

**LAND GOVERNANCE FOR EQUITABLE AND SUSTAINABLE
DEVELOPMENT**

**LAND ACQUISITION BY NON-LOCAL ACTORS AND CONSEQUENCES FOR
LOCAL DEVELOPMENT:**

Impacts of Economic Land Concessions on the Livelihoods of Indigenous
Communities in Northeast Provinces of Cambodia

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Abbreviations

ADHOC	Cambodian Human Rights and Development Association
CBNRM LI	Community-based Natural Resource Management Learning Institute
CC	Commune Council
CCCO	Cambodia Climate Change Office
CDC	Council for the Development of Cambodia
CIDSE	International Cooperation for the Development of Solidarity
CLEC	Community Legal Education Center
CLUP	Commune Land Use Planning
Danida	Danish International Development Agency
DCA	District Cadastral Administration
DPA	Development Partners in Action
FA	Forestry Administration
GPS	Global Positioning System
GTZ	German Development Cooperation
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICSO	Indigenous Communities Support Organisation
ILO	International Labour Organization
KCD	Khaou Chuly Development
MAFF	Ministry of Agriculture, Forestry and Fisheries
MEF	Ministry of Economy and Finance
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MoC	Ministry of Commerce
MoE	Ministry of Environment
MoI	Ministry of Interior
MRD	Ministry of Rural Development
NGO	Non-governmental Organisation
NTFP	Non-timber Forest Product
PCA	Provincial Cadastral Administration
PLG	Partnership for Local Governance (UNDP)
PLUP	Participatory Land Use Planning
PRA	Participatory Rural Appraisal
PWG	Provincial Working Group
REDD	Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
RGC	Royal Government of Cambodia
Sida	Swedish International Development Cooperation Agency
UN	United Nations
UNDP	UN Development Programme
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNFCCC	UN Framework Convention on Climate Change
WCS	Wildlife Conservation Society
WWF	Worldwide Fund for Nature

1. Introduction

In Cambodia, land issues have been on the increase since the country adopted a free market economy in the early 1990s. Privatisation, large-scale infrastructural development, tourism, foreign investment and agro-industry have led to heightened pressure on the availability of land for poor local people. The result has been an increasing trend of large-scale land acquisitions, inadequate protection of land rights and high incidence of disputes. While many other developing countries are facing similar issues, the situation in Cambodia is particularly problematic. In the 1990s, the country was emerging from several decades of communist rule and armed conflict. Its rapid integration in the global market economy turned land into an increasingly valuable commodity while it lacked the experience and regulatory framework necessary to handle conflicting claims effectively. Moreover, as a relatively underdeveloped and yet resource-rich country in the rapidly growing Asia Pacific region, Cambodia has become a resource frontier, in which extensive tracts of forest and lands used by local communities are being converted to commercial cropping systems.

The opportunities of the free market have led the government to promote many large-scale land concessions. These transfers of land to external investors and users, both foreign and domestic, are greatly affecting local communities' existing livelihoods and opportunities for development, in both positive and negative ways. Overall, land is a vital productive asset and the main source of rural poor families' livelihoods. In Cambodia as a whole, about 75% of people earn their income mainly from agricultural production, so access to land is a major issue in attempts to reduce poverty and social inequity.

In particular, this form of globalisation is challenging the livelihoods of Cambodia's 17 different indigenous groups: Phnong, Kreung, Jarai, Kaol, Steang, Thmoon, Kuoy, Tumpuon, Brao, Kavet, Kachak, Lun, Radaer, Mil, Khnong, Por and Suoy (Ministry of Culture and Fine Arts and UNESCO, 2004; NGO Forum, 2010b).

These comprise about 1.4% of the population, mostly in the northeast of the country, a thinly populated area with extensive forest cover. Land disputes and land grabbing by non-locals are increasingly reported from the provinces of Mondul Kiri, Ratanak Kiri, Stung Treng and Kratie. Economic land concessions and mineral concessions are the main form of land acquisition by foreign investors and other non-local residents. For example, about 0.94 million hectares out of 18.1 million hectares of the total land in the country were approved for economic land concessions to foreign and national companies in 2007, with the majority said to have been granted on local communities' land (UNHCHR, 2007).

The northeast is also classified as a national ecotourism development zone, and some of the land is designated as protected. In addition to ecological concerns, concessions are likely to have important consequences for the traditional culture and livelihoods of indigenous groups. These rely essentially on customary land rights that are not registered and that enjoy only limited protection from the state. The practice of making land available to investors for commercial crops and cattle raising threatens traditional slash and burn agricultural practices and also indigenous people's livelihoods based on forest and natural resources, especially non-timber forest products (NTFPs), on which they rely heavily.

It has been argued that the issuing of economic land concessions and mineral concessions amounts to violation of the rights of indigenous peoples (NGO Forum, 2008), as Cambodia is signatory to a number of international instruments protecting the rights of such groups.¹

Land governance is one of the key mechanisms to facilitate local development in indigenous communities in Cambodia's northeast, where there is still limited information on the concept. The World Bank (2009) has defined five components of land governance for their assessment framework: legal and institutional framework; land use planning, management and taxation; management of public land; public provision of land information; and land dispute resolution and conflict management. The main focus here is the legal and institutional framework for an indigenous community collective land titling registration mechanism. Relevant points of other components, such as land use management and taxation, identification of public land and management and land dispute resolution and conflict management, are also discussed.

The main objectives of this study are to produce an overview of existing information related to land issues and governance of indigenous communities and to assess the impact of economic land concessions on the livelihoods of indigenous communities in the northeast of Cambodia. The study generated the following research questions in order to respond to these objectives:

1. What is happening in terms of land acquisition and land governance practices?
2. What are the consequences for indigenous peoples, in terms of livelihoods as well as agricultural systems and socio-cultural practices?
3. How do land governance regulation and its implementation in practice affect the position of indigenous peoples and what may be done to best support them in attaining equitable and sustainable development?

The report is in four main parts. This introduction provides the overall research rationale and objectives. Section 2 presents the research methodology, explaining secondary data reviews and the empirical study designed to collect primary information. The fieldwork entailed a household survey, in-depth interviews and focus group interviews as well as observation.

Section 3, the findings and discussion, focuses first on land governance and indigenous communities. This assesses the situation of indigenous people and how communities have changed, using community history analysis based on the fieldwork. It also looks at legal and institutional support for the collective land titling of indigenous communities and economic land concessions in Cambodia. An analysis of the UN Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD) programme related to indigenous communities uses data obtained mostly from desk-based research.

The second part of Section 3 is an assessment of the impacts of economic land concessions on indigenous people and communities. A household survey and focus group interviews were used to collect information for this. Interviews focused on how the livelihoods of indigenous families changed when economic land concessions were set up in the community. The paper also highlights the views of respondents from government agencies and civil society.

Section 4 of the paper produces conclusions and some recommendations.

¹ This includes the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the UN Declaration on the Rights of Indigenous People, the Convention on Biological Diversity and, more generally, the Universal Declaration of Human Rights.

2. Methodology

2.1 Desk-based research

The first phase of the study focused on desk-based research. This entailed a review of existing documents related to land governance and indigenous people's rights in Cambodia. Documents reviewed included land law and policies, forestry law, protected area law, sub-decrees on economic land concessions, sub-decrees on the procedure of registration of land of indigenous communities, policy on registration and rights to use of indigenous communal land in Cambodia, policy on the rights of indigenous peoples in Cambodia, etc. The review was geared towards indigenous communities located in the northeast of the country.

Also in this phase, the researcher consulted with institutions with expertise in land governance, in promoting indigenous people's rights and livelihoods and in analysing the impacts of economic land concessions, such as the NGO Forum on Cambodia, the International Labour Organization (ILO), the Indigenous Community Support Organisation (ICSO), the Danish International Development Agency (Danida), Development Partners in Action (DPA), the Worldwide Fund for Nature (WWF), provincial departments of agriculture, etc.

The desk review and consultation with experts were an important step in providing the researchers with ideas on how to formulate the empirical study on the impacts of economic land concessions on the livelihoods of indigenous communities and the overview of the legal framework of land governance and indigenous people's land rights in Cambodia.

2.2 Fieldwork

The second phase of the study was the fieldwork in Mondul Kiri and Ratanak Kiri provinces. Using random sampling, the team selected six indigenous villages (of ten) in two communes (Kalai commune in Ratanak Kiri and Bousra commune in Mondul Kiri province) where economic land concessions had been granted. The assessment employed several research tools in order to collect information, such as a household survey, in-depth interviews with key informants, observation and focus group interviews. The study also generated a case study of one indigenous family whose livelihood had been affected by an economic land concession.

2.2.1 Household survey

The household survey was carried out in the six villages selected. About 30% of all households in each village were randomly selected for interview, with 188 household heads interviewed in total.

The survey did not aim to produce statistically significant results but rather to provide basic descriptive statistics to enable an estimate of the proportion of responses to the various questions. Overall, it was interested in producing a grounded understanding of how economic land concessions affect the livelihoods and social practices of indigenous communities. On-site observation and communication with the local people, as well as the focus group interviews, complemented this component.

The questionnaire covered families' socioeconomic profile, livelihood situation (income, land, etc.) and perceptions of the impacts of economic land concessions on livelihoods and the community.

2.2.2 Key informant interviews

The researchers identified 27 relevant key informants working in the northeast provinces for interview through use of a semi-structured questionnaire. These interviews aimed mainly to gather key informants' opinions on how economic land concessions are impacting indigenous people. The interviews also tried to explore existing and future interventions to cope with the issue.

2.2.3 Focus group interviews

One focus group interview was organised in each of two communes of the two provinces. There were 26 participants in total, about 15% of whom were women. Interviews were used to generate more in-depth information on issues and possible solutions at community level.

Participatory Rural Appraisal (PRA) is an effective way to collect information from local communities, allowing villagers to talk more and participate more actively in providing information about their community (Asia Forest Network, 2007; Calub, 2003). This study used PRA tools to guide the discussions.

First, community mapping was used to identify the physical characteristics of each community and the location of its natural resources. Community mapping also shows how community people interact with their natural resources and infrastructure (Calub, 2003). This tool is effective in guiding people to talk about community issues. For example, participants were asked to draw a community map to show community land and forest land which has been lost to the concession company. Then people were guided to discuss the impacts of the concession on indigenous people's livelihoods. People were very active in drawing and discussing their community map.

Second, a timeline or community history can generate an overview of how a community changes (Calub, 2003; Cavestro, 2003). The study used this tool to highlight how indigenous people's livelihoods have changed over three important time periods: 1980-93 (re-establishment of communities after the Khmer Rouge); 1994-2006 (birth of the free market economy); and 2007-present (emergence of economic land concessions in communities).

A case study of a villager who works for the economic land concession company has also been compiled, to highlight changes to her family's livelihood pattern as a result of her transformation from shifting cultivation farmer to wage labourer.

3. Findings and discussion

Section 3.1 discusses the general situation of indigenous communities and their land issues, looking at the way of life of indigenous groups; changes over time for indigenous communities in Cambodia's northeast provinces using timeline analysis of economic, environmental and socio-cultural aspects; and legal aspects in support of indigenous peoples, including the legal and institutional framework and policies providing for collective land titling for indigenous communities.

Section 3.2 gives an overview of economic land concessions in Cambodia, including definition and trends of concessions. Section 3.3 looks at how the Royal Government of Cambodia (RGC) is working on REDD and how this can benefit indigenous communities. Finally, Section 3.4 assesses the impact of economic land concessions on indigenous communities in Cambodia.

3.1 Land governance and indigenous people

3.1.1 Way of life of indigenous peoples in Cambodia's northeast provinces

Shifting cultivation is one of the core traditional values of indigenous peoples. This entails slash and burn agriculture, which means rotating forest lands to regenerate soil fertility. One plot is used for several years, followed by a shift to other forest land when the land becomes less fertile. A land plot is rotated for a maximum of 30 years and then forest is allowed to re-grow (Mann and Moug, 2005; UNDP, 2010b).

Shifting cultivation entails several important forms of culture and belief. Indigenous peoples hold ceremonies and carry out practices to appease the spirits of the forests, rivers and mountains to ensure the well-being of their families and communities. For example, the Phnong ethnicity group, living mainly in Mondul Kiri province, holds spiritual ceremonies several times in each farming season. The first ceremony is a sacrifice to the spirits to ensure safety in clearing the land for farming. The second, after planting, prays for a good yield. The third, celebrated during the rice production period, prays for a continued good yield. The fourth prays for good luck during harvest time. The last ceremony is celebrated when the harvested rice is put into storage (UNDP, 2010b). For each ceremony, families pay for one or two chickens, sometimes a pig, and a jar of wine, depending on the wealth of the family. Other ethnicity groups hold different ceremonies and practices, but all believe in the spirits of the forest and other secret places.

An elder is a person worthy of respect, considered to have magical or spiritual powers. In the Tumpuon ethnic group this person is called a *krak shrok*. A respected elder is knowledgeable in customary rules and is responsible for mobilising villagers to take part in sacrificial rituals, funerals and traditional ceremonies. Elders also deal with dispute resolution among indigenous communities. For example, members of other villages are not allowed to cross a customary boundary to a farm when this is considered a taboo: they must ask permission from the elder first.

NTFP collection is an important custom among indigenous peoples. Indigenous groups consider the forests a garden for household subsistence and income generation. Products include wild fruits and vegetables, honey, resin, vines, rattan, bamboo, medical herbs, etc. Hunting is also important, using traditional weapons, traps and arrows. As such, indigenous

communities' way of life is strongly attached to nature and the forests. As a result, losing forest land will have a great influence in terms of transforming their livelihood patterns.

3.1.2 Changes over time for indigenous communities

Three periods of time were discussed and analysed during focus group interviews in Ratanak Kiri and Mondul Kiri provinces. These time periods were chosen based on the evolution of the country as a whole, and then related to events in the communities.

1980-93

From 1980 to 1989, Vietnamese soldiers were present in Cambodia to help prevent the return of the Khmer Rouge regime. In 1991, the Paris Peace Agreement was signed, leading to the transformation of Cambodia into a free market economy and a democratic entity. In 1993, the UN organised the first national general elections.

At this time, indigenous people began to resettle in their communities. However, the infrastructure in the northeast provinces was in a poor condition, limiting access to the northeast from other provinces. Indigenous people were isolated from those in the lowlands, and continued to practise their traditional way of life strictly.

Group discussions revealed that people were proud of their community and their way of life (Table 3.1). For example, they were proud of their rice cultivation and NTFP collection as well as of their environment and of socio-cultural aspects in their communities. Participants were happy discussing their living conditions during this period.

1994-2006

At this time, indigenous people in the northeast were integrated gradually into the free market economy and Cambodian mainstream society. International and local non-governmental organisations (NGOs) were set up in the northeast, as well as the Cambodian Red Cross, promoting the rights of indigenous groups. However, forest concessions and illegal logging by outsiders increased after 1998, with large-scale land concessions and land grabbing emerging in 2004, when roads to the northeast started to be upgraded. Ratanak Kiri, Kratie and Stung Treng provinces could be accessed more easily by bus from late 2006.

Indigenous peoples are fully protected by the new Constitution of Cambodia and by laws such as the Land Law of 2001 and the Forestry Law of 2002, which allow indigenous groups to register their land under collective land titling. In 2003, the Ministry of Land Management, Urban Planning and Construction (MLMUPC) initiated a collective land titling pilot in two indigenous communities in Ratanak Kiri and one indigenous community in Mondul Kiri.

The lifestyles of indigenous people began to change over this period, as Khmer families settled in their communities. Land issues also contributed to these changes. In group discussions, people complained about new challenges to their traditional lifestyle as a result of the inflow of outsiders (Table 3.1). Deforestation and land grabbing by outsiders were identified as the most challenging issues for indigenous people during this period.

2007-present

This period has seen the most marked changes in indigenous community lifestyles. Land issues and conflicts caused by economic land concessions are posing a critical challenge to the traditional lifestyles of indigenous peoples in the northeast. In group discussions, people complained bitterly about losing community shifting cultivation lands and forests (Table 3.1).

Many negative points were brought up during discussion of this time period. All those involved in the group interviews showed their unhappiness with the presence of economic land concessions in their communities, with some participants tearful during the discussions.

Table 3.1: Timeline of indigenous communities

Timeline	Key events or trends
1980-93	<p><i>Economic</i></p> <ul style="list-style-type: none"> • Shifting cultivation and NTFP collection the main forms of livelihood • Good yield of rice, enough to eat and sell the remainder each year • A lot of wildlife, so hunting was easy • Land for farming could be taken up anywhere in the community <p><i>Environment</i></p> <ul style="list-style-type: none"> • Good landscape because a lot of forest • River and lake water good quality (pure and natural) because no pollution by outsiders • High and regular rainfall • Vietnamese forest concession companies logging in indigenous community area in 1985, cutting big trees only <p><i>Socio-cultural and security</i></p> <ul style="list-style-type: none"> • Freedom to access land and forests anywhere in the community • Good security (no thieves) • Good health (natural environment) • A variety of medical herbs could be collected from the forest • Good traditional practices and spiritual ceremonies • Good solidarity among community members during traditional ceremonies • Belief in spiritual forests and ritual practices (spiritual forest land well protected) • Use of traditional costumes by some indigenous families <p><i>Infrastructure</i></p> <ul style="list-style-type: none"> • Poor or nonexistent roads: difficult to travel to provincial town • Travel by (bare) foot, elephant or oxcart
1994-2006	<p><i>Economic</i></p> <ul style="list-style-type: none"> • Still good yields from shifting rice cultivation (enough to eat) • Still sufficient wildlife and hunting easy • Shifting cultivation and NTFP collection still the main forms of livelihood • Cashew nut plantation expanded among communities, especially in Kalai, from 1996 • Deforestation emerging, affecting NTFP collection (especially resin production) <p><i>Environment</i></p> <ul style="list-style-type: none"> • Logging by local powerful people and foreign concession companies from 1998 • Still regular rainfall <p><i>Socio-cultural and security</i></p> <ul style="list-style-type: none"> • Local and international NGOs and Cambodian Red Cross promoting agricultural extension, human rights, community forestry, natural resource management, literacy • Good security (no thieves) • Good health • Still practising traditional cultural and spiritual ceremonies • Belief in spiritual forests and strict ritual practices • Some indigenous families still wearing traditional costumes • Some Khmer families migrating to settle in indigenous communities <p><i>Infrastructure</i></p> <ul style="list-style-type: none"> • Some bicycles and motorbikes • Travel across Vietnamese border possible without restriction (open border) • Roads to provincial town still in poor condition

Timeline	Key events or trends
	<ul style="list-style-type: none"> • Community paved roads started to be built in 1997 • School and commune health centres constructed in 1995 • Open shallow and pump wells and latrines constructed by government and NGOs
2007-present	<p><i>Economic</i></p> <ul style="list-style-type: none"> • Loss of shifting cultivation land and cashew nut farms • Loss of NTFPs and difficulties accessing forest because of concession companies • Much less wildlife for hunting • Rice needing to be bought from market • Need to work on rubber plantations (concession companies) with wages used to buy rice from market (mostly Bousra) • Loss of buffalos and cows: no place to raise them as companies have cleared forests and do not allow them on their land (threats of confiscation); many have died • Need to work hard (get up early, that is, 2-3am); ‘just work for food’ (Bousra) <p><i>Environment</i></p> <ul style="list-style-type: none"> • Forest cleared by concession companies for rubber plantation • Water pollution as companies use chemical pesticides and pest controls • Irregular rainfall • Climate changing: hotter than previous years • Plastic bags wasted by the company (from rubber seedling bag) <p><i>Socio-cultural and security</i></p> <ul style="list-style-type: none"> • Loss of traditional medicines: harder to find owing to forest clearance • Loss of spiritual forest lands and burial forest lands • More health problems • Insufficient food to eat as wild fruits and vegetables no longer available in the forest • Spiritual beliefs and traditional practices marginalised as spiritual lands destroyed • NGOs working on agricultural extension, human rights, natural resource management, literacy, credit and savings, health education, advocacy, etc. • Many Khmer families from other provinces in the area working with companies <p><i>Infrastructure</i></p> <ul style="list-style-type: none"> • Better roads and bridges built in community • Most indigenous families have bicycles, motorbikes and better houses <p>Better access to quality water (e.g. shallow and pump wells) and electricity</p>

Source: Focus group interviews, Bousra, Mondul Kiri, and Kalai, Ratanak Kiri, July-August 2010.

3.1.3 Legal aspects in support of indigenous peoples

Laws, policies and international treaties

Indigenous peoples in Cambodia are protected by various laws, policies and international treaties. For example, the Constitution of 1993 confirms that indigenous peoples are considered citizens of Cambodia, with the same rights and equal access to the development of the country. In 2007, the RGC ratified the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in the General Assembly (NGO Forum, 2010b), committing strongly to recognising the rights of indigenous peoples. For example, Article 2 states that ‘indigenous peoples are free and equal to all other people and have the rights to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.’² The RGC has also ratified the International Covenant on Economic, Social and Cultural Rights and the Convention on Biological Diversity, which includes the rights to practise specific cultures and to a means of livelihood (NGO Forum, 2010b).³

² www.tebtebba.org.

³ Also www.wunrn.com.

Laws and regulations such as the Land Law 2001, the Forestry Law 2002 and the Protected Area Law 2007 provide indigenous peoples with more opportunities to access all forms of development in Cambodia. For example, Articles 23-8 of the Land Law introduce the rights of indigenous communities to collective land titling and recognised their rights to shifting cultivation practices (see below). Article 37 of the Forestry Law enables indigenous communities to request the setting up of community forest management plans through the Forestry Administration (FA) (Andersen et al., 2007a; 2007b).⁴

As such, indigenous peoples in Cambodia are fully protected by the law and international treaties, with respect to their citizenship and political rights, economic and social rights, traditional and cultural rights and rights to development and environmental management. However, economic land concessions have presented a new challenge, one which may impact on the rights of indigenous peoples (see the following subsections). Another challenge lies in the implementation and enforcement of laws and treaties in Cambodia, and commitment to ensuring the full protection of the rights of indigenous peoples.

Legal provisions for collective land titling of indigenous communities

The Land Law of 2001 and the Forestry Law of 2002 provide a concrete legal framework to allow indigenous communities to claim land ownership through collective land titling. The law also recognises the traditional land use rights of indigenous communities. The Land Law classifies land into four main categories: state public property; state private property; private property; and collective property. First, state public land is the property of the state and public legal entities. It is defined in Article 15 of the Land Law (Box 1).

Box 3.1: Public property of the state

- Any property that has a natural origin, such as forests, courses of navigable or floatable water, natural lakes, banks of navigable and floatable rivers and seashores;
- Any property that is specially developed for general use, such as quays of harbours, railways, railway stations and airports;
- Any property that is made available, either in its natural state or after development, for public use, such as roads, tracks, oxcart ways, pathways, gardens and public parks and reserved land;
- Any property that is allocated to render a public service, such as public schools or educational institutions, administrative buildings and all public hospitals;
- Any property that constitutes a natural reserve protected by the law;
- Archaeological, cultural and historical patrimonies;
- Immovable properties being royal properties that are not the private properties of the royal family. The reigning King manages royal immovable properties.

Source: Land Law 2001, Article 15.

Second, private state property is any state property that is not listed under the categories of the public property of the state. Article 16 of the Land Law also states that ‘when state public properties lose their public interest use, they can be listed as private properties of the state by law on transferring of state public property to state private property.’ This may include degraded forest, dried up rivers, etc., but the law is not clear on this.

Article 17 of the Land Law stipulates that the private property of the state, belonging to the state and public legal entities, may be the subject of sale, exchange, distribution or transfer of rights, as determined by sub-decree (Box 2).

⁴ Also www.maff.gov.kh.

Box 3.2: Definition of a sub-decree

A sub-decree (*anukret*) is a regulation adopted by the Council of Ministers, signed by the Prime Minister and countersigned by the interested Minister. These regulatory enactments of the executive branch are generally used to implement and clarify specific provisions within laws. They are also utilised to outline the roles, duties and responsibilities of government entities, such as ministries, or for the appointment of high-ranking government officials.

Third, private property land is that which has passed legally into private ownership. It is classified as non-public or non-collective property (East-West Management Institute, 2003).

Fourth, collective land property includes indigenous community collective property and monastery property (any property within the premises of Buddhist monasteries). Articles 23-8 of the Land Law 2001 describe the concept of indigenous community property ownership. According to Article 23,

‘An indigenous community is a group of people that resides in the territory of the Kingdom of Cambodia whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the land in their possession according to customary rules of collective use. Also, an individual, who meets the ethnic, cultural, social criteria of an indigenous community, is recognized to have the benefit of the rights provided by this law.’

Article 25 defines types of land to be classified as indigenous community property. These include not only lands actually being cultivated but also those reserved for shifting cultivation, as required by traditional agricultural methods, as well as residential lands of indigenous communities. Such lands must be recognised by the administrative authorities.

It has been argued that the law leaves a great deal of room for interpretation in terms of indigenous community collective land titling, especially with regard to the classification of land (Chea, 2005). Lack of a clear distinction between state public and state private land is a big challenge in registering land ownership and promoting the rights of indigenous communities. For example, Article 16 of the Land Law states that ‘state public property is inalienable’ – yet most indigenous community lands are located in forest areas, which fall under state public property.

In addition, although Article 25 of the Land Law (see above) covers land under cultivation as well as those reserved for shifting cultivation, in practice indigenous communities use land spread across big areas, which can be a challenge. Meanwhile, indigenous communities may also claim lands in protected forest areas (reserved for sustaining forest ecosystems and natural resources). Article 37 of the Forestry Law indicates that, although ‘Local communities that traditionally practice shifting cultivation may conduct such practices on land property of indigenous community which are registered with the state [...] shifting cultivation practices are prohibited in natural intact forest in the Permanent Forest Reserves.’

Furthermore, as land such as degraded forest can be defined as state public property that has lost its public interest use (Article 16 of the Land Law, see above), this land can become the private property of the state and of public legal entities. It can thus be the subject of sale, exchange, distribution or transfer of rights as determined by sub-decree. In 2009, a number of sub-decrees transferred substantial tracts of land with protected area status to state private land status and made them available for agro-investment. For example, Sub-Decree 120 of 4 August 2009 designated 5,000 hectares located within Snuol Wildlife Sanctuary in Keo Seyma district of Mondul Kiri Province for investment and development relating to the rubber plantation sector, as well as other commercial crops (NGO Forum, 2010b).

This lack of clarity in the classification criteria for state private property brings the process of registration of indigenous community collective land titling into question.

In summary, the Land Law and the Forestry Law provide endorsement to the indigenous community collective land titling process. However, an important challenge remains in defining and distinguishing state private land from state public land, given that the majority of land in the northeast provinces is not clearly mapped. Harmonising the Forestry Law, the Protected Area Law and the Land Law is another challenge.

Institutional framework and process for indigenous community collective land titling

There are three main processes involved in indigenous community collective land titling: 1) identification and recognition of indigenous peoples and their communities; 2) bylaws for indigenous community registration; and 3) registration of collective land titles.

Three main government institutions manage the process. First, the Ministry of Rural Development (MRD) is charged with identifying and issuing the legal identity of indigenous peoples and their communities. In this, each indigenous community is required to carry out two procedures: self-identification and registration for recognition by MRD.

In the process of self-identification, each indigenous community is required to follow five steps: 1) educating people on relevant laws and introducing the legal documents necessary for registration; 2) self-identification – people declare the indigenous community and ethnic group they belong to, coordinated by NGOs; 3) appraisal of identification and verification by MRD, requiring a representative of each indigenous family to apply for membership of their community; 4) drafting of community bylaws/statutes, including compilation of a list of traditional authorities and practices; and 5) process of consultation with government officials and other stakeholders in preparing all documents for application to MRD. The whole process should take 12-13 days (Vann and Chantrea, 2010).

In practice, this is challenging, as most indigenous peoples are illiterate or semi-literate in Khmer. This means it takes time to complete the process. For example, only 46 of 139 targeted indigenous communities in Ratanak Kiri and Mondul Kiri provinces have received a legal identity certificate from MRD. As of 2010, only 20 indigenous communities are registered as legal entities with the Ministry of Interior (MoI) and are in the process of registering for collective land titling with MLMUPC (Nuy, 2010; Vann and Chantrea, 2010).

Second, MoI is responsible for approving the legal entity bylaws of indigenous communities. In this process, indigenous communities are required to review their bylaws or statutes, involving all members of the community. To do this most effectively, it is suggested that each community set up a working group to review the bylaws, before holding a plenary meeting of all community members for finalisation and approval. This meeting has the participation of local government (commune, district and provincial) representatives as well as representatives of MoI, MRD and local NGOs, who play an important role in facilitation. Communities must obtain permission from the provincial governor to hold the plenary meeting.

After the bylaws are approved, the community is required to file an application for registration with the commune council (CC), the district administration and the provincial governor, before final submission to MoI. When MoI approves the application, the

community receives a letter certifying it as a legal entity, entitled to apply for collective land titling (Sek et al., 2010).

Third, registration of collective land titling of indigenous communities is the responsibility of MLMUPC. The process is lengthy and complicated, despite the issuing of Sub-decree 83 on Procedures of Registration of Collective Land Titling of Indigenous Communities in 2009.

Several critical issues have been identified here. For example, Article 6 stipulates that the maximum size of a spiritual forest or forest burial land for each indigenous community is 7 hectares. Yet, in practice, each indigenous community claims hundreds of hectares of spiritual forest and forest burial land. Another critical issue is the measurement and demarcation of land among neighbouring indigenous communities. Meanwhile, for registration of land titling to be possible, there must be no land disputes underway in the indigenous community in question. However, most indigenous communities in the northeast are facing land disputes, often with economic land concession companies. Note also that the RGC's sub-decree on economic land concessions was approved in 2005 before the sub-decree on the registration of indigenous community land in 2009, which has impeded the process of registration of indigenous community land.

The processes of registration were defined when MLMUPC initiated a pilot in 2003 in two indigenous communities, one in Ratanak Kiri province and one in Mondul Kiri province (McAndrew and Il, 2009). The other government institutions involved in the pilot project were the FA, MoI and MRD. Several local and international NGOs were actively involved in supplying both technical and financial resources for the pilot project and the current process of collective land titling, including the UN Development Programme Partnership for Local Governance (UNDP/PLG), International Cooperation for the Development of Solidarity (CIDSE) (now DPA), the Community Legal Education Center (CLEC), the Wildlife Conservation Society (WCS), the Highlander's Association, German Development Cooperation (GTZ), ILO, Danida and the NGO Forum on Cambodia.

The most important tool in the pilot project was Participatory Land Use Planning (PLUP). Government provincial land use and allocation committees and land dispute resolution commissions facilitated the PLUP team, in collaboration with NGOs and donors. The process comprised 13 steps, focused on mapping indigenous community land boundaries (Box 3). It is said to be very complicated, with implementing agencies facing difficulty moving forward on each step and taking a great deal of time in discussion (Hou, 2005).

Box 3.3: 13 steps for indigenous community collective land titling registration (pilot)

1. Representative of indigenous community required to apply for registration of PLUP and claim for community immovable property at CC
2. Commune council includes PLUP in annual commune plans and forwards application to district cadastral administration (DCA)
3. DCA checks application for PLUP registration and records it in its system
4. DCA develops PLUP committee: setting up internal rules and regulations and negotiating boundaries with neighbouring communities
5. Indigenous community applies for recognition as legal entity to process collective land titling at CC and provincial governor's office
6. Provincial governor's office establishes a provincial working group (PWG) for pilot land titling
7. PWG works with and supports DCA in demarcation, measurement and adjudication
8. DCA requests technical support from National Department of Geography and Cadastre to conduct global positioning system (GPS) survey and document possible land disputes in the community area
9. Investigation of all available evidence concerning rights of community land to be registered

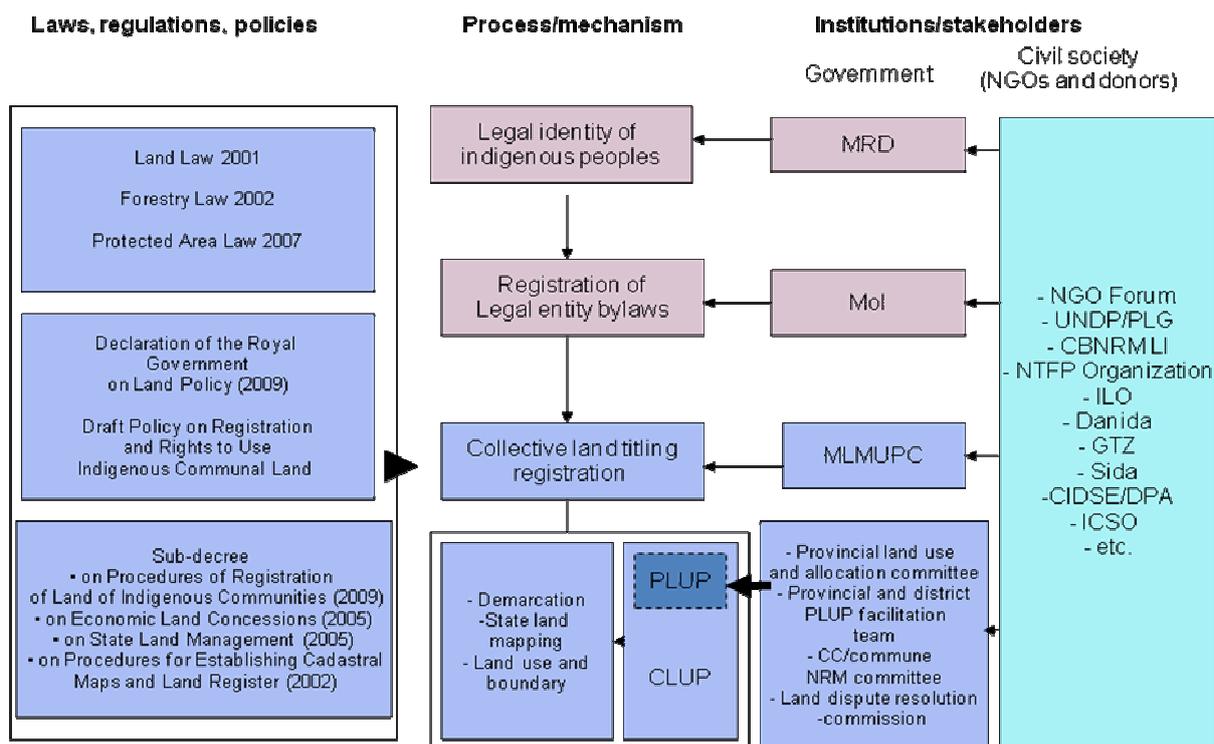
10. DCA prepares adjudication documents consisting of record of land and survey form, map of community land, confirmation letter of status of indigenous community to be registered and approval of community bylaws (public display for 30 days)
11. During public display, any conflicting parties claiming the community land being registered are allowed to file a complaint to DCA
12. After expiration of public display, DCA prepares the sporadic index map and forwards all documents to the provincial cadastral administration (PCA)
13. PCA verifies completeness of documents and sends to the Central Cadastral Administration for registration

Source: LMAP (2004), in Hou (2005).

One lesson learnt from the pilot project in 2003-2007 was that the process should start by identifying people rather than by identifying community land. This means that PLUP identified boundaries and mapped community land before it identified who should own the land. This is why the legal entity of indigenous communities must now be established with MRD as a first step.⁵

Figure 3.1 shows the three main steps in the process of indigenous community collective land titling emerging from the pilot project, as discussed above.

Figure 3.1: Legal and institutional framework for indigenous community collective land titling



Source: Constructed by author.

In conclusion, indigenous community collective land titling and its processes need more time to develop and more support from many stakeholders. The pilot project provided good lesson learning to enable a clearer process of registering indigenous communities for collective land titling. However, our desk-based research and fieldwork identified further challenges and issues related to the process:

⁵ Pers. comm., ILO Support to Indigenous People Project Programme Officer, September 2010.

- A different interpretation of the law by different stakeholders during the PLUP process in terms of defining state public and state private land;
- Limited government time and resources in each step of the process: NGOs and donor agencies still play an important role in facilitation;
- Economic land concessions granted on indigenous community lands by the Ministry of Agriculture, Forestry and Fisheries (MAFF), leading to a great many land conflicts.

3.2 Economic land concessions in Cambodia

Agriculture is still one of the most important drivers of the Cambodian national economy. Within the sector, large-scale agro-industry is an emerging trend, with the RGC granting large tracts of lands to international and local investors to promote agricultural production, called ‘economic land concessions’ in the Land Law of 2001. The Sub-decree on Economic Land Concessions defines this initiative as,

‘... a mechanism for the government to grant private state land through a specific economic land concession contract to a concessionaire to use for agricultural and industrial-agricultural exploitation [which refers to] cultivation of food crops or industrial crops [...], 2) raising of animals and aquaculture, construction such as a plant or factory and facilities for the processing of domestic agricultural raw products or a combination of some or all of the above activities.’

According to the sub-decree, the main purposes of this policy are as follows: to develop an intensive agricultural base and to promote a high level of initial capital investment in industrial-agricultural activities; to increase employment opportunities in rural areas within a framework of intensification and diversification of livelihood opportunities and of natural resource management based on appropriate ecological systems; and to generate state, provincial or commune revenue from concession use fees, taxation and other service charges.

MAFF is the key regulatory institution authorised by the Prime Minister to approve contracts on behalf of the RGC. The administration and implementation mechanism includes the Contracting Authority, the Technical Secretariat, provincial/municipal state land management committees, district state land working groups and CCs. The Technical Secretariat comprises representatives of MAFF, the Ministry of Economy and Finance (MEF), the Council for the Development of Cambodia (CDC), MLMUPC, MoI, the Ministry of Environment (MoE), the Ministry of Commerce (MoC) and the Council of Jurists. MAFF chairs and hosts the Technical Secretariat.

MAFF is authorised to approve and grant economic land concessions with a total land size of 1,000 hectares or more, whereas provincial/municipal governors have been responsible for granting concession land with a total land area of less than 1,000 hectares. However, authorisation at provincial level of concessions of less than 1,000 hectares was stopped in September 2008 and moved to central level at MAFF (Ngo and Chan, 2010).

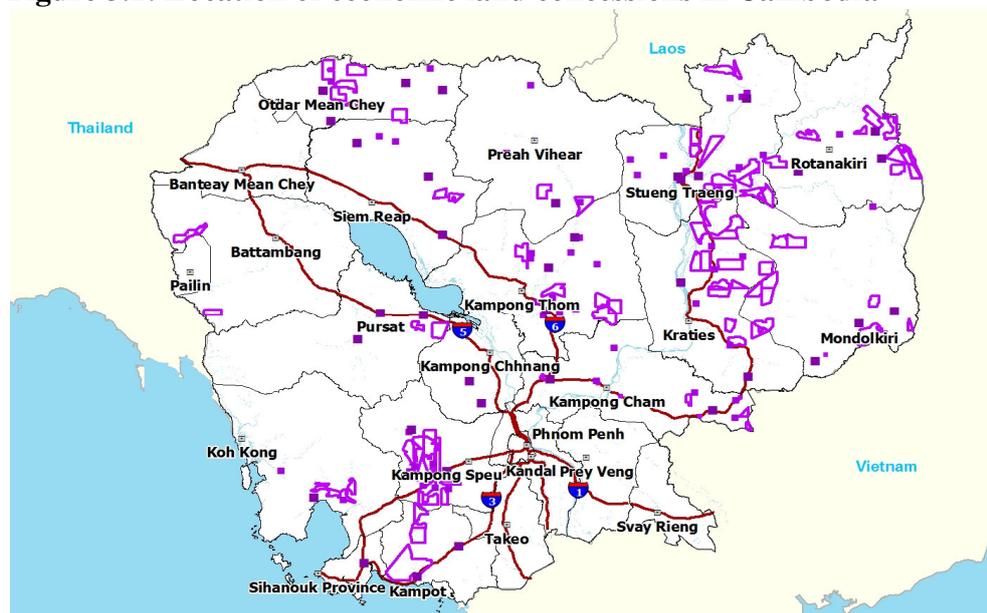
According to the Sub-decree on Economic Land Concessions, there are five main criteria involved in granting concessions. First, the land has to be registered or classified as state private land, as stated in the Land Law 2001, the Sub-decree on State Land Management, the Sub-decree on Procedures for Establishing Cadastral Maps and Land Register and the Sub-decree on Sporadic Registration. As we have seen, the Land Law indicates that state private land refers to any land that has passed legally, by sub-decree, into the hands of the state. State private land can be sold and can be transferred to the private sector for lease of up to 99 years, although in general the RGC allows only 70 years to companies. There needs to be a sub-decree on conditions and procedures for sale and management in support of the sale.

It has already been observed that the law on state public and state private land can be interpreted broadly. As a result, hundreds of hectares of degraded forest and forest lands have been converted from state public land to state private land by sub-decree. For example, Sub-decree 48, signed on 30 March 2009, transferred 9,985 hectares of O’Ral wildlife sanctuary for 70 years to a company investing in agro-industry (NGO Forum, 2010b).

Note that the Sub-decree on Economic Land Concessions of 2005 indicates a rental fee of \$5-10 per hectare per year for high-quality land and \$2-4 per hectare per year for lower-quality land. This is very cheap compared with the prices paid by local people renting land from each other. Ngo and Chan (2010) find that on average local people rent land at \$100-250 per hectare per year for the cultivation of rice and other cash crops.

Second, the land is mapped for land use planning by provincial/municipal state land management committees. Third, environmental and social impact assessments have to be completed before the land can be granted as a concession. There have been many complaints of such assessments not being done to high standards. Most assessments are conducted in the form of a checklist with limited public consultation at community level (UNHCHR, 2007). Fourth, the land must have no resettlement issues, or a solution must be generated if there is any conflict by lawful landholders. In practice, many conflicts arise, especially in indigenous communities: legally, no indigenous community has yet been acknowledged as lawful landholder. Fifth and finally, after public consultation has been conducted successfully, the economic land concession can be granted.

Figure 3.2: Location of economic land concessions in Cambodia



Source: www.elc.maff.gov.kh and Chhith (2010).

According to the MAFF website (updated in May 2010), 86 valid economic land concessions have been granted since 1995. The concessions cover a land area of about 1,041,144 hectares in 18 provinces throughout the country. However, according to the NGO Forum database, using information collected from different sources, 229 economic land concessions have been granted in Cambodia (Table 3.2).

Table 3.2: Number of economic land concessions granted in Cambodia

Province	No. (NGO Forum database)	No. (MAFF)	Total land size (ha) (MAFF)	No. of foreign-owned companies (MAFF)
Banteay Meanchey	4	0	0	0
Battambang	2	2	13,200	0
Kampong Cham	26	5	12,070	0
Kampong Chhnang	1	1	315,028	0
Kampong Speu	13	6	43,181	5
Pursat	4	1	3,000	0
Kampong Thom	37	6	48,161	3
Kampot	3	3	35,800	0
Koh Kong	14	4	79,300	2
Kratie*	28	18	102,591 ^a	13
Mondul Kiri*	17	10	65,258	6 ^b
Otdar Meanchey	13	4	27,736	4
Preah Vihear	11	1	14,752	0
Siem Reap	9	3	19,235	0
Ratanak Kiri*	14	9	61,959 ^a	4
Sihanoukville	2	2	12,800	0
Stung Treng*	30	11	187,073	4
Svay Rieng	1	0	0	0
Total	229	86	1,041,144	41

Notes: (a) Approximate figure owing to limited detailed information on some companies. (b) Two companies added which have no figure on the MAFF website but information was collected from the company investment contract in hard copy. * Northeast provinces. All concessions listed are valid as of May 2010.

Source: www.elc.maff.gov.kh and Chhith (2010).

Information on land area is not widely available, and is also often contradictory. For example, the list of companies provided by the Mondul Kiri provincial governor has 14 companies on it, covering a land area of 97,613 hectares, whereas MAFF records show only 10 companies covering 65,258 hectares. In addition, it has been suggested that half a million hectares or more have been granted in protected areas approved by MoE which are not shown on MAFF's website (Ngo and Chan, 2010).

Nine companies have been granted over 10,000 hectares of land, the legal limit per company in the Sub-decree on Economic Land Concessions. These concessions were granted before the sub-decree was signed. In 2007-8, four companies had their contracts revised to reduce the land size to 10,000 hectares each. The RGC also cancelled one company's contract (of over 10,000 ha) for lack of compliance with the contract conditions. Up to April 2010, MAFF proposed to the RGC the cancellation of a further 41 concession contracts with a total land size of 379,034 hectares.⁶ It has been observed by many that some companies do not invest much in production for the first two to three years after the concession is granted. It seems that some companies speculate on their land to seek more investment opportunities or chances to sub-contract land out. This contravenes the terms of the contract and can also lead to its cancellation.

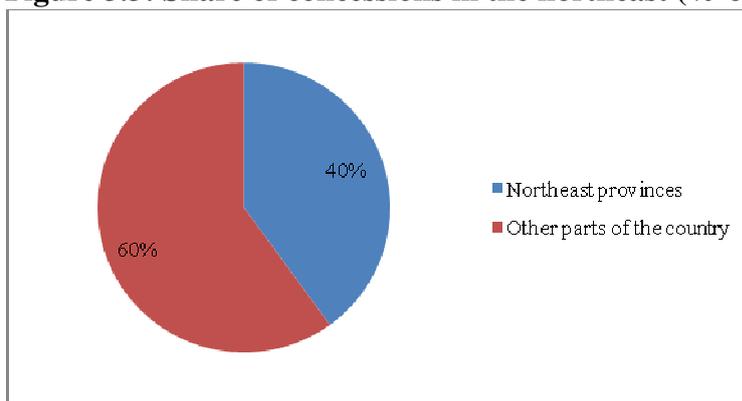
According to the Sub-decree on Economic Land Concessions, the Contracting Authority and the Technical Secretariat are the main agencies monitoring and evaluating concessionaires' contract performance. These agencies report to the Council of Ministers on a six-monthly basis, requesting contract cancellation in the case of poor performance.

⁶ www.elc.maff.gov.kh.

The 1.04 million hectares of concession land area noted above do not include those concessions covering a total land size less than 1,000 hectares, as granted by provincial or municipal governors. For example, according to the MAFF website (updated May 2010), at least 47 concession companies (covering land areas less than 1,000 hectares) have been granted in nine provinces since 2005. Among these companies, almost 40% are located in Kratie province, with 21% in Kampong Thom and 13% in Ratanak Kiri.

Indeed, the data show that almost half of all land under concessions in the country is located in the northeast provinces of Kratie, Stung Treng, Ratanak Kiri and Mondul Kiri (Figure 3.3). These provinces are notable for their forested area and indigenous communities.

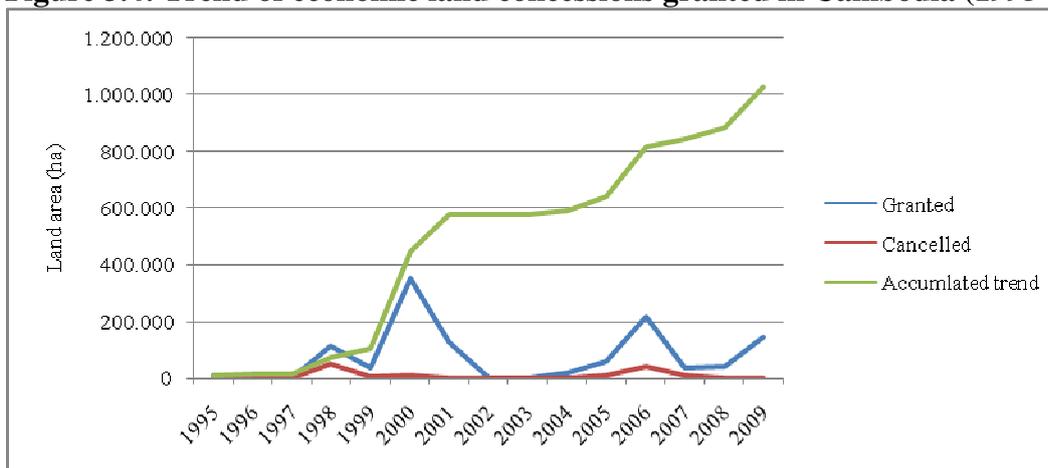
Figure 3.3: Share of concessions in the northeast (% of land size in hectares)



Source: www.elc.maff.gov.kh, extracted from Table 3.2.

Out of 86 valid concessions, 48% have been granted to foreign investors and 52% to Cambodian millionaires. Foreign companies come mostly from China, Vietnam, South Korea, Thailand and Malaysia.

Figure 3.4: Trend of economic land concessions granted in Cambodia (1995-2009)



Source: www.elc.maff.gov.kh.

Figure 3.4 shows that the number of economic land concessions increased dramatically in 2000 and in 2006. The approval of the Sub-decree on Economic Land Concessions in 2005 also led to an increase in the number of economic land concessions of less than 1,000 hectares approved by provincial or municipal governors. Nevertheless, concessions have been being granted since 1996. Between 10% and 20% were cancelled one or two years after the licence was granted on suspicion of land speculation.

The fieldwork and literature review uncovered a number of issues related to economic land concessions. First, most concessions have been granted with no proper environmental impact assessment. Second, concessions have been granted on forest and community land. Finally, concessions have created a great deal of social and land conflict among indigenous communities, with proper solutions yet to be found. The majority of indigenous families complain of unfair levels of compensation for land lost to concession companies. We will return to these issues in Section 3.4 on the impacts of concessions on indigenous groups.

3.3 REDD and indigenous communities

First we turn to a brief review of the UN REDD initiative, whereby developed countries fund developing countries to implement projects or policies to stop forest cutting and degradation. REDD is considered an important mechanism to mitigate climate change (Erni and Tugendhat, 2010; Yeang, 2010).

Cambodia has one of the largest forested areas of Southeast Asia, with about 10.7 million hectares of forest land (FA, 2007). Having ratified the UN Framework Convention on Climate Change (UNFCCC) in 1995 and acceded to the Kyoto Protocol in 2002, the RGC established the Cambodia Climate Change Office (CCCO) in 2003. The CCCO comes under the supervision of MoE. The national REDD focal point works under MAFF's FA, and the Technical Working Group on Forestry and Environment is taking the lead in implementing REDD in Cambodia. This consists of representatives of government agencies, civil society, development partners and the private sector. In early 2010, the REDD Taskforce began developing the national REDD readiness roadmap.

REDD presents both opportunities for and threats to indigenous community (Erni and Tugendhat, 2010). For example, indigenous people play an important role in mitigation because their traditional way of life depends very much on the forests, which means they prevent deforestation. The REDD mechanism is funding people who protect the forests. However, debate is still underway as to how REDD financing can be organised. A mechanism is needed to define how these benefits have been or will be shared among the various stakeholders in a transparent and equitable manner.

Meanwhile, indigenous people's position in relation to REDD is still a critical issue in the preparation of the REDD readiness roadmap in Cambodia. REDD is said to be successful when communities and indigenous peoples' rights to lands are respected and supported (Cotula and Mayers, 2009; Hatcher and Bailey, 2009; in Yeang, 2010). However, Erni and Tugendhat (2010) show there are as yet no guarantees that indigenous peoples' rights will be recognised and protected under any REDD programmes. There are also suggestions that REDD could have negative impacts when the rights, livelihoods and land tenure of indigenous communities are not assured – and REDD seems to be overlooking these (Yeang, 2010). In Cambodia, as we have seen, the implementation of indigenous peoples' rights is still a big challenge, despite the adoption of laws and international conventions.

Nevertheless, the RGC is giving strong support to the REDD mechanism, in anticipation that it will help not only to reduce greenhouse gas emission levels but also to improve local livelihoods and forest governance, by enhancing sustainable forest management in the country (FA, 2008). Two REDD pilot projects are being implemented, one in Otdar Meanchey province and one in Mondul Kiri province.

In summary, indigenous communities are a critical issue in REDD implementation in Cambodia, given that the rights to collective land titling have not yet been issued fully. As the REDD mechanism is considered vital to encourage the RGC to put in place effective land governance and forest management, its implementation could stimulate the process of collective land titling for indigenous communities in Cambodia. However, little research has been conducted on the REDD programme in Cambodia since implementation began.

3.4 Assessment of impact of economic land concessions on indigenous communities

This section presents the results of the fieldwork, analysing people's perceptions of the impacts of economic land concessions on indigenous peoples' livelihoods.

3.4.1 Respondent profiles

The team randomly selected 188 household heads for interview in the household survey, with 51% male and 49% female. About 12% were widowed. A total of 53% had no education, 23% had reached primary level and 6% had reached secondary level. The average number of family members per household was 5.7. The average age of respondents was 41 years old.

3.4.2 Land ownership

Communities identified five main forms of land ownership: shifting cultivation land; permanent farm and residential land; burial land; spiritual forest land; and reserved forest land. The survey found no land tenure or title had been issued to any indigenous family in the study area. No respondents had received land title documents from the government. Most said they used the land on their own initiative, especially for shifting cultivation. A few families reported buying residential and farm land informally from neighbours.

First, on average, the average size of shifting cultivation land per household is three plots and 4.2 hectares (Table 3.3). The number and the size vary from year to year depending on family labour availability and resources. The land size was estimated roughly into hectares.

Table 3.3: Average land size lost to concession per family (ha/household)

Type of land	Average land size			Average land lost to concession	
	Bousra	Kalai	Total	Bousra	Kalai
Shifting cultivation land	6.1	2.6	4.2	5.4	2.1
Permanent land (lowland rice, cashew nut and residential land)	1.5	2.1	1.8	1.4	1.9

Source: Household survey, 2010 (n=188).

The survey also showed that 48% of all households interviewed claimed they had lost shifting cultivation land to economic land concessions. This was mostly the case in Mondul Kiri province. For example, according to Pech Chreada district data book in Mondul Kiri province, the land area under upland rice cultivation decreased dramatically, from 1,884 hectares in 2006 to 683 hectares in 2008, when economic land concessions came into the area. The book also shows that the percentage of farmers with less than 1 hectare of or no rice land in Bousra commune increased to 43% in 2008 (NCDD, 2009b).

Second, permanent land includes lowland rice land, land for cashew nut farming and other cash crops and residential land. The average size of permanent land for indigenous households is 1.8 hectare (higher in Kalai than in Bousra). Most families in Kalai commune said they had had cashew nut farm land but had lost this to the concession. For example, a respondent in Kalai 3 village said, *'My cashew nut farm was cleared by the company; I was*

crying when I saw my cashew trees disappear. They were almost ready to yield. I have not received any compensation from the company till now.'

Third, burial land is preserved forest land whose size depends on a community's claims. The Sub-decree on Procedures of Registration of Collective Land Titling of Indigenous Communities states that the total size for burial land should not exceed 7 hectares in each indigenous community (Andersen et al., 2007b), although in general communities have claimed more than this. Most respondents indicated that the company had taken over their burial lands. For example, in Lam Mes village of Bousra, people complained the company had destroyed burial land, although they had protested: *'The company cleared almost our burial forest land but we protested strongly.'*

Fourth, spiritual forest land includes dense forests, lakes and mountains that indigenous communities keep for traditional worship and rituals. Exploration and deforestation are strictly forbidden in these areas, which usually cover hundreds of hectares of forest in different parts of the community. For example, the chief of Kalai 3 village in Kalai laid claim to about 300 hectares of spiritual forest, including a small lake and a hill. He complained that the whole spiritual forest area had been cleared by the company for a rubber plantation. His villagers had demonstrated against the company since 2007 but had not been successful.

Villagers in Kalai complained there had been no regular rainfall since they lost their spirit forests. They believe their ancestors are becoming angry and have asked the company to compensate by taking part in a ceremony to apologise, to include two buffalos, pigs, wine and other materials, costing about \$1,500. Up to now, the company has not responded to this request.

Meanwhile, according to indigenous customs, and as with burial land, most communities claim ownership of large areas of forest for worship. This will create a great deal of conflict with respect to the collective titling process for indigenous communities. Along with burial land, the Sub-decree on Procedures of Registration of Collective Land Titling of Indigenous Communities limits the amount of spiritual forest land per community to 7 hectares.

The final category is reserved forest land. This refers to forest land reserved by indigenous communities for extending shifting agriculture and collecting NTFPs. This land is mostly state forest land but villagers have claimed it as theirs, with some communities claiming hundreds of hectares. For example, villagers in Kalai 3 village of Kalai commune have claimed about 900 hectares of forest land as reserved forest land, although about 60% of this has been lost to the concession company.

It is argued that the definition of reserved forest ownership in the process of collective land titling of the Land Law 2001 is unclear (Chea, 2005). Collective land titling prioritises land use boundaries as to promote indigenous communities' shifting cultivation practices. However, Article 25 of the Land Law states that,

'The lands of indigenous communities include not only lands actually cultivated but also includes reserved lands necessary for the shifting of cultivation which is required by the agricultural methods they currently practice and which are recognized by the administrative authorities. The measurement and demarcation of boundaries of immovable properties of indigenous communities shall be determined according to the factual situation as asserted by the communities, in agreement with their neighbours.'

Observation revealed that land in this category is often subject to conflict between indigenous communities and local administrative authorities or other relevant government institutions in the process of collective land titling and the granting of economic land concessions. Interviews revealed that communities had claimed hundreds of hectares of land as reserved forest land, most of which had not been recognised by local authorities.

3.4.3 *Community protected areas and community forestry*

The survey indicated that 60% of respondents had attended land law awareness campaigns, organised by NGOs such as ICSO, the Cambodian Human Rights and Development Association (ADHOC) and CLEC. One solution, implemented in communities throughout the country, has been the transformation of some reserved forest land into community forestry land or community protected areas. Several mechanisms had been designed to this end, involving key stakeholders. First, NGOs have played an important role in facilitating government institutions (MAFF, MoE, FA, local authorities, etc.) and communities to establish community-based forestry and protected areas. Second, the RGC has put in place a legal framework to support such initiatives, including the 2002 Forestry Law; the 2003 Sub-decree on Community Forestry Management; the 1997 Law on Environment Protection and Natural Resource Management; the 2005 Declaration on Protected Area Communities; and the 2008 Law on Protected Areas; etc.

For instance, 73 community protected areas and 290 community forests have been initiated in Cambodia since 2007 (Carson and Kalyan, 2009), most of these in the northeast provinces. However, this study found that much community-based protected land and community forestry land overlaps economic land concession companies' land. For example, as we have seen, Sub-decree 120 in 2009 designated 5,000 hectares for concession within the boundaries of Snoul Wildlife Sanctuary in Keo Seyma district, Mondul Kiri province, for agro-industrial investment (NGO Forum, 2010b). As yet, no information is available regarding how many community forestry areas and community protected areas have been impacted by concessions, although Oxfam GB is currently assessing overlapping sites.

3.4.4 *Land conflicts*

Economic land concessions have created conflicts between the companies and indigenous people. First, the survey found that 54% of all respondents reported losing land to a concession company. The average amount of land lost was 5 hectares per family, mostly from shifting cultivation land.

Table 3.4: Families facing land losses to economic land concessions

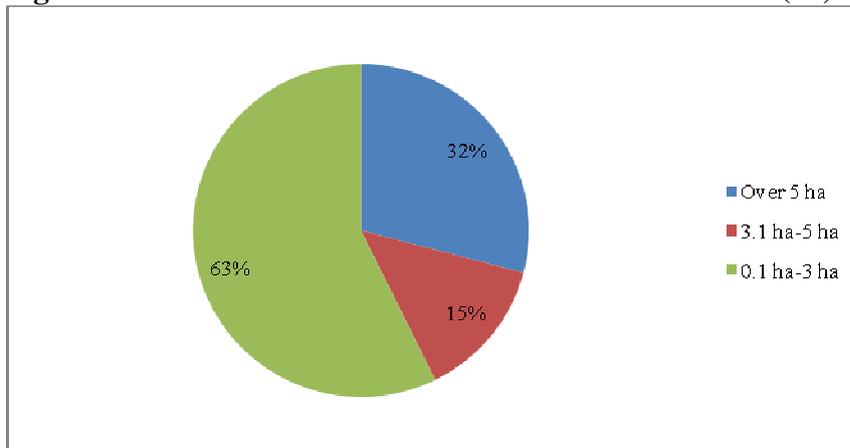
Commune	Sample (n)	Has your family lost land to a concession?	
		No (%)	Yes (%)
Kalai	99	73	27
Bousra	89	16	84

Source: Household survey, 2010 (n=188).

The situation was particularly critical in Bousra commune: 84% of respondents reported losing land to the company compared with 27% in Kalai commune. However, the village mapping exercise conducted during the focus group interview in Kalai commune indicated that the company there is targeting community land. Observation also showed that the company was clearing community forest land for rubber plantation despite villagers' protests. Soon, many villagers in Kalai commune are going to lose their land to the company, just as they are in Bousra commune.

Figure 3.5 shows that 53% of respondents how lost land lost less than 3 hectares per family; only 32% lost over 5 hectares – mostly in Bousra commune.

Figure 3.5: Size of land lost to economic land concession (%)



Source: Household survey, 2010 (n=188).

Only 34% of families interviewed reported filing a complaint against the concession company who took their land. Most villagers had participated in demonstrations and jointly prepared letters of complaint to the provincial governor, other government authorities and NGOs. Local and international NGOs are playing an important role in mediating between communities and concession companies in this regard. For instance, CLEC and ADHOC are actively involved in helping communities deal with these issues. NGO representatives revealed that their main roles were to provide legal advice, transmit community complaint letters to high-level authorities and facilitate negotiation between the conflicting parties.

However, all respondents complained of the lack of success of demonstrations and complaint letters. Meanwhile, 70% of land disputes are said to remain unsolved, with most large-scale land dispute cases involving economic land concessions (NGO Forum, 2010c).

Only 16% of families have received compensation from the company. However, the household survey and focus group interviews revealed that most villagers are not happy with the compensation, having been forced to accept the company's best offer. Companies usually put forward three compensation options. First, villagers are persuaded to sell their land to the company at a price of \$100-500 per hectare. Second, villagers are offered the chance to join the venture by planting rubber or other cash crops on their land, with the company taking half of the harvest. In this option, the company promises to give the other half of the profits to the villager after the deduction of costs, which include operation costs and interest. No clear agreement or contract is made with villagers who select this option, who are just called to meet the company representative for discussion. Third, villagers are resettled, usually far away from their original community. Focus group and in-depth interviews with local authorities revealed that it is seldom clear where the new land is located.

This study found that most respondents choose the first compensation option. On average, compensation has been \$200 per hectare, depending on the family, with families that are tough at negotiation, such as those of village chiefs or local authorities, receiving better compensation. Also, people complained that the company had provided good money to those who were relatives or friends of local authorities or company staff (Ngo and Chan, 2010). Compensation also varies according to location and company approach. The compensation is

not enough for indigenous families to buy new farmland in the community – in particular because companies have taken all the land.

The Sub-decree on Economic Land Concessions states that a company is required to conduct a social and environmental impact assessment before a concession can be granted. In the survey, only 20% of respondents said they had been consulted, most of them in village and commune meetings. This cannot be considered full consultation between villagers and the company; nor is it sufficient to fulfil MoE's procedural requirements on environmental impact assessments (Ngo and Chan, 2010; UNHCHR, 2007).

In summary, economic land concessions are creating a great deal of conflict in indigenous communities, while the majority of indigenous communities have not yet received any land titling. As a result, more than half of respondents reported losing their land to a concession company, with little compensation compared with the productivity of their farmland. Most people are unhappy with their compensation and most complaints have gone unresolved.

3.4.5 Household incomes and the impact of economic land concessions

This section examines how economic land concessions impact income patterns of indigenous households, using estimates in the household survey of incomes in the period between July 2009 and July 2010. These estimates are rough because people found it hard to recall the income from some items, such as wild fruits and vegetables, herbal medicine and other NTFP products. However, a basic overview of indigenous families' incomes was possible.

Household incomes of indigenous people are based mainly on agricultural production and NTFP collection, although labour on economic land concessions is beginning to emerge as an alternative. Agricultural incomes come from rice production (shifting cultivation, lowland), production of other cash crops (sesame, beans, cashew nuts, etc.) and livestock. NTFP incomes come from resin, honey, bamboo, vine, rattan, wild fruits and vegetables, herbal medicines and handicraft production. Wage labour from working for a concession company can be classified as a new source of income for indigenous families.

Agricultural production

Rice production is considered the main source of household income when converted to cash, although most of the harvest is kept for consumption. A total of 88% of respondents reported an income from rice production, mostly from shifting cultivation. Not many indigenous families practise wetland rice cultivation. On average, households generate \$212 per year, with a high of S\$1,667 per year for families with a lot of land and resources. Rice production makes up 26% of total household income.

Interviews revealed that rice yields have decreased dramatically since concession companies cleared the forest and took over community land. Most respondents claimed their rice yield had decreased by an average of 60-70% as compared with years before the concessions were granted. Indeed, 84% of respondents in Bousra commune and 27% in Kalai commune reported losing cultivation lands to concession companies.

Loss forest lands can also affect rice yields. People complained that community reserved forests, spirit forests and burial lands had been cleared. As a result, in Bousra, about one-third of villagers in each village had had to move to carry out shifting cultivation on new forest land, located 25-40km from their village.

The second type of household income from agriculture comes from **cash crop production**. Indigenous people integrate sesame, beans and other subsistence vegetables into their shifting cultivation of rice, earning on average \$59 per household per year from this. Cashew nuts are a significant source of income, planted mostly in Ratanak Kiri province, although production of these and other cash crops is gradually expanding in nearby provinces in the northeast, including Kratie, Stung Treng and Mondul Kiri. On average, each household's income from cashew nuts is \$326 per year – which respondents considered high. Most families had transformed their shifting cultivation land plots to enable the growing of permanent cash crops such as cashew nuts, with an average cashew nut land size per family of 1.8 hectares. This represents another challenge to the collective land titling of indigenous communities, as it may contradict the criteria of the registration process (Andersen et al., 2007b).

Livestock generates an estimated average income of \$104 per family per year. Most indigenous households raise chickens, ducks, pigs, cows and buffalo. Buffalo, cows and pigs are rarely sold because most indigenous families use them in spiritual ceremonies. These include shifting rice cultivation ceremonies to pray for regular rainfall, high yields and slash and burn success as well as to give thanks after the harvest. Buffalo and cows are also used in ceremonies to cure sick people and to apologise when someone has contravened tradition.

The number of buffalo and cows decreased when the concession companies came. The survey showed that indigenous families retained an average three buffalo and two cows after the concessions were set up, in contrast with the average 10-20 buffalo or cows per family prior to this, as identified in focus group interviews. People pointed to two main reasons for this. First, in-migrants and company security workers were said to have stolen the animals. Second, there is no forest or grassland to feed buffalo and cows, as concession companies have converted it to rubber plantation. In addition, companies do not allow buffalo or cows to roam free on their land.

Collection of NTFPs

NTFPs is another important source of income for around 96% of indigenous families, yielding on average \$115 per year. However, people complained that NTFPs had decreased in availability dramatically compared with prior to the arrival of the concession companies. They gave two reasons for this. First, the thousands of hectares of community forest land cleared for rubber plantation no longer yield NTFPs. Second, remaining forest lands are occupied by the companies and people are prohibited from accessing them to collect NTFPs.

For example, a male respondent in Kalai 3 village, Kalai commune, said, *'I was threatened that I would be shot when I was walking on the company's forest land where I usually go to find wild vegetables and to hunt.'* Similarly, a woman in Lam Mes village, Bousra commune, said, *'I, along with other villagers, was not allowed to walk across the company rubber plantation to another forest near Phnom Nam Leah to take care of my shifting farm and finding food in the forest.'* This woman was very distressed when relating this to us.

The survey found that 87% of respondents mentioned a change in distance to access the forest to collect NTFPs, with an average increase of 8.4km. Some families now travel 20-35km to collect NTFPs and carry out shifting cultivation. Indigenous people walk into the forests with heavy baskets on their backs, and the extra distance makes this more difficult and time consuming.

Handicraft production is classified as a source of household income under NTFPs. On average, households earn \$35 per year. Most common products are bamboo baskets (*kapha*), chicken cages and rice cooking baskets (*cha ang*), among others. These products are part of the traditional culture and are mostly sold to community members and used at home. People complained of a shortage of raw materials such as rattan, bamboo and vines as a result of forest clearance: most villagers claimed handicraft materials were hard to find compared with the years before the companies came.

Hunting and fishing are another important source of income for indigenous households when calculated in terms of cash, although they are carried out mostly for subsistence purposes. Families earn an average of \$151 per year from this, with 50% of households interviewed in the survey reporting some involvement. In fact, this figure may well be greater: some respondents may not have provided accurate information because hunting is illegal. Most respondents complained that concession companies had destroyed wildlife habitats. All focus group participants complained that, *'Bulldozers and tractors are noisy when clearing the land so no animals stay there anymore.'*

Employment on economic land concessions

Working on rubber plantations and other agro-industrial farms has become an important option for indigenous people in terms of earning an income for their family. Most employment opportunities are on rubber plantations. On average, indigenous families earn \$249 per year, at \$3-5 per person per day. The focus group interviews revealed that the wage has decreased to \$3.65 or less per person per day because of high competition for jobs with migrant workers from other provinces.

Only 30% of households interviewed said they had worked with concession companies. On average, two members of each family work with the companies. Similarly, an interview with a concession company representative in Mondul Kiri province revealed that 39% of rubber plantation workers are indigenous (Phnong) people from nearby villagers and 61% are in-migrants. Incidentally, the data show that, in Bousra commune of Mondul Kiri province, 88% of families that have worked for concession companies have also lost land to them.

As most indigenous families in Bousra commune have lost their lands to concession companies, there are no other options besides working for such companies for their survival, given that they now cannot work in agriculture or collect NTFPs. In-depth interviews with some NGO representatives suggested that companies would rather employ in-migrant workers than indigenous people because the former have more skills and can be paid less.

Interestingly, when asked, *'If the concession company offers your family employment opportunities, are you willing to work for it?'*, only 24% of households answered *'Yes.'* Even those who responded in the positive were unhappy because they were still angry with the company for taking over their land, but had to work for it to survive. A woman in Bousra village of Bousra commune said, almost in tears, *'I forced myself to work for the company because I have no farm land anymore and it's hardly possible to find food from the forests now. There is no forest anymore. I don't know how to find money besides working on the rubber plantation. I don't know how to do business. I have no idea how to protest against the company to get my land back. We have already demonstrated but with no result. I want to return to work on my farm. It is hard to work on the rubber plantation.'*

The 76% of respondents who said they were not willing to work for the concession company gave several main reasons for this. First, 26% of respondents complained that the work was hard with no freedom. They also said their lack of experience of wage labour made working on a plantation hard for them, particularly as workers have to get up very early to travel to work and have limited time for lunch.

Second, at least 12% of respondents were too angry with the company for taking their land and destroying their spirit forests. In a focus group interview in Kalai commune, a 58-year-old man said, *'I am very angry with the company that destroyed our spiritual forest land and grabbed our farm land. I can say that I and my generation will not work for those concession companies even if we are starving.'*

Third, at least 11% of respondents said the company cheated people in terms of wage payment and was likely to pay less when in-migrant workers were competing for work. A 28-year-old Phnong woman 28in Bousra village of Bousra commune said most in-migrants accepted less than \$3.65 per day.

Another 4% of respondents said their health prevented them from working for the company. Health is a challenging issue for indigenous communities, as facilities are quite limited, although interviews with local authorities and a company representative revealed that one company has allocated a budget to upgrade the health centre in Bousra commune.

Box 3.4: From shifting cultivation farmer/NTFP collector to rubber plantation worker

This 43-year-old woman lives in Pou Raing village, Bousra commune, Mondul Kiri. Her family has nine members, including two sons and five daughters. She has three children studying in primary school. Her 18-year-old daughter dropped out of school at Grade 5 in early 2010 to work on the rubber plantation with her.

Before the economic land concession came in early 2008 and started clearing land, her family earned an income mainly from shifting agricultural production and NTFP collection. She harvested about 6 tonnes of rice per year (at \$1,500) – enough to eat for the whole year, with some over to sell for cash. She also earned about \$25 per year from peanuts; \$115 from red beans, potatoes, papaya, bananas and other fruits and vegetable; \$180 from resin; \$60 from honey; and \$250 from other NTFPs, such as mushrooms, bamboo, wild fruits and vegetables and hunting and fishing products. The total was \$2,130 per year. Today, she has lost almost all of these sources of income, as her family lost 7.5 hectares (five plots of 1.5 hectares) of farm land in 2008.

Today, her family depends mainly on wages from work on the rubber plantation. Four of her family work there, including her and three children. She has worked for the company since mid-2009, starting at 20,000 riel per day (about \$5); a few months later this went down to 15,000 riel (\$3.65), when many migrant workers arrived. On average, she and her children work 20 days per month for six months per year. This means her family earns up to \$2,400 per year from plantation work. Besides this, her husband earns \$120 per year as the village chief.

As such, her family earns a similar income now to what it did before. Moreover, the income from farming and NTFPs could not be seen in cash. However, she feels work on the farm was much more relaxing. After working on the plantation, she feels exhausted and her whole body aches. She has to get up at 3am to prepare food, leaves home at 4am to queue to get in at 6am and works from 7am until 4pm with a lunch break at 11am-12pm. She arrives home between 5pm and 6pm. In summary, she is not satisfied with the transformation and wishes she was still following her traditional way of life. She said, *'But if I don't go to work, we have no rice to eat.'*

Source: Case study interview, August 2010.

3.4.6 Perceptions of indigenous people of the impacts of economic land concessions

This section explores indigenous people's perceptions of the impacts of economic land concessions on their socio-culture, environment and livelihoods. Open-ended questions were used to assess both positive and negative perceptions, through focus groups organised at the community level.

Socio-cultural aspects

Most respondents felt that economic land concessions had had more negative than positive impacts on socio-cultural aspects of their lives. They claimed their traditional and cultural practices had been marginalised when the concessions took over community territory. There were two main reasons for these negative perceptions. First, the forests are at the heart of indigenous peoples' culture. All respondents complained that the companies had destroyed their main traditional practices – shifting agriculture, NTFP collection and spirit forests. For example, a majority of indigenous families had lost their shifting cultivation lands (84% of indigenous families in Bousra commune, Mondul Kiri province).

Second, a majority of indigenous people said their buffalo, cows and pigs had died when the concession destroyed their spirit forests and forest lands. They complained of difficulties finding a place to feed their animals, which used to be released in the forest or on grassland. All respondents in group interviews said they were finding it more difficult to locate buffalos or cows for traditional ceremonies.

In general, concessions have transformed indigenous ways of life, especially traditional and cultural practices, since forest land has been converted to rubber plantation. Another interesting observation is that some indigenous communities have converted to Christianity, particularly in Bousra commune. This is another challenge to collective land titling, which requires the registration of an indigenous community identity, which may now be changing.

Environmental aspects

Most respondents felt the environment of their community had changed since the concession had arrived. Loss of forest land was the biggest change: in the group interviews, all people mentioned this in relation to loss of shifting agriculture lands and NTFP access. They also mentioned the loss of spirit forests, burial forest land and reserved forest land to companies. As one respondent said, *'I was very sad when I saw the company start clearing the forest in my community.'* Observation also shows that thousands of hectares of forest land have been cleared by concession companies for rubber plantation and other agro-industry.

Most respondents in the group interviews also claimed that the climate had changed in their area. In particular, rainfall is more irregular and the weather is hotter. Respondents also pointed to water pollution as a result of the company using chemical pesticides. They believe that their ancestors are getting angry because the spirit forests (including rivers, lakes, hills and dense forests) are being destroyed.

Economic aspects

The study has already examined how economic land concessions have impacted on indigenous household incomes. This subsection gives an overview of how indigenous people perceive the impacts of concessions on their family members and the community as a whole. In the household survey, respondents were asked, *'Do you think the concession has brought great economic benefit to your family and your community?'* The vast majority (92%) of interviewees answered *'No, it is threat to our livelihoods.'* Only 5% answered *'Yes'* or *'Just some benefit.'* Another 3% declined to comment.

Respondents gave several reasons for this: 1) loss of shifting agricultural land and other farmland; 2) loss of forest lands where they collected NTFPs; 3) land degradation because of lack of forest; 4) insecurity as theft is increasing with the increase in the number of in-

migrants; 5) less wildlife for hunting; and 6) the fact that the company does not allow villagers to walk through the plantation to access the remaining community forest land.

When asked, ‘*What have been the biggest impacts of the concession on your livelihood?*’, the majority of respondents (70%) highlighted loss of land (shifting cultivation land, NTFP collection land and forests). Restriction of access by villagers to land was mentioned by 21% and gangs and robbery committed by outsiders by 19%. A total of 15% pointed to the lack of a place to feed buffalo and cows. ‘Climate change’ and ‘no alternative income’ on losing farmland and forests each saw about 5% of respondents.

Table 3.5: Perceptions of indigenous people of impacts (multiple responses)

Issue	%
Lost land, NTFP collection and forest	70
Prohibited from accessing land by the company	21
More theft and gang culture	19
No place to raise buffalo or cow	15
Climate change	5
No alternative income	4

Source: Household survey, August 2010.

The RGC considers infrastructural development an important indicator of economic development. Indeed, it is one of the priority sectors in the RGC’s Rectangular Strategy for Growth, Employment, Equity and Efficiency. This study found that people have a strongly positive perception of the impacts of concessions in terms of infrastructural development in the community. All respondents admitted that infrastructure, including roads, bridges, schools, health centres and transportation, had improved greatly. Observation also showed that a company in Bousra commune has supported new paved roads and renovated schools and health centres. Most participants in group interviews were positive about this; they also said the company had provided a salary supplement to teachers and nurses in the community. In general, though, people are negative about concessions, particularly in relation to their livelihoods and socio-cultural and environmental impacts, for which no positive comments were given.

3.4.7 Views of development drivers

This section assesses how three development drivers (government, NGOs and private companies) perceive the impacts of economic land concessions on indigenous people’s livelihoods. The team interviewed 26 people. One company representative was approached during fieldwork, with the results of this interview produced as a case study.

Views of government and companies on the impacts of concessions

The majority of government respondents took a positive view of economic land concessions. They felt concessions would benefit local communities, putting more weight on economic benefits rather than social and environmental impacts.

First, respondents frequently pointed to increased foreign direct investment in agro-industry in the country. They expected such investment to contribute towards stimulating the national economy through capital and taxation. For example, Dak Lak Mondul Kiri Aphivath Caoutchouc Company has invested \$27.7 million in a 5,108 hectare concession, and Khaou Chuly Development (KCD) has invested \$14.7 million in 2,705 hectares of rubber plantation and processing. An estimated \$5,000 per hectare is being invested in production.

Second, all respondents said that economic land concessions would generate crucial employment opportunities in remote areas, claiming that they had created hundreds of jobs. For example, Socfin KCD has created 1,633 jobs for local people, although two-thirds have been taken by in-migrants. One deputy provincial governor in Mondul Kiri province said, *'I feel proud to have concession companies in my province as they spend a lot of money every day to pay workers in the community. As a result, the money is remaining in the community.'*

Third, the majority of government respondents argued that concessions had contributed a great deal towards infrastructural improvements at community and provincial level. They said that many roads and bridges had been constructed by concession companies in rural areas.

Fourth, respondents suggested that the number of small businesses in communities was increasing, and that indigenous communities' lifestyles had changed greatly. Observation in Pech Chreada district in Mondul Kiri (of Phnong ethnic minority) confirmed that new shops (especially restaurants and groceries) are emerging and the district town market place is expanding. One official of the department of agriculture in Mondul Kiri province suggested that the majority of indigenous people now use modern items such as mobile phones, DVD players and motorbikes, which they never did before. The team found in Bousra commune that most indigenous families bought these items when they received compensation for their land from the company.

Most government respondents agreed that the transformation of indigenous peoples' traditional livelihood patterns would have impacts in terms of loss of cultural identity. For example, a respondent from the department of agriculture in Mondul Kiri province said, *'I believe indigenous peoples' identity and culture in Mondul Kiri province will not exist after the older generation passes on, unless we do not preserve them carefully from now on.'* However, only a few such negative comments were made during the interviews.

Views of civil society and donors on the impacts of concessions

Local and international NGOs have been playing an important role in indigenous communities in the northeast since 1996. Interviews found that most NGO representatives classify indigenous people as a most vulnerable group, given their marginalisation within the free market economy and majority society. They identified several vulnerability factors. First, the capacity of indigenous people is very limited in terms of general education and business and intensive agriculture skills. In 2006, 55% of the population aged 15-60 in Pech Chreada district, Mondul Kiri province, were illiterate. In the same year, 80% of children aged 6 in Ou Chum district, Ratanak Kiri province, did not go to school (NCDD, 2009a). Second, the majority lack understanding of rights and laws related to indigenous people. Third, the traditional culture of indigenous people has been marginalised as concession companies have degraded or cleared forests. Fourth, concession policies are harming the livelihoods of indigenous people.

The majority of NGOs working in the northeast support the following activities with indigenous communities: integrated community livelihood development, including food security, agricultural extension, health education and small and medium enterprise promotion (handicrafts, resin production, credit, livestock, etc); capacity building, including rights awareness, advocacy and activist network training, community empowerment and leadership training; and 3) community-based natural resource management (forestry, fishery, protected areas, activism, volunteer networks, etc.) and cultural preservation.

The majority of NGO and donor representatives viewed economic land concessions as a new challenge to the promotion of sustainable development of indigenous communities. First, they said that local people's participation in community development programmes had decreased since the arrival of concessions. For example, one NGO respondent said he was heckled by participants during training on natural resource management in one village: *'Why can the government and NGOs not prevent the concession companies from clearing our forest lands? We are trained to care about forest, wildlife and other natural resources but the company has cleared all our forest lands and taken our farm lands. We can hardly believe it.'*

Second, it is more difficult to call people to meetings, even with assistance from local authorities. Indigenous people feel it is useless to protest about their land losses to the company and are unhappy with local authorities, claiming they are contributing to a situation of unfair compensation. Trust is waning even among villagers, which is leading to a lack of community solidarity. Representatives of legal support organisations in particular argued that indigenous people are becoming de-motivated in terms of taking part in NGO advocacy and community development programming.

Third, loss of farm and forest land is not only creating conflict in communities but also negatively affecting the livelihoods of indigenous families. As such, economic land concessions are threatening NGO community-based livelihood development programmes. Some resin cooperatives have disappeared because the concession has cut down resin trees. Moreover, one respondent involved in implementing a handicraft project was strongly concerned about the project's sustainability because raw materials have become limited as forest land has decreased in size.

Fourth, most respondents claimed that collaboration with the authorities had become worse since NGOs had had to turn to prioritising the capacity building of indigenous communities in advocacy for their land and identity rights.

However, NGO respondents did have some positive perceptions of the concessions. They agreed that companies had helped improve infrastructure in indigenous communities, through road, school and health centre construction. They also agreed that companies had provided employment, albeit limited – they observed that companies prefer hiring in-migrant workers to hiring indigenous people, as the former are more productive and agree to lower wages.

Another positive impact emphasised by respondents relates to new agricultural skills and technologies brought to indigenous communities by the concession companies. For example, indigenous people now plant new crops such as cashew nuts and coffee, which provide them with a good income. These crops emerged in the northeast in 1996 after the arrival of concessionaires.

In response to the challenges listed above, most NGO representatives are committing first to building communities' capacity on land and indigenous peoples' rights and advocacy. For example, some NGOs are promoting natural resource management activist networks at community and provincial level. Second, they are continuing to promote integrated livelihood development, as described above. Third, they are working with government to stimulate the registration of collective land titling of indigenous communities. The majority of NGOs working in the northeast are giving support to such registration and are playing an important role in facilitating the process.

4. Conclusions and recommendations

Licences began to be granted to economic land concessions in Cambodia in 1996, with investment increasing dramatically after the adoption of the Land Law in 2001 and the Sub-decree on Economic Land Concessions in 2005. Concessions are located mostly in the northeast provinces of the country (around 40% of the total concession land area), which are home to many indigenous groups. Their presence has had a number of impacts on indigenous community livelihoods and land.

First, economic land concessions present a great challenge to the process of registration of collective land titling of indigenous communities. Concessions have been found to marginalise indigenous peoples' traditions and culture, which are among the most important criteria in granting communities legal entity status. As self-identification by indigenous communities is the first step in collective land titling registration, this may mean it will be difficult to go ahead with the process.

Moreover, it has been observed that concessions are being granted over indigenous community areas, which could be an obstacle to implementing registration mechanisms. Registration of collective land titling is moving more slowly than the process of granting concession licences: the Sub-decree on Procedures of Registration of Collective Land Titling of Indigenous Communities was approved in 2009, whereas the Sub-decree on Economic Land Concessions was issued in 2005. In addition, and notably, some concessions were granted in 1996, before the Land Law and the relevant sub-decree were issued. Meanwhile, economic land concessions are the responsibility of MAFF alone. Collective land titling registration is proving time consuming and complicated because three government bodies are required to implement the process (MRD, MoI and MLMUPC).

Second, economic land concessions are not providing great benefits for local communities. Indigenous people have more negative than positive perceptions of concessions. For example, 92% of respondents felt concessions had not brought any great economic benefit to their family members and community and that they had in fact harmed their traditional livelihoods. Most respondents claimed they had lost land and forests for NTFP collection to companies.

Only one-third of company jobs have gone to indigenous people, with the other two-thirds going to in-migrant workers, who are challenging the indigenous way of life. Villagers who have been forced to rely on employment on plantations are not happy with the wages or the working conditions of the concession companies. In addition, the economic benefits of concessions are in question because of the very low land rental fee that companies are required to pay (compared with the local rental fee). Government respondents identified positive economic impacts from concessions, but these still make up one side of a trade-off with negative socio-cultural and environmental impacts.

Third, economic land concessions have created new challenges for civil society organisations and development partners in supporting indigenous community development. Most civil society respondents complained that local people's participation in development programming was decreasing. They are finding it more difficult to get villagers to take part in natural resource management, as people are reluctant to preserve natural resources, especially forests, when concession companies have been allowed to clear them. It is now difficult to sustain livelihoods programming, given the lack of natural resources and land. Advocacy programming is difficult as motivation and hope of redress have waned among communities.

The most important recommendation here is to prioritise the registration of collective land titling of indigenous communities and halt the economic land concession licensing process where indigenous communities' lands have not yet been registered. In addition, state land mapping, particularly in the northeast, should be carried out before concessions can be granted. These actions could help minimise the negative impacts of concessions on indigenous communities' livelihoods and lead to more windows of opportunity for indigenous people to voluntarily access extra job opportunities with companies.

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