



Women's Land Rights in Cambodia: Our Land, Our Life

PARALLEL REPORT TO THE UN HUMAN RIGHTS COMMITTEE

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The Global Initiative
for Economic, Social and Cultural Rights



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Wish you all with good health and prosperity to continue to support women for standing to claim their full rights.

ABBREVIATIONS

| | |
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| ADHOC | Cambodian Human Right and Development Association |
| CAMBOW | The Cambodian Committee of Women |
| CEDAW | Convention on the Elimination of all forms of Discrimination Against Women |
| CSOs | Civil Society Organization |
| ELCs | Economic Land Concessions |
| GNP | Gross National Products |
| ICCPR | International Covenant on Civil and Political Right |
| LAMDP | Land Administration, Management and Distribution Program |
| MAFF | Ministry of Agriculture, Forestry and Fisheries |
| MFI | Micro Finance Institute |
| NGO | Non-Governmental Organization |
| NTFPs | Non-Timber Forest Products |
| ODC | Open Development Cambodia |
| RGC | The Royal Government of Cambodia |
| SK | STAR Kampuchea |
| SNEC | Supreme National Economic Council |
| USAID | United State Agency for International Development |

EXECUTIVE SUMMARY

In Cambodia, land remains a highly complex and contentious issue, involving economic, social, political, cultural and often religious systems. As spelled out in Article 75 of the UN Habitat Agenda, there is a strong link between land and poverty, stating “legal access to land is a strategic prerequisite for the provision of adequate shelter for all and the development of sustainable human settlements affecting both urban and rural areas. The failure to adopt, at all levels, appropriate rural and urban land policies and land management practices remains a primary cause of inequity and poverty.” Land administration, good governance practices are critical elements in the wider development agenda.

Cambodia covers an area of 181,035sq.km, which comprises 176,515sq.km of land and 4,520sq.km of water. 80% of the Cambodian people live in rural areas, mostly depending on agriculture and access to non-timber forest products (NTFPs) as the main source of their livelihoods (ODC, 2013). Rural poor account for 91% of the total poor (2006, World Bank). Agriculture employs 62% of the total labor force and contributes to 31.6% of Cambodia’s annual GDP¹. Land exploitation, speculation and weak land governance have led to an increase in the landless population, forced evictions, land conflicts and land rights’ abuses.

Despite the State party’s efforts to take into account gender issues into land reform laws and policies, a gender analysis carried out by USAID in 2006 reported that the confusion and costs certifying ownership rights have had negative impact on women’s land rights, especially for female-headed households.² Forced evictions have also had a disproportionate impact on women. In 2013, the CEDAW Committee urged Cambodia:

“(a) To improve women’s access to land and tenure security, and to ensure that acquisitions of land for economic and other concessions follow due process, and that adequate compensation is provided following sufficient consultative processes;

(b) To recognize that forced eviction is not a gender-neutral phenomenon, but that it disproportionately affects women, and to take immediate measures to protect women and girls from further eviction;

(c) To promptly investigate and, wherever appropriate, prosecute cases of intimidation and harassment by law enforcement personnel against women human rights defenders advocating women’s land rights;

(d) To ensure that evicted communities are relocated to sites that enable women to have access to their places of employment, schools, health-care centres (including sexual and reproductive care), community centres, and other services and amenities necessary to ensure the realization of their rights under the Convention.”³

Since the time of the CEDAW review of Cambodia, the situation has not improved for women. This study seeks to highlight the situation of women’s land rights in Cambodia for the UN Human Rights Committee’s review of Cambodia, and specifically aims to:

- Identify what are the legal rights of women to land and property in Cambodia
- Describe what are the productive resources that Cambodian women can access and control
- Propose recommendations in response to the situation of women’s rights to land and property

¹ MAFF Annual Report 2013

² USAID, Cambodia. March 2006. Gender Analysis and Assessment.

³ UN Doc. CEDAW/C/KHM/CO/4-5, 29 October 2013.

The study used a qualitative approach to gain insights into people's views and experiences of women in relation to their land rights in Cambodia.

The study identified gaps between policies and realities in Cambodia, which needs immediate attention from all stakeholders to address women's land rights issues. Some of the cases are landlessness, economic land concessions, land registration and titling, indebtedness and the poverty trap.

I. Background, Objectives and Methodology

After decades of civil war, Cambodia has achieved substantial progress in achieving political stability, security and social order, particularly socio-economic development, which has underpinned the profound transformation in all aspects of Cambodia's society and economy. In line with population and economic growth, Cambodia has also introduced a 15-year program called the Land Administration, Management and Distribution Program (LAMDP), which commenced in 2002 and aims to: 1) strengthen land tenure security and land markets, and prevent or resolve land disputes; 2) manage land and natural resources in an equitable and efficient manner; and 3) promote equitable land distribution. The Royal Government of Cambodia (RGC) has started implementing a historic land reform program through the provision of legal land titles to people, which is a prerequisite to developing the rural economy. The RGC has issued more than 3 million land titles to Cambodian people, and granted social land concessions to 31,000 families of the poor, soldiers, and veterans of conflicts. It has also provided allocated land to about 500,000 families under the "Old Policy-New Action" framework (SNEC 2013).

Despite some progress of land registration and titles, poverty and human rights, especially land rights, remain a grave issue. The insecurity of landholding in Cambodia is featured by the prevalence of land conflicts, which are common and on an increasing trend (2010⁴). Land conflicts involve land grabs and often result in forced eviction or violence. Unfortunately, women are most affected by the land conflicts, as they rely on their land to provide for their families. Amnesty International (2012) reports that approximately 420,000 people have been the victims of the land disputes since 2003. One major feature of land conflicts between local communities and granted Economic Land Concessions (ELCs) is that provisions of ELCs often do not strictly adhere to the existing land laws and other related regulations. Over 2,000,000 (two million) hectares of land in rural Cambodia have been granted to private companies as economic land concessions for the development of agro-industrial plantations since 2005 (ADHOC 2012).

The absence of effective institutions of government, land laws and an impartial judiciary leave Cambodia's citizens vulnerable to systematic denial and violations of their land rights and human rights. Incidents of land conflicts are increasing, often resulting in demonstrations, forced evictions and violence. The causes for rising conflicts are multifaceted. These land conflicts could lead to a full scale of civil unrest or land war if no appropriate actions are taken and solutions are not delivered in a timely manner.

1.1 Women Land Rights Situation in Cambodia: Progress, Issues and Challenges

Rural women are responsible for 80% of food production and play a key role in ensuring the food security of their families. They make up 51⁵% of the primary workforce in subsistence agriculture in Cambodia, and 54% of the country's workforce in market-oriented agriculture. However, despite their significant

⁴ Report prepared by Mr. Ngo Sothat in 2010.

⁵ National Strategic Development Plan 2014-2018

contribution to household income, women endure continued gender inequality in access to land-based resources, paid employment, financial capital, and skills training (MAFF, 2006). Land registration and issuing land titles are therefore a critical resource for women as it can make a difference on their ability to be self-reliant as well as participate and influence decision-making in marital, family and livelihood matters. Land ownership can potentially bring a positive impact for women as it can strategically contribute to balanced and equitable gender and power relations.⁶

In Cambodia, despite the inclusion of the strategic protection of women's equal rights in land ownership in the Land Law (2001), women are more likely than men to be landless or have significantly smaller plots of land. Landlessness for female-headed households is one in five (21%), compared to one in eight for households in general.⁷

Despite the State party's efforts to take into account gender issues in land reform laws and policies, a gender analysis carried out by USAID in 2006 reported that the confusion and costs certifying ownership right have had negative impact on women's land rights, especially for female-headed households.⁸ As a significant number of women have little or no schooling at all, especially among the indigenous groups and ethnic minorities, they have limited or hardly any understanding of the land law and the titling procedures. As such, this group is most vulnerable to having their land rights ignored, and persistently face challenges in judiciously protecting their equal rights to access and ownership of land. Another important challenge is that the joint title between husband and wife does not necessarily confer legal rights, as customary practices may not fully recognize women's ownership rights.

1.2 Legal Framework and Policies: Progress and Gaps

The national law in Cambodia along with international treaties protects citizen's right to land. The Kingdom of Cambodia became a party to the ICCPR on 26 August 1992. Article 31 of the Constitution guarantees the Convention as part of Cambodian law and other articles reaffirm Cambodia's commitment to ensuring that all Cambodians are able to enjoy their civil and political rights to the fullest extent possible: a declaration of rights in Chapter III includes protection of life, security and liberty (article 32), democratic rights (articles 34, 35 and 42), the right to organize trade unions (article 36), basic legal guarantees for arrest and detention (article 38), freedom of movement (article 40), freedom of expression (article 41), and freedom of religion (article 43). The independence of the judiciary is guaranteed under Chapter XI.

Cambodia also ratified CEDAW on 15 October 1992 and has incorporated women's rights in the Article 31 of the Constitution: "The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights and the Covenants and Conventions related to human rights, women's and children rights." As a party to CEDAW, Cambodia is obligated to provide legal measures to guarantee and protect women's equal rights in all aspects of development. To strengthen the CEDAW legal mechanisms, Cambodia in 2011, signed the Optional Protocol, which establishes procedures whereby women may file complaints requesting investigation of violations of their rights. However, women's rights are not fully protected in practice. Violence against women and land grabbing are two most serious issues in Cambodia today.

⁶ Velasco, E, and S. Tous. October 2010. Analysis of Gender-Responsive Policies in Forestry, Land, Agriculture, Disaster Risk Reduction and Climate Change Adaptation. Study supported by Oxfam Great Britain in Cambodia.

⁷ World Bank Gender Assessment, 2010.

⁸ USAID, Cambodia. March 2006. Gender Analysis and Assessment.

1.3 Study Objectives and Methodology

The case studies highlighted below demonstrate women's unequal access to land and resources, as well as conflicts and violence related to violations of their land rights. It is believed by women in Cambodia that females experience different threats than males, such as lack of food security, economic loss, having to migrate from their home, and a threat of violence such as domestic violence. These are all components that make women more vulnerable. Businessmen and the wealthy are abusing the poor's microfinances and land rights. While communities are becoming unstable, women are playing the key roles of peace builders, mediators and facilitating conflict resolution in times of tension.

The study was divided into two phases:

Phase 1: Desk Review

A comprehensive reading of all related documents was carried out by the research team. These documents included – Relevant Government Laws and Policies, International Treaties and Conventions and various reports on women's rights.

Phase 2: Field Work

Based on the results of phase 1 study, comprehensive fieldwork interviews were carried out in the target provinces of Banteay Meanchy, Pursat and Svay Rieng. Semi-Structured Interviews, Focus- Group Discussions and Individual Interviews were conducted with relevant stakeholders such as commune councilors and district councilors, commune committee on women and children, NGOs, and communities. The fieldwork took place over one week, and was conducted in three provinces, four districts and eleven communes (twenty seven villages) with 113 total respondents, of which 71 were women.

In addition to the broad background on the different issues, the case studies also included 'stories' and direct experiences of affected women and their families: The cases below illustrate how and why individuals face these issues, how they cope or solve the issues, and how they protect their rights.

Some women shared their direct experiences in tears. Here are some of the case studies identified during the fieldwork:

II. Case Studies

2.1 Svay Rieng Province

Case Study I: Losing Land through Indebtedness and Foreclosures

The conflict between the village people and powerful person who work as military happened in Teng Mao Village on the agricultural land, Chantrea District in 2004 with 50 families on 64 hectares. On 21 August 2014, three community members were arrested by the order from the provincial court. This was the second time a community leader was put in jail, the first time was sentenced to three months and the second time was sentenced for one month. Besides the CSO's intervention, the people had to put their efforts of time and financial resources into the court process. This caused many difficulties in the community, such as a shortage of food and children being unable to attend school due to their parents forcing them to enter the workforce. At least 10 of 50 families sold their agricultural land for court procedures. At least 5 percent of 50 families had borrowed money from MFI and used income from their children who work in factories to support the process of their complaints. People had filled their complaints and some families had put their farmland as collateral. One woman told STAR Kampuchea "I lost my land, I could not cultivate on the land

any more, I became poorer and my father was in jail for one month because the land conflict. I requested the CSOs and the Government to resolve the land conflict faster.”

Case Study II: Economic Land Concessions (ELCs) affects women farmers’ livelihood

People in Ampil and Korki Commune, Romeas Hek District of Svay Rieng Province had a long lasting land conflict with a local company. The conflict happened due to the State party giving overlapping land to the company with 290 hectares of agricultural and resident land in 19 villages of five communes. This overlapping affected the livelihoods of over 735 families who lived and grew cassava before the land concessions were granted, with a disproportionate impact on women farmers. On 9 October 2009, the Prime Minister issued a sub-decree on 350-hectare land, converted from the Economic Land Concession of An Mady Group Co., Ltd in Trash and Kokir communes of Romeas Haek district to private land registration. The aim of this sub-decree is to establish a “social land concession” for 5 villages, which are Trash, Boeung, Tasous, M’reakTeap and Tompaing. After the conflict happened, the people were not able to cultivate on the agricultural land for many years. Some people had to migrate to Thailand or other countries to generate income to support their family members. These individuals are at risk of human trafficking or illegal labor migration. At the present, a young woman community leader with other victims continues to advocate with company and local authorities for their land rights. As a result, the company and local authorities have negotiated with them and they might get some of their land back in the future. A Commune Council member also mentioned “I do not like to see the company to work on the farm, because this company can absorb less number of local people to work, which results in the migration of many people.”

2.2 Pursat Province

Case Study III: Landlessness - Living on the streets, floating huts, boats

Some families in Kampong Loung Commune in Krakor District do not have resident land or agricultural land. They live on the streets, in floating huts or small boats. Their main income is from fishing in Tonle Sap Lake. Some families, especially women headed households cannot send their children to schools due to poverty. Living conditions are extremely poor with no proper toilets and waste is everywhere, which causes health problems in the short and medium term, as well as air and water pollution. To address this problem, a woman who is a local NGO Director who has been working in the commune for many years stated that “I have a plan to buy two hectares of land to distribute to 20 most affected families so that they could build their home, and grow vegetables to generate income so as they could send their children to school.”

The responsible government authority, like District Environment Department, has raised this concern to STAR Kampuchea to seek support on the sanitation program which can support the communities to collect the garbage from the areas.

Case Study IV: Low Price of the Agricultural Products

People in AnlongThnoat and KhbalTrach Communes in Krokro District of Pursat Province owned between 1-3 hectares of agricultural land per family. They normally grow rice or plant cassava on their land. They invested around US\$750 per year for agricultural inputs such as fertilizers, and good seeds in order to increase the yields. Unfortunately, after they harvested, they compelled themselves to sell their products with lower prices because they urgently need to repay the loan with high interest rate. That is the reason why they still live under the poverty line, which is below US\$1 per day⁹. Some of them forced themselves to migrate to other provinces, cities and other countries to find decent jobs in order to pay the loans and support their

⁹ Ministry of Planning 2013. Exchange rate 4000 riel/USD 1

living. There is lack of intervention from the local and national authorities to provide extension services and they do not take interest in promoting the market of agricultural products of villagers.

2.3 Banteay Meanchey Province

Case Study V: Land Conflict

Fifty-one families in Seila Khmer Village, O'Beychoan Commune, O'Chrov District, Banteay Meanchey Province faced land conflict with powerful people who grabbed their land. The affected families normally go to work in Thailand during the day and come back home in the evening. It was later discovered that other businessmen had occupied their land, which was used yearly to cultivate. These affected families filed complaints against this conflict to all levels of authorities from village, commune, district, province of Banteay Meanchey, national assembly, human right organizations, to the court, Cabinet of Ministries, and demonstrated many times, but unfortunately the Government has not solved the conflict. The Community Leader and villagers spent so much money for their court case and villagers became poorer and poorer. The community leader has no resident land and he is currently staying in his parent's house because he sold his property for the court case at all levels.

2.4 Key Issues and Opportunities

As the cases identified in the communities visited by this study, there are many key issues and opportunities for intervention at the present and in the future, especially for women in the communities nationwide.

- Men and women are both generally lacking access to information related to land and property
- Women in particular are lacking knowledge about their land rights, including their rights under national and international law
- Women headed households are particularly disadvantaged and lack modern techniques for farming to achieve a higher level of productivity and are insufficiently benefited by agricultural marketing facilities
- There is widespread abuse by creditors (MFIs and individual) of people land and property in the communities
- Despite their marginalized position, women are at the frontlines of land conflict negotiation and protests, thus exposing themselves to increased risks of violence and injustice
- In the context of land conflict, there are widespread evictions and unsafe migration, which again have unique ramifications for women

Opportunities:

- Women are peace builders and agents of change. As they have direct experiences of the events and tensions related to land disputes, they know what issues must be resolved, and thus play a critical role in enabling their communities in conflict transformation and in preserving peace.

III. The Role and Contribution of the Civil Society in Protecting Women's Land Rights

The research team has also recognized the important roles of CSOs in protecting women's land rights in Cambodia. Their contribution is useful for the communities in advocacy, conflict prevention and resolution and economic empowerment. The State party should create an enabling environment so that CSOs can strengthen their work in the following areas:

Advocacy and Education

While social solidarity is a source of people power to advocate for justice and appropriate solution to land conflicts, the community still needs the capacity to understand about land laws, human rights as well as to understand where to access support when conflict occurs. CSOs have played an active role in providing capacity development support to communities to gain knowledge on laws, human rights and other relevant policies related to land, property and natural resources.

Economic Empowerment

Cambodia's sustained a seven percent economic growth rate for the last two decades, but its economy is still vulnerable and economic growth has not translated into widespread poverty reduction nationwide. Past growth has mostly benefited urban areas, and as the gap between rural and urban areas deepens, there is a consensus that more inclusive growth and progress on poverty reduction will depend on dealing with constraints faced by the rural economy.

Poor farmers, especially women in rural Cambodia are facing difficulties in establishing off-farm business to generate extra income to support their families after the harvest season is over. STAR Kampuchea and other CSOs supports the establishments of saving team, community fishery, forestry, and eco-tourism guesthouses so that they could generate extra incomes for their community and families. This is another approach for sustainable development.

Protection and Participation

Despite many laws and policies that purport to protect Cambodian women and uphold their rights, there are key challenges to women's engagement in social, political and economic work in Cambodia. That's why the contribution of STAR Kampuchea and other NGOs is crucial to tackle the challenges and unlock the opportunities for women in Cambodia. By strengthening the rule of law, good governance and women participation, the communities and the country can be at peace, harmonized and further developed.

Conflict Prevention and Mediation

STAR Kampuchea, development partners and the Government have strongly encouraged and supported women's political participation, empowerment and representation at all levels. We work closely with each other to uphold women rights, especially to adhere to the UN's global policy agenda on Women, Peace and Security and support implementation of the UN Security Council Resolution 1325.

IV. Conclusion and Recommendations

As was identified by this research study, there are many challenges that need to be promptly addressed regarding women's land rights in Cambodia. First, to promote and protect women's fundamental rights through prevention of forced eviction and protection of their legal rights to land. Second, to train and empower women and other relevant stakeholders at the community, local and national government levels such that women are able to claim their land rights. And third, to encourage women's leadership as agents for change negotiation, mediation, arbitration and hearing.

In light of this situation, STAR Kampuchea respectfully urges the Human Rights Committee to make the following recommendations on Cambodia:

1. Reiterate that forced evictions constitute a violation of the Covenant and should be immediately halted by all public authorities in Cambodia. In particular, the State party should recognize the

disproportionate impact of forced evictions on women. Forced evictions at the hands of private actors similarly constitute a violation of the State party's obligation to protect the right of residents to housing and land, and efforts must be made by the State party to ensure that such forced evictions also do not take place.

2. Urge the State party to ensure that women human rights defenders and community activists who seek to protest forced evictions and claim their land rights are not threatened, intimidated or harassed, and that gender based violence is not tolerated.

3. Urge the State party to review all Economic Land Concessions (ELCs) and ensure that all ELCs strictly adhere to the existing land laws, as well as to international human rights principles, including the rights to non-discrimination and gender equality. Women should be adequately and meaningfully consulted in such reviews, and their input taken into account.

4. Urge the State party to improve the situation of women's land rights throughout the country, specifically by ensuring the integrity of cadastral titles for women and increasing the availability of legal aid to women, in particular vulnerable women and female-headed households.

5. Urge the State party to improve legal literacy, especially among women, on rights to land, including through media and public education campaigns to raise women's awareness of the laws regarding land rights and in particular women's land rights.

6. Urge the State party to ensure that women who are landless and that women and their families who are resettled are adequately compensated, and that they have access to livelihood opportunities and access to services.

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