

Concessions in Cambodia: governing profits, extending state power and enclosing resources from the colonial era to the present

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Introduction

In Cambodia, the notion of concession (*sambathian*) traces back to the French colonial period when concessions were introduced to allow for large scale management and exploitation of forest and fisheries resources and the development of agricultural land under plantations. Since their inception, concessions have been much more than a tool for natural resources management; they also function as a central instrument in power and governance systems. In this chapter we focus on forestry and land concessions.

Starting from the large forest enclosures initiated by colonial rule, concessions have been re-tooled and re-shaped continuously until the present. In contemporary Cambodia - characterized by weak regulating institutions - concessions have become a central instrument of sovereign power through patronage-based distributive practices. At the end of the 1990s, the forest concession system was dismantled and transformed in the context of the new regulatory framework for land that emerged with the 2001 Land Law. In spite of the political economy underpinning concession management remaining unchanged, the system evolved into Economic Land Concessions (ELCs) for agro-industrial development paired with Social Land Concessions (SLCs) functioning as a mechanism to allocate land to landless and land poor households.

Driven by strong interests in farmland investment, large land deals have been concentrated in the uplands of the entire country. It is against the rapid changes unleashed by these ELCs that we hold up the ineffectiveness of redistributive land reform through SLCs. The chapter discusses contemporary issues revolving around ELCs. We challenge the contribution of ELCs as a tool to promote rural development in Cambodia. Instead, we maintain that ELCs have contributed - in convergence with other drivers - to land dispossession and an increase in farm/non-farm wage labour. We also suggest that ELCs have induced the emergence of very violent struggles for land played out across the country and have concurrently fomented and emboldened

various social movements. We also show that recent attempts to address land insecurity in the uplands created by ELCs has resulted in new forms of fragmentation of upland territories while simultaneously reinforced the role of ELCs in the rural landscape of contemporary Cambodia.

Historical trajectories of concessions: from colonial roots to post Khmer Rouge conflicts

Cambodia owes the introduction of concessions (*sambathian*) to the French protectorate (1863-1953). In the colonial era, these concessions aimed towards a gradual modernisation of administrative mechanisms, along with the management of forest, fisheries and agricultural land sectors through large-scale investment and operations.

Forestry

To sustain colonial forest rents, the French administration initiated a system of forest reserves to allow for forest regeneration. Starting in 1902, logging activities were regulated within these state enclosures according to licenses signed between French companies and the forest administration, the so-called '*exclusive logging privilege – privilèges exclusifs de coupe*'. This was a clear attempt to substitute small-scale indigenous forest use with large scale entrepreneurial exploitation (Thomas 1999) and represents the beginning of the concession system in Cambodia. As part of this, Cambodians were denied access to these forests (Gouvernement Général d'Indochine 1910) which also meant drastic reduction of grazing herds. The rules and coercive measures that accompanied colonial forestry tended to spare the French entrepreneurs and hung the repression over peasants and local authorities (Thomas 1999).

After independence acute nationalism during *Sangkum Reastr Niyum* (Popular Socialist Community) meant that foreigners were not able to manage forest concessions. The civil war from 1970 to 1975 and the Khmer Rouge focus on agricultural development, and as a result paradoxically saved Cambodia's forests from the destruction associated with economic growth in the ASEAN region (Le Billon 2000).

In 1989, an official at the Council of Ministers remarked "if we have no good way to manage timber, we will become a country with no trees because we have been cooperating with Vietnam to the East and with Thailand to the West" (Gottesman 2003: 293). As early as 1979, agreements on forest exploitation were made between Khmer Rouge (KR) leaders and the Thai military in the Northwest (Le Billon 2000; Hibou 2004). Approximately 15 Thai companies that were subject to a logging ban in Thailand were granted access to large forest areas in the Northwestern territories controlled by the KR (Gottesman 2003). The profits derived from these agreements were tremendous and allowed the KR to finance their resistance war against government and Vietnamese troops (Le Billon and Springer 2007). Meanwhile in

Eastern Cambodia, logging was primarily for trade with the Vietnamese. In some cases this meant the Vietnamese-led People's Republic of Kampuchea (PRK) government granted logging licenses to Vietnamese investors on a year-to-year basis (Curtis 1989 cited in (Analyzing Development Issues 2004); in other cases local military units took control of logging activities and timber revenues; while in others joint timber companies were formed with Vietnamese investors to facilitate timber exports to Vietnam and PRK control of the timber trade (Gottesman 2003). It is on the basis of these initial 'joint ventures' that forest concessions were [re]established in the mid-1980s, 100 years after they were first introduced in Cambodia by the French (Le Billon 2000; Hibou 2004).

Agriculture

Land concessions for plantation agriculture were an important tool of French colonisation in Indochina, particularly in southern Vietnam but also in Cambodia. The first rubber plantation in Cambodia, the Chup Plantation, was established by the French in 1921 and was at one time the largest rubber plantation in the world (Slocomb 2007). By the 1930s, less than a decade after land was first granted to French investors, rubber was the third largest export from Cambodia. Commentators writing during this period made claims that the large rubber plantations "marked the beginning of capitalist colonisation in Indochina" (Virginia Thompson 1937 cited in Slocomb 2007). Slocomb (2007) argues that these colonial rubber plantations provided a form of modern innovation for agriculture in that they commodified land and labour in entirely new ways by introducing habits of speculation in land and development of land for profit and capitalized rents. Extending beyond transformations of the agrarian system, Slocomb (2007) further locates plantations in changes to state structures by linking the development of the plantations to a rationally functioning, modern bureaucratic state - albeit a French colonial state - on which they depended. As such, the plantation system was intimately tied with forms of state power and its manifestation.

French companies continued to run the plantations they had developed in the 1920s and '30s after independence, but no new concessions were granted to foreign investors (Gottesman 2003; Slocomb 2010). In the *Sangkum Reastr Niyum* period (1955-70), rubber was the principal source of foreign currency reserves and together with rice was one of the twin pillars of national development and economic independence (Slocomb 2010).

The political sea change that swept through Cambodia in the 1970s shifted the control over the important rubber plantations and revenue. In 1970, the war destroyed half of the rubber plantations' production and communist forces blocked all transport of rubber (Slocomb 2010). In the early days of the PRK regime Vietnamese advisors focused on producing rubber exclusively in areas near to the Vietnamese border where they could control the day-to-day operations and trade (*ibid.*).

State rubber plantations, one of the few state owned enterprises that generated revenue, faced declines over the course of the 1980s and yet it was the second largest export earner after timber in 1988, the last year of the PRK regime (Slocomb 2010). In the context of privatization of state-owned enterprises and intensive rubber smuggling, the control of rubber plantations and their future was tense by 1990. Rifts at the national level led Hun Sen and the Council of Ministers to grant control of tens of thousands of hectares directly to provincial authorities (Gottesman 2003).

The development of a concession economy in the 1990s

In the 1990s, the forest concession system was reintroduced with strong support from international organisations, particularly the World Bank, and became the main tenure system for natural resource management in Cambodia. The central objectives of this system were to put an end to the prevailing anarchy in forest management by introducing a 'transparent' concession system so as to generate revenues for post-war reconstruction efforts, to create value-added products from the timber sector and to stimulate local employment (Hibou 2004).

These aims were not aligned with the political context of the 1990s, which was characterized by post-war political struggles between factions of the new governmental coalition (CPP and FUNCINPEC) and the continued war with the KR in the Northwest. The reconstruction of patronage networks by each party seeking to control the country generated violent political struggles, and the need for both parties to generate revenue intensified the recourse to grant forest and land concessions. Le Billon (2000: 785) argues that timber was a key stake in the rapacious transition from the socialism of the post-KR period to capitalism, and in the process, became the most politicized resource in the reconstruction process. Indeed, the public-private partnership ideal - created by the international community to assist reconstruction - resulted in a generalised and uncontrolled privatisation of state natural resources to serve the interests of political and military leaders (Global Witness 2007; McKenney and Prom 2002)..

Centralization and concentration of State power through concessions

The development of a concession economy served important processes tied to ending the civil war and Hun Sen concentrating power for himself and the CPP. This concession system allowed for a progressive centralization and control of power by Hun Sen at the expense of opposition leaders and even of his rivals within the CPP and resulted in a fusion of economic, political, military, judicial and even religious power at all levels (Marchal 2004).

In this context it is not surprising that the conception, implementation and control of concession activities suffered from major deficiencies on the part of state administrators, the concessionaires and their sub-lesers (McKenney and Prom 2002; Hibou 2004). The absence of properly allocated human and financial resources made

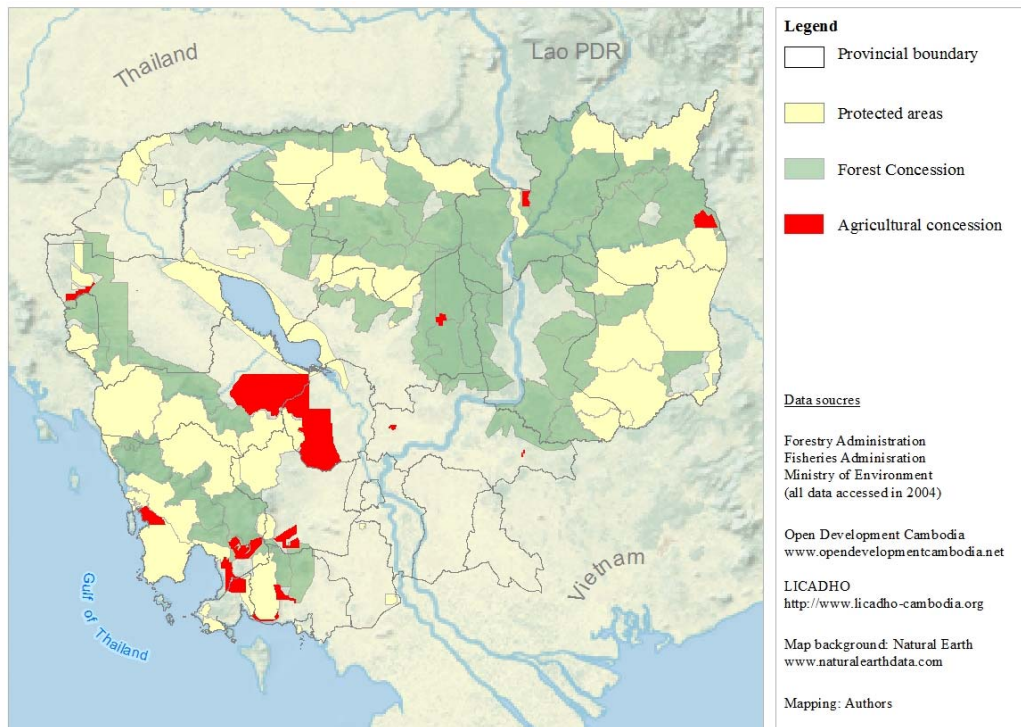
it virtually impossible to control the activities of concessionaires on the ground. Concession contracts did not include specific forest management measures that would allow for the regeneration of species, etc. The exploitation of timber occurred not just within concession areas, but also frequently outside, too. There was no independent judicial system that could have conducted proper arbitration of the many conflicts.

In the 1990s, the revenue generated from concession operations was immense, particularly in the forest sector. Le Billon (2002) suggests that between 1989 and 2001 at least 10 million cubic metres of timber, representing a total value of USD 2.4 billion, was exported from Cambodia. Yet this generated only USD 120 million for the national treasury (Le Billon 2002). A significant fraction of these informal revenues generated by forest exploitation and trade was captured by provincial or district authorities, members of the military and police, political party representatives and high-level civil servants (McKenney and Prom 2002). There was little incentive at the sub-national level to actually put an end to the concession system since it gave enough freedom and benefits to key sub-national actors that no one really questioned it. The social and territorial dynamics revolving around large concession activities - decided at the highest level of the state - allowed a variety of actors to become involved in similar processes at the sub-national level under the discretion of provincial, district or commune authorities (Diepart 2007a).

In the 1990s, this dynamic led to massive and illicit land acquisitions in the Cambodian countryside and to *de facto* privatisation of state resources. The corollary was decreased access to common pool resources, which had a profoundly negative impact on rural livelihoods (Diepart 2010).

The extent of the Cambodian enclosures

Between 1994 and 2001, 39 percent of Cambodia was allocated to forest concessions comprising 51 areas totalling 7,084,215 hectares (ha) and covering more than half of the forest resources at that time (Save Cambodia's Wildlife 2006). The state did not turn to granting agricultural land on a rapid and large scale until somewhat later, and yet during the 1990s the granting of agricultural concessions (palm oil, cassava, rubber, cashew and sugar cane) was already on the move. As of 31 December 2001, the total area under agricultural concessions in Cambodia was 809,296 ha, leased to 40 companies (McKenney and Prom 2002).



Map 1 - Forest and fisheries concessions and Protected Areas as of the early 2000s

At that time, Cambodia had a relatively low population density, but the allocation of these concessions, combined with the establishment of protected areas in 1993, reinvigorated the land access problem that prevailed in the beginning of the century under French rule (Map 1).

Economic Land Concessions

To address the fiasco of concessions management of the 1990s, the government, with the support of donors, began to reform forest concessions. These reforms established forest and fisheries co-management schemes between the state and local communities (the so-called community forestry, community fisheries and community protected areas) but also were accompanied by the gradual substitution of forest concessions by economic and social land concessions - representing the cornerstone of the new Land Law established in 2001.

Although the idea and rationales for concessions drew from the past, the implementation of Economic Land Concessions (ELCs) resulted in new types of large-scale investments in rural Cambodia.

Rationale

Economic Land Concessions were expected to stimulate agro-industrial activities and to develop so-called ‘under-utilised’ land that required large capital investments that

the state did not have. They were intended to increase employment in rural areas, to offer new opportunities for labour and employment in the countryside, and to encourage local economic diversification through investments upstream and downstream of the concession. ELCs were also meant to generate state revenue at national and sub-national levels. This rhetoric is largely the same as that which supported earlier forms of concessions decades earlier.

Rising interest in farmland tied to price increases of agricultural commodities and land (Deininger et al. 2011), and which echoed the influential 2008 World Development Report (2007b), renewed the urgency in large-scale investment agriculture. In Cambodia, the World Bank saw an opportunity to attract private investment and promote large-scale agricultural operations. While acknowledging the importance of securing property rights, the report suggested that new investments were essential to increase the competitiveness of agriculture and other rural enterprise activities (World Bank 2007a).

For the government of Cambodia, ELCs represent an opportunity to reinvigorate the very profitable concession economy after the collapse of forest and fisheries concessions in the 1990s. As potential opportunities for foreign investment, ELCs were also seen as a political tool to engage in ASEAN integration by allowing neighbouring states and companies to invest in the Kingdom.

Legal framework

ELCs were limited to land measuring no more than 10,000 ha granted for a maximum of 99 years (Royal Government of Cambodia 2005). There are no conditions with respect to who can apply for an ELC and no restriction on foreigners obtaining concession contracts. An ELC must be developed within 12 months after issuance otherwise the contract will be cancelled. The 2005 sub-decree stipulates a number of safeguards to avoid adverse impacts on the local population, such as the production of a locally designed and approved land use plan and solutions for re-settlement. Environment and social impact assessments must be conducted and public consultations held with local authorities and residents. A Technical Secretariat, with representatives from eight ministries and other government institutions, was formed to support contracting authorities including requests for a voluntary reduction of land concessions exceeding the new limit of 10,000 hectares (Sperfeldt, Tek, and Chia-Lung Tai 2012).

The original sub-decree stipulated that provincial and municipal governors had authority to grant ELCs of less than 1,000 ha in land area or with a total investment value of less than 2,500 USD (Article 29) but this provision was revoked in a revision of the sub-decree released in 2008 (Royal Government of Cambodia 2008). This arguably signals a deliberate attempt to re-centralise the management of these concessions. Officially, all operations are coordinated by MAFF and ratified by the prime minister. But, starting in 2008, the government has granted ELCs inside

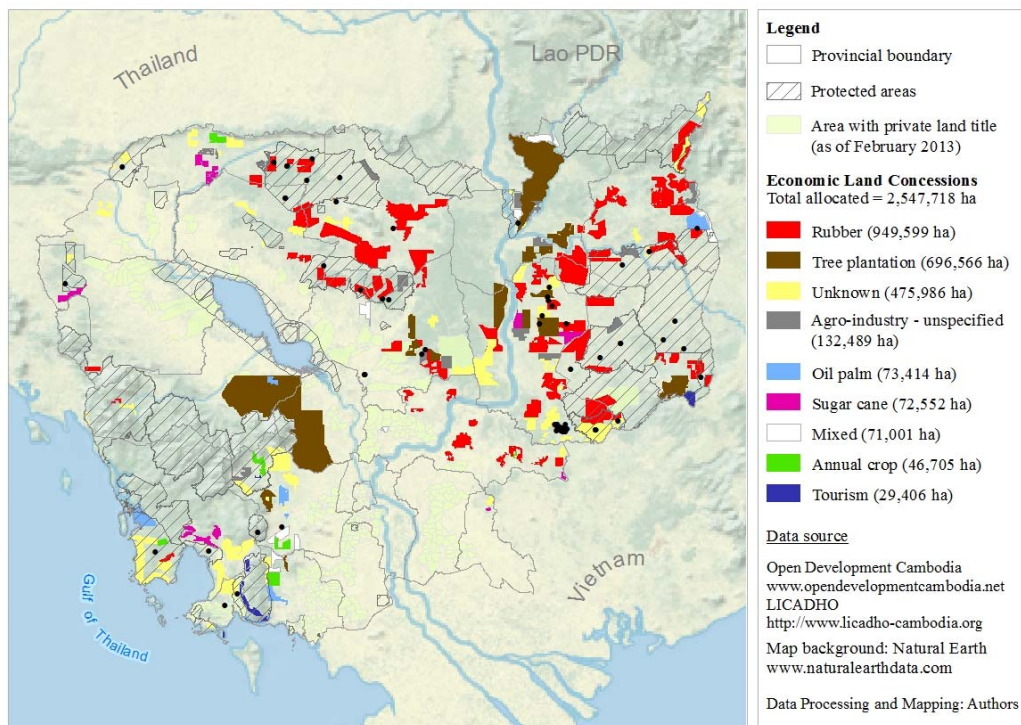
Protected Areas and Protection Forests under the jurisdiction of the Ministry of Environment and Forestry Administration, respectively. It is notable that the legal framework does not contain anything pertaining to ELCs under the jurisdiction of the Ministry of Environment or its territory.

The geography of economic land concession

It is difficult to formulate an accurate picture of the location, size and status of all Economic Land Concessions because of a clear lack of transparency in ELC contracts

To depict the allocation of ELCs, we have tried to consolidate datasets available at the national level to obtain a spatially explicit database. This database suggests that 2,547,718 ha of land has been granted as ELCs by the end of December 2012. This represents 271 contracts but also includes ELCs that were cancelled afterwards. Among these, 86 ELC contracts (32 percent of the total) exceed the legal limit of 10,000 ha.

All ELCs are located in the peripheral uplands on both sides of the Tonle Sap Great Lake, with a higher concentration in the northeast (Map 2). According to our database, nearly one million hectares and 37 percent of the total area was granted for rubber plantations, by far the most important crop (Map 2). Actual figures may be higher since in 2011 MAFF signed a deal with its Vietnamese counterpart granting 300,000 ha to grow rubber (Voice of Vietnam 2011).



Map 2 - Distribution of ELCs in Cambodia by type of crop/investment

Continuities in exclusions triggered by ELCs

There is a broad consensus in Cambodia among NGOs and researchers that the process of authorising and implementing Economic Land Concessions shows clear deviations from the established legal and policy framework (Sperfeldt, Tek, and Chia-Lung Tai 2012; Subedi 2012). Public consultations and social and environmental impact assessments that should be carefully undertaken before any agreement is signed are rarely conducted properly, if at all (Sperfeldt, Tek, and Chia-Lung Tai 2012).

During the implementation of these large-scale agricultural investments, a number of irregularities are also routinely reported. In certain instances, ELC contracts are signed to by-pass the 2002 logging ban on timber given that ELC implementation presupposes the clearing of the land before the establishment of agro-industrial plantations (the sub-decree on ELCs is explicit about this) and is likely tied to new trends in granting ELCs in protected areas. Logging operations regularly proceed well beyond the boundaries of the concession area (Hibou 2004; Pye and May 2014; Global Witness 2015).

Partly connected to logging operations inside ELCs, another abuse frequently reported is the under-utilisation of land (Hibou 2004; Sperfeldt, Tek, and Chia-Lung Tai 2012). A survey by the UNDP (cited in Sperfeldt et al, 2012) reported that as of 2005 only 2 percent of the land under concession was being actively cultivated.

Very often the land granted to concessionaires is already occupied and/or cultivated by people. Basic field visits to these sites would have sufficed to make this clear. In these cases, logging or land clearing operations has led to land dispossession and forced evictions. Military forces working for the concession companies tend to provide the force to drive people from the land. Human rights violations associated with these evictions have been consistently highlighted in reports and public declarations by successive High Commissioners for Human Rights in Cambodia (Leuprecht 2004; Ghai 2007; Subedi 2012).

An even more pernicious effect of the concession system is what some scholars have called neo-patrimonialism. In Cambodia, the elite used natural resources to serve their private interests and to consolidate their power as part of neo-patrimonialism (Un and So 2009; Sok 2014; Milne 2013). It is understood that private investors pay approximately US\$500 in informal fees for each hectare approved in an ELC agreement, an important proportion of which goes as unofficial payments to the ruling party and their officials. This revenue generates resources to fund patronage-based distributive politics via the provision of services and infrastructure in populated rural areas. In return, the people are expected to support the government through the electoral machine, which has secured acceptable levels of domestic and international legitimacy for the CPP (Un and So 2011).

Contemporary issues with ELCs

In addition to an obvious lack of transparency that serves the political and economic interests of the national elite, the granting of economic land concessions affects the development of upland areas in many ways.

Local economic development

Economic assessments of concession activities have underestimated or simply ignored the opportunity costs of the investment, which include the value-added that would have been created if the land had been left to peasants. Hansen and Neth (2006) have shown that under most scenarios of conversion of natural forest into plantations, the sustainable management of natural forest generates direct and indirect values (for consumption or sale) that exceed the value generated along many different land use conversion scenarios (wood plantations, cashew, oil palm). Only rubber represents an advantage in their model. Likewise, comparative surveys undertaken in the Tonle Sap flood plain show that peasants are more efficient in generating value-added per hectare than large scale rice production (Evans et al. 2005; Diepart 2007b, 2010).

There is contradictory evidence about the impact of ELCs on local labour opportunities. Although there is growing consensus around the idea that the return of ELC on local labour is marginal (Middleton and Hak 2006; Sperfeldt, Tek, and Chia-Lung Tai 2012), some research points to certain cases where ELC activities generate wage labour opportunities that are beneficial to local people (Ngo and Chan 2010). Others advance a more nuanced argument that the socio-economic environment in which people reorganize their livelihoods is more dynamic than often assumed due to livelihood diversification and rural-urban linkages, but that the new opportunities do not benefit the bulk of the population (Gironde et al. 2014).

In a wider perspective, ELCs are instrumental for the emergence or consolidation of capitalist social property relations. This occurs through social differentiation that is usually indicated by the polarization of labour-selling class of agrarian proletarians (or semi-proletarians) and an entrepreneurial labour-buying agrarian class on the other Bernstein (2010). This operates through two related processes. On the one hand, the direct enclosure of land leads to varying degrees of land dispossession of small farmers and forces them into the wage labour market (Diepart and Sem 2015). On the other hand, the establishment of an ELC reinforces the commoditization of land and land acquisition through the market in areas neighbouring the concession which stimulates social differentiation between farmers (Hak et al. 2015).

Exacerbating the difficulties surrounding smallholder land dispossession linked to ELCs are the weaknesses of any credible alternative land tenure regimes that could offer villagers a means to secure other forms of land access. Social Land Concessions (SLCs), a tool the government has promoted to address landlessness, were supposed to offer land security for small holders and also targeted areas located at the periphery

of ELCs as part of promoting contract farming schemes. But as of June 2014, the total number of recipients of the SLC programme was 12,374 families on 113,167 ha of land registered (for settlement, infrastructure and agriculture). Remarkably, this figure represents only 4 percent of the total area granted as Economic Land Concessions. The asymmetric competition between ELCs and SLCs in the allocation of state land by state representatives limits considerably the potentially positive effects of a government-backed redistributive land reform. Further, weaknesses in granting communal land titles to ethnic minority groups (Baird 2013) means that communal land tenure does not represent a counter-balance to the allocation of ELCs. The establishment of protected areas further limits territory available to smallholder agrarian expansion. Indeed the alternatives in the Cambodian uplands is very narrow.

Land conflicts and social unrest

Over the past decade the implementation of ELCs has initiated a huge increase of land conflicts revolving around the question of land dispossession and forced eviction (Schneider 2011). They have been exacerbated by the total lack of coordination between lowland-upland migrations and as a result, the granting of large land concessions has meant an overlapping of land claims between concessionaires and farmers (Diepart and Sem 2015).

Resulting confrontations have been discussed and analysed in a number of comprehensive reports (ADHOC 2013; Cambodian Human Rights Action Committee 2009). Climatic moments of violence have also attracted widespread attention. On 26 April 2012 Chut Wutty, a prominent environmental activist, was shot dead in Koh Kong while investigating forest crimes and illegal logging (Saing and Seiff 2014). His murder occurred two weeks before a 14-year-old girl was shot dead by heavily armed officials who opened fire on a group of about 1,000 families they were sent to evict in Kratie province (May 2012). These events have contributed to the emergence of social movements for land rights played out across the country.

Order 01: incomplete attempts to reform ELCs management

The decision by the prime minister to suspend the granting of ELCs and to issue Order 01 in May 2012 was the result of the convergence of a number of events at play at different scales. There is little doubt that the decision by the Prime Minister to announce Order 01 was motivated politically in a move to lessen social unrest one month before the 2012 commune elections and one year ahead of the legislative election in July 2013.

In addition to freezing the granting of ELCs, Order 01 initiated an unprecedented land titling campaign in areas where the land rights of people and companies overlap on state land, including ELCs, forest concessions, forest land and other types of state land. It also made possible seizures of ELCs where companies have not complied with the existing legal procedure or with the contract, in particular by engaging in timber

logging activities and/or leaving concessions land unexploited (Royal Government of Cambodia 2012).

The land titling process, addressed in a separate chapter in the handbook, has proven to be largely incomplete and large areas claimed by people have been left untitled. This incompleteness of land titling in areas where people live and/or cultivate might give false legitimacy to ELCs efforts to evict people from the untitled land.

ELC cancellations

The cancellations have proceeded along ministerial lines, with the MoE and the MAFF making separate announcements in January 2015. Turning first to the MoE, it announced that it had revoked ELCs covering a total area of 90,682 ha from 23 companies and that an additional three companies voluntarily handed over a total of 28,855 ha of ELC land and two other ELCs were reduced (Khuon 2015). MAFF announced the cancellation of eight ELCs within MAFF territory of about 50,000 ha since the 2013 elections, in addition to 100,000 ha that has been cut out of four other ELC areas (Aun 2015).

These cancellations have opened an institutional vacuum. A consolidated and comprehensive list of all concessions that have been reduced or cancelled under Order 01 has not been made available to the public. There is also no information on how the land within cancelled ELCs is going to be utilized or managed in the future and whether or not there will be any acknowledgement or awarding of land rights to people who may be living on or using these land areas.

Conclusion

In this chapter, we have traced the historical trajectories of concessions so as to contextualize current waves of large scale land acquisition in the dual processes of intensifying centralized state control over territory and natural resources, along with the extraction and use of these resources to underpin state formation and the extension of political control – both of which have played out in pre- and post- conflict Cambodia..

Current mechanisms of ELCs are variegations of old processes of capitalist penetration associated with the capture of profits by ruling elites. The political economic context in which concessions are granted and monitored was put in place under French rule to serve the interest of the protectorate administration; it was reinvigorated in the post-war reconstruction period to serve the interests of the emerging political elite. The system gradually moved into agro-industrial concessions but continued to serve the centralization of state power. The very nature of the concession system was never challenged but rather different actors re-engaged with concessions as a tool for development and political or economic advancement.

At present, ELCs are not integrated into a comprehensive and holistic vision for land development that centers family farming as key to the rural development of Cambodia. Instead, ELCs remake rural contexts in ways that lead to varying degrees of land dispossession of small scale farmers and exacerbates the recourse to wage labour, which usually does not compensate for the loss of resources that local people depend on.

Current reforms in the system are responses triggered by political imperatives rather than tackling the exclusionary nature of the system. Rural land insecurity was instead reinforced due to the incompleteness of the land titling campaign that had aimed to protect family farms against land dispossession linked to concessions. The campaign also discredited collective forms of land tenure since it granted only private titles.

If the top-down reforms do not seem very promising, ELCs have aroused new forms of struggles and have spurred on popular mobilisation around questions of land access and rights. Arguably, it is the resilience and ability of farmers to strengthen their autonomy over local resources that will engender a genuine reform of the system of concessions and land tenure.

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