances government officials have started informing the local leaders within the community about all developmental related issues. The district level activists help mobilise people within each community asking them to choose a committed member to be part of the network (as its leader). Women are equal participants in these movements and the respondent shared a case wherein in one commune when the men were arrested the women held a demonstration demanding their release. Instances were shared where communities were in direct confrontation with some influential people as they were part of the land grab for timber.

The respondent sounded a little disappointed as in the past they had conducted workshops for community members/people and government officials, presenting recommendations which were never implemented. He shared an incident of the people's protest (citizens' movement) in 2007, where 150 people came together to protest on the streets and spoke with the Provincial Governor in Ratanakiri. The government tried to stop the protest by issuing an order, but the people went ahead and many activists were imprisoned. *The respondent*

*It was communicated to us that as an act of protest there have been instances where individuals from the village have gone ahead and planted crops at night in the land acquired by the timber merchants. ADHOC has been active in this village and it was shared that they were happy to work with NGOs as long as they did not create trouble in the village – personal interview with a community member.*

*shared that they tried to reason with the officials saying that they were not anti-government or landlords and in fact wanted to work with the government administration to ensure proper implementation of the Land Law and put a stop to the illegal occupation of the land by companies.* In 2008 the group of agitators was allowed to meet, but not protest and wrote to the provincial government with evidential proof regarding illegal land grabbing; but the government did not act upon it. In 2010 with the change in government it was finally confirmed that 13,000 timber farms were illegally occupied. In 2011, 1000 people participated in the strike, along with government officials who were also invited, the results were positive and the provincial authorities were asked to give some land concessions to the local populace. The positive impact was that in one of the provinces people did get back the land (Sayok Village, Kulung Commune, Lyphat Province). At the policy level interventions made by ADHOC in drafting the law on collective ownership and its approval in 2001 was a significant achievement.

Currently ADHOC is not working with other organisations, but is open to doing collaborative work like in the past. It was felt that no compensation was needed as people are provided with land; the problem arises when the land is not fertile. In cases where there's a problem ADHOC approaches the government

to look into the matter. The problem exists at the provincial as well as national level (making it tough for the PM to take any strong action.) The respondents felt that their contribution was significant as *“it is important to talk/discuss and give recommendations.”* Even if the political will exists to tackle the problem the implementation is weak.

### **Highlanders Association**

The organisation was established in 2000 and started its work in five districts of Ratanakiri Province where the interventions were made based on people’s needs. In order to build trust within the community; they approached village elders to meet with them. A needs assessment exercise was conducted in the villagers (as part of an Action Aid Project.) The findings revealed seven issues of concern – natural resources (effects of deforestation), health centre located at a distance from the village (leading to quite a few deaths of expectant mothers), education – was of concern as schools are located at a distance, effects of construction of a dam on Tsesang River by Vietnam, grabbing of agricultural land, loss of traditional culture (problem of conversion), and loss of access to forests. Following the identification of critical issues the organisation prioritised them as land grabbing, natural resource management (protection of forests, livelihood, and forest products), and preservation of culture. Another problem faced was that the villagers were electing members of the Commune Council along party lines instead of looking at the abilities of the leader. The organisation applied for registration in 2003 and spread its activities to 93 villages, 18 communes, and eight districts with 35 representatives in villages. These representatives were appointed in consultation with community members. With the increase in land prices they started to educate people about the importance of keeping their landholdings for long term benefits.

According to the respondent the biggest challenge which arose as a result of land concession was that of migrants buying land. Locals end up selling their land at throw away prices to people from other provinces. When the organisation started work they received limited support from the government, but over the years a relationship has been established and officials have started attending meetings. Now as part of the Land Registration Programme government officials attend the meetings. When asked what motivated organisations to continue working despite threats the individual was confident about getting support from the CBO fraternity/ civil society. It was shared that the NGO network worked as a support system and they also worked with different NGOs in the same village on various issues/themes.

### **Overall outcome of this intervention**

The overall expected outcome from this intervention in the community was to generate awareness among the village/community. As expressed the community has the basic right to live without a loss of identity and culture. This is being implemented through the representatives who are trained by the organisation. The community receives guidance in the registration process of community land and other capacity building initiatives. The ethnic groups reached an understanding amongst themselves not to sell land and during protests learn from each other’s experiences. It was shared that the protests are led by villagers themselves and they sometimes approached the organisation for advice. An incident involving 300 people in Ou Ya Dav District occurred in 2008-09 against land grabbing, another incident in Karnath Commune in 2010 - 2011 also saw large scale participation by community members. It was shared that in Te Commune women were active participants and led the protest, this was also a strategic decision to avoid violence. There were no arrests and protestors were let off with a warning.

These protests/citizens' movements were strategically regarded as good by the respondent because it brought people together to take action and not just sit feeling helpless. The other effective tool was to write a letter to the courts and not to elect corrupt people. In one such commune on receiving a letter from the community the government officials visited the village and identified community and factory land. The company paid no attention and in some cases continued working on the land which had not been allotted to them, at night. The first programme that the organisation started work on was the Land Registration Programme. In recent years (2010) they have started working with communities generating awareness on forest and mining rights. Companies from Vietnam and China have been involved in land grabbing. Looking at the future (10 years down the line) the respondent envisioned that the ethnic groups would start working in the company and the community would receive the required land certificate.<sup>23</sup>

Meeting with *3S Rivers Protection Network* (Sesan, Sekong, Srepok Protection Network 3SPN) (Mr. Bontham and discussion with representatives of 3SPN present at that time for their monthly meeting).

The network was formed in 1996. The trigger for its formation was the construction of Yali Falls Dam (in Vietnam) without conducting an impact study in the affected areas. The Yali Falls Dam has severely affected downstream human livelihood systems in Ratanakiri Province. The dam is located in Vietnam at a distance of about 70 kilometres from the Cambodian border. This results in flooding twice a year (1996 onwards), the villages in Cambodia affected by these changes were not aware about the construction of the dam, which was built in 1993. The impact of this dam has been tremendous as changes in flow channels and sudden flooding has ruined rice crops and vegetable gardens, reduced fish catches, and halted gold panning activity. In addition to these impacts, the loss of livestock, fishing equipment and boats due to sudden flooding has significantly reduced the means by which local people can undertake livelihood activities. Local people present from the affected villages also spoke about the spread of illnesses (widespread skin diseases) through the contamination of drinking water and also by bathing in the Sesan River.



The impact study was later conducted in 2000. In 2002 the network actively started working on the Sesan River. Meetings were held with locals from seven villages (initial stages) and representatives selected from these villages to work along with the organisation. The network organises community mobilisation/participation exercises and shares details of the impact with villages. As the people's livelihood is dependent on the river, the network has been providing families with inputs on legal matters. The network organised a National Workshop in 2003 to hold discussions around these concerns in the presence of Ministers and Provincial Officers, representatives of the International Network of Mekong (including representatives from Vietnam.) There has been no Cambodian Government policy in the past on river water sharing etc. In 1995 the Mekong Agreement was signed as per which the signatories have to share information and conduct impact assessment studies. Compensation has been provided in the form of 'gifts' by the Red Cross. The NGO network collects money and distributes it

<sup>23</sup> The respondent shared that they were part of the NGO network in the province, as also the sector wise networks. Some of the other themes that the organization works on: Gender and women development programme, youth network.

among families who are in need of financial assistance.

The (the networks) biggest achievement till date has been working with the community. Information is easily received and shared with the community directly without any intermediary channels in the form of the government. 3SPN is working at the grassroots level while RCC – River Coalition of Cambodia, which is lobbying with the government. In the future, 15- 20 years down the line they see that their work will continue to impact people’s lives and are hopeful that there might be a reservoir. They acknowledged that the construction of hydro dams cannot be stopped, but can be regulated and they should also push for an impact assessment study and for improved hydel power and construction of dams carried out as per Cambodian law. Some recent examples of change were shared, such as in one instance (in downstream Ratnakiri) electricity was being generated for Vietnam, but after advocacy efforts were made domestic electricity generation commenced.



Indigenous Village

Discussion with the representatives of the network as they were present at the premises for their monthly meeting



Office of a CSO at Banlung

The respondents felt that the network had positively impacted their lives as they felt informed, empowered and participated in decision making, which directly impacted the community. People shared that they have a better understanding of issues and the impact of the dam. As voiced *“it is our problem and we need to solve it within the community.”* The work continues and if the people do not have money NGOs provide them with monetary support to carry out the work. As a result of this intervention through awareness generation and people taking charge of their lives, living conditions have improved. They have small businesses and better income e.g. earlier they grew

vegetables for subsistence, but now they were producing vegetables for commercial purposes. One of the representatives present shared that there was no warning system in place and water was released from the dam without informing the villagers. This led to flooding in some villages in 2009, increasing the prevalence of skin diseases and diarrhoea. One of the women representatives present in the group shared that communities affected by flooding were collecting evidence (along with the representatives) about flooding to share with the Governments of Cambodia and Vietnam. The capacity building by the River Network has given people the much needed confidence to work for their community and interact with government officials. Now the local government works with the people as part of the network. The lady also shared that in the past being a woman representative in the community was difficult as older people did not listen to them, but now over time and the fact that they showed tangible (positive) results this discrimination has stopped and people approach representatives with their problems irrespective of gender.

## Challenges Faced by CSOs

Some of the challenges faced were constant threats by government officials, false implication of staff in criminal cases to stop their involvement in the movements against land acquisition, “Local people are falsely arrested and detained”.<sup>24</sup>

- Government work takes time to be completed and quite often the community loses hope.
- The CSOs face challenges as there is lack of information sharing on the part of the government.
- The time given by the government to conduct impact studies is at times not sufficient, often hindering work.
- At times NGOs are faced with censorship by the government, obstructing NGO forums from conducting programmes.

With regard to the involvement of NGOs in villages/communities across the board it was felt (by community members) that this was a good and meaningful intervention as they provided the people with legal aid and relevant information. People are now aware about their own rights (indigenous group) and as a result do not sell their land, but use it for agricultural activities; in turn improving their socio-economic condition.

In the past, the problem of landlessness was not of the same magnitude as it was in neighbouring countries. The Old Crown Land System allowed those who farmed the land to live on it indefinitely and the French Cadastral Laws granted land titles to those who could prove continued use of it.<sup>25</sup> The upheavals of the 1970s and collectivist experiments meant that many peasants and even city-dwellers cannot now produce proof of ownership and they are liable to be expelled from their land and homes by ruthless officials and developers.<sup>26</sup>

These voices from the field give us a reasonable insight on how citizen participation in Cambodia has taken root and with necessary support from CSOs makes up an important constituency in this struggle against land alienation. A skewed pattern of socio-economic development is leading to a process of land alienation in Cambodia triggering social unrest and protests by citizens. Communities are voicing their opposition to these activities and community action in the form of street protests, and petitions is growing. With passing time and experience their sphere of influence will grow making the authorities sit up and take note of the unfolding problem. These citizens’ movements are raising voices against the injustices being carried out by private companies, often in connivance with the government. This is significant as the protests are being led by communities directly affected by encroachment with the equal participation of women. It is a total lack of consultation with local communities which has brought it to this point now, with encroachment on land leading to detrimental effects on livelihood, livestock, denying access to grazing land, agricultural land, forests, to non-timber forest produce and a traditional way of life. This is taking place with a complete disregard to international rights for minorities and the indigenous population to which Cambodia itself is a signatory. Cambodian law itself also recognises the rights of indigenous communities to collective ownership of their land and forest produce. With regard to the involvement of NGOs with communities (rural population) it was felt across the board that was a good/ meaningful intervention. The people are aware about their own rights (indigenous group) and as a result continued farming their land; as a result improving their socio-economic condition.

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<sup>24</sup> Interview conducted with senior CSO member

<sup>25</sup> The cadastral system in Cambodia is designed to provide the legal ownership of land.  
<http://www.fig.net/cadastraltemplate/countrydata/kh.htm>

<sup>26</sup> John Tully, A Short History of Cambodia from Empire to Survival, pg 230