2. Palm oil development in Cambodia

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Introduction

Crude palm oil (CPO) had become a highly valued product in the international market, resulting in its gradual increase in cost over the past twenty years. Malaysia and Indonesia alone produce over 80% of internationally traded CPO. Currently, an estimated 4.5 million ha of land have been converted to oil palm plantations in Malaysia with further expansion planned in Sarawak, an eastern state of Malaysian Borneo. Over 7.5 million ha of land are under oil palm plantations in Indonesia and provincial plans project an additional 20 million ha for oil palm development.1

Oil palm expansion is a major driver of deforestation in the South East Asian region. Thailand and Papua New Guinea are now also experiencing a rush to expand the crop and there are initiatives to further develop the crop in Cambodia, Vietnam and the Philippines. Most of this expansion is happening in “forest” areas where people have weak or unrecognised rights over their land. This expansion has been reported to result in serious social and environmental impacts in terms of forest degradation and biodiversity loss, expropriation of community lands and violations of human and land rights and exploitation of the workforce, especially of women and migrant workers. In Cambodia, the documented impacts have drawn the attention of various stakeholders as well as the media, the international community and several human rights groups.

It is these issues that have prompted RECOFTC to collaborate with the Forest Peoples Programme (FPP) in order to implement a project

3 This study has also been published as a chapter in “Oil Palm Expansion in South East Asia: Trends and Implications for Local Communities and Indigenous Peoples. (FPP & SawitWatch 2011).
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as partner of the Rights and Resources Initiative (RRI). The overall objectives of the project are:

- To raise awareness about rights, tenure, processes of land expropriation, the threats imposed by palm oil and the possibilities and limitations of the RSPO.
- To expose problems faced and caused by various sectors and discuss possible solutions including through the RSPO but also, more importantly, based on framework reforms needed to regulate the sector.
- To strengthen social mobilisation in order to defend land and forests from predatory and exploitative enterprises.

The Cambodian country case study attempts to provide an overview of oil palm development that will contribute to the overall project objectives in question. The case study is based on secondary data, travel and observation in the Cambodian countryside, and personal key informant interviews with representatives from rural communities, government officials, research organisations and non-governmental organisations (NGOs).

National trends in oil palm development

Since its reintegration into the global market in 1993, Cambodia has received a significant amount of foreign direct investment (FDI) in addition to domestic investment. However, a large portion of these investments were channelled into the development of tourism, infrastructure, the tertiary sector and industry. By mid-2009, FDI committed in fixed assets to the agricultural sector accounted for only 4% or US$ 1 billion.²

Since 2007, however, FDI appears to have been increasingly directed towards the agriculture sector. This was particularly the case in 2009 when the total amount of approved fixed assets was of US$ 446 million, more than triple the amount committed in 2008 when FDI approval peaked.³ Indeed, Cambodia has the potential to expand its agricultural sector, largely due to its abundance of fertile land that the government considers suitable to grant as Economic
Land Concession (ELC) at a relatively low cost. On the other hand, Cambodia also suffers from a significant gap in its post-harvest capacity to store and process crops for export. It is these opportunities in part that have attracted an increased flow of FDI into Cambodia in spite of the scarcity of capital resulting from the global financial crisis.

Large agricultural investments typically cover extensive areas of land, usually so-called “vacant” land in forested regions. The granting of lands for agricultural investment is termed “Economic Land Concession” (ELC). About 60% of Cambodia’s abundant vacant land is covered by forests. Attempts to convert such areas into agricultural land are predominantly achieved in the form of Economic Land Concessions, by which large allocations of public land are granted to private companies to attract large scale agricultural investment. As announced by the Ministry of Agriculture, Forestry and Fisheries in April 2010, eighty five companies have been granted long-term concessions over a total area of 956,690 ha in sixteen different provinces. This area does not as of yet include smaller concessions of less than 1,000 ha granted by provincial authorities prior to September 2008.

Economic Land Concessions can only be granted on state private land for a term no longer than ninety nice years and cannot exceed 10,000 hectares. Operations on ELCs must begin within a year of the allocation. Five stipulations must be followed to ensure the legality of ELCs: the area of state private land must be registered and classified; a land use plan must be adopted for the area; Environmental and Social Impact Assessments must be conducted and approved; lawful landholders must not be displaced by the ELC and; consultations about the ELC must take place with the public.

The development of agro-industrial plantations through the granting of ELCs has the potential to supply large and consistent quantities of agricultural crops. As such, plantation agriculture may contribute significantly to the national economy and act as a source of employment on a substantial scale. Land concessions have been offered for the cultivation of plantation crops such as rubber, palm oil, cashew nuts and coffee. Minor projects cultivate food crops such
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as sugar cane and fruit trees. Most ELCs are located in non-flooded areas and degraded forests. The trees grown there require at least three years to yield returns and necessitate substantial financial investment. Rubber and cashew are among the most successful crops planted on such ELCs.

Oil palm development policies

The recent and sudden rise in the price of international crude oil has brought about a situation where oil-importing countries attempt to decrease dependency on fossil fuels and instead achieve a partial conversion of energy sources to sustainable energy sources. In order to reduce dependency on fossil fuel imports and improve the energy security of the country, bio-energy has been promoted by the Government of Cambodia. In consequence, a bio-energy promotion plan had been initiated, of which the focal point is the Office of the Council of Ministers.

The production of bio-fuel in Cambodia is still in its infancy, but many studies confirm a significant potential for the development of bio-energy crops in this country. However, as of yet, there is no policy for the development,

Box 1: Mong Reththy Investment Cambodia Oil Palm Co., Ltd. (MRICOP) Profile.

MRICOP is the first commercially cultivated oil palm company in Cambodia. MRICOP obtained 11,000 ha of land under economic concession for a lease period of seventy years in 1995 and already has an investment plan of US$ 36 million, including for the development of a refinery. The plantation is located 180 km from Phnom Penh and 60 km from Prah Sihanouk Province. The company imported its oil palm seeds from Costa Rica, Thailand and Malaysia.

Crude palm oil was first harvested in 2003 and processed in 2004. Crude palm oil (CPO) products are mainly exported to China, Malaysia, Sri Lanka and Singapore.
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production or use of bio-fuels. A plan for bio-fuel production for the transportation sector is currently being drafted. Meanwhile, the government promotes its “Rural Electrification by Renewable Energy Policy” as part of its long-term policy agenda.

However, many officials highlight the government’s interest in the domestic use of bio-fuel as due to various reasons, including cutting the cost of petrol fuel imports, increasing energy security, creating job opportunities and reducing pollution. The government has also announced incentives such as waiving import and export duties and offering significant tax breaks for investors in bio-fuel production.\(^8\)

It is not clear which government institution will take specific responsibility for the development of bio-fuels. Currently, the Ministry of Agriculture, Forestry and Fisheries and the Ministry of Industry, Mining and Energy are involved.

Up to 2010, the Royal Government of Cambodia (RGC) did not engage in any significant initiatives to develop biodiesel. However, RGC has recently launched a series of discussions to address the development of renewable sources of energy and it is foreseen that it will consider and set up a pilot project to develop biodiesel as a significant and potentially lucrative source of energy for Cambodia.

RGC has studied several renewable energy development projects both independently, in cooperation with the private sector, and with international assistance. As one of the power supply sources to rural communities, the use of locally available renewable energy is considered ideal to support local agricultural activities. 85% of the population in most rural areas has no access to electricity and the majority are poor agriculturalists. Their available source of power is supplied by either automotive batteries or expensive small and medium diesel generators set up in provincial cities in towns.

In this regard, the government’s motivation to develop agro-based recoverable energy is supported by the fact that local farmers can gain both income and financially viable power by producing agricultural crops that are convertible into fuel. Therefore, it is in the national interest to develop recoverable fuels to power small and
medium diesel power generators, in order to reduce the use of oil, firewood and charcoal as energy sources, particularly in aforementioned rural areas where access to such power supplies is lacking.  

**National production of CPO**

In recent years, the business sector has become increasingly interested in the production of ethanol, primarily from cassava. Cassava was one of the most important exports in 2007. So far, there are almost no fuel production facilities operating in Cambodia. Planned large scale plantations of energy crops have only just begun to be set up, the primary crops being *Jatropha curcas* and cassava. Oil palm too has been considered as an alternative option, although government promotion has focused on large scale foreign investment in *Jatropha curcas*.

With the initiative of developing large scale plantations of agricultural crops convertible into biodiesel, Mong Reththy Group jointly with South Korean venture partner Borim Universal launched a project in 1994 to plant oil palm in 11,000 ha of proposed land in Prah Sihanoukville Province. The purpose of the plantation is not to generate biodiesel from palm oil, but rather is the first attempt to develop vegetable oil plantations in Cambodia. As noted by H.E. Chhan Saphan, a Secretary of State in the Ministry of Land Management, Urban Planning and Construction, at a Technical Working Group on Land meeting in March 2007, Mong Reththy Investment Cambodia Oil Palm Co. (MRICOP) is one of a number of successful ELCs used for agricultural plantations, including for oil palm.

In July 2010, there was still no data available regarding national crude palm oil (CPO) production, including from the Ministry of Agriculture, Forestry and Fisheries (MAFF) website. There is a remarkable paucity of data on CPO production available for public access at present. So far, only one company, the afore-mentioned Mong Reththy Investment Cambodia Oil Palm Co., Ltd (MRICOP) appears active in oil palm plantation projects (see box above for
company profile). Their palm oil mill came into operation for CPO production in 2003.

MRICOP’s raw palm oil factory is the first factory in Cambodia to produce raw palm oil for domestic consumption and export. In 2005, the company produced 4,000 metric tons of CPO for export to China, Malaysia, Holland, Switzerland, India, Singapore and France. However, as stated in the 14th Government Private Sector Forum in November 2008, the price of palm oil decreased from $1,200 to only $400 per ton in 2008. Since then, the company has been able to produce twenty tons of CPO per hour, while on average the project yields twenty two tons of CPO per hectare per year. Nearly 20,000 tons of palm oil were exported to Malaysia, India, Korea and Germany in 2008 and since 2009, the company has shifted its focus more towards the domestic market.

At present, MRICOP can harvest over 350 metric tons of FFB (Fresh Fruit Bunches) per day and the CPO mill can process over 250 metric tons per day. The company’s processing plant, currently working at 50% of its capacity, is capable of processing up to thirty tons per hour and is expected to reach sixty tons per hour by 2011.

In a meeting in June 2010 between new Malaysian ambassador to Cambodia Mohd Hussein Mohd Tahir Nasruddin and Deputy Prime Minister Sok An, the ambassador emphasised that Malaysian investors are interested in investing in rice, rubber plantations and oil palm plantations in Cambodia.

Up to July 2010, an estimated 232,255 ha of economic land concessions were granted to fourteen different companies for oil palm plantation development in Cambodia. Much of the investment for oil palm plantation comes from Malaysia, Thailand and China. The majority of oil palm plantation shareholders are from China. For various reasons including not fully complying with project development plans as agreed with the government, a number of economic land concessions were terminated. By July 2010, a total of 145,255 ha were covered by oil palm plantations in Cambodia. In Cambodia, oil palm plantations are rarely grown as mono-crops but
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rather complemented by other agro-industry crops including cassava and rubber tree.

Only Cambodian nationals can own land in Cambodia (i.e. freehold), whilst ELCs may be granted to either local or foreign companies (i.e. leasehold). The 2001 Land Law permits ELCs to be granted for up to ninety nine years but in practice the MAFF generally allows the leasehold of land for up to seventy years, renewable upon justifiable request. All concession companies are shared between Cambodian and foreign companies. China, Malaysia and Thailand form the majority of investors interested in oil palm plantations in Cambodia.

Figure 1: Gross land concession trends for oil palm plantations (1995-2010)

As indicated by an analysis of information provided by MAFF relating to oil palm plantations, nine out of the fourteen ELCs are owned by foreign investors. Seven concessions are owned by Chinese nationals, two by Malaysians and one is unknown. The analysis also shows that at least two ELCs for oil palm have been granted through Cambodian political connections. Senator Mong Reththy is director of MRICOP which has been granted a land
concession of 11,000 ha in total in Prah Sihanouk province. Senator Men Sarun, director of Globaltech Sdn. Bhd., Mittapheap-Men Sarun and Rama Khmer International, has been granted 20,000 ha of land for an oil palm plantation located in Ratanakiri province.

MRICOP is the first commercial oil palm plantation project introduced in Cambodia since 1995, covering 11,000 ha in Prah Sihanouk Province, and the product of a joint venture with three other foreign partners. Mong Reththy holds 60% of the company, while the rest is shared between Borim Universal Co. Ltd (South Korea, 20%), Kim Tat Send Group Pte. Ltd. (Singapore, 10%) and Lavanaland Sdn. Bhd. (Malaysia, 10%).

Green Rich Co. Ltd. has been granted 60,200 ha of land as economic concession, located in Koh Kong Province. According to the company’s profile on the MAFF website, the director of the company is Chinese. As noted by Chris Lang, the company is owned by Freeland Universal Limited, registered in the British Virgin Islands, and its office is located in Hong Kong. In September 2004, the Cambodia Daily reported that Indonesia’s Asia Pulp and Paper (APP) were behind Green Rich’s operation in Cambodia.

According to the homepage of MAFF, out of the fourteen ELCs for oil palm plantation (see table 1), China has direct investments in ten oil palm companies. Only two big companies are directly invested in by Malaysia; TALAM Plantation Holding and Fortuna Plantation. Out of the fourteen companies, only five are reportedly still active, while the rest are either inactive or have had their contracts terminated by MAFF.

**Land acquisition**

*Legal framework of land acquisition*

The Cambodian government has committed itself to numerous fundamental human rights treaties, including the International Convention on Economic, Social and Cultural Rights, the International Convention on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial
Discrimination. In addition to these international treaties, Cambodia’s constitution also protects Cambodian citizens’ rights to land, and freedom of collective and individual expression.

Article 15 of the Land Law states that public land is land whose use is in public interest, including property of natural origin, such as forests. State private land is neither state public land nor legally privately or collectively owned under the Land Law. Under the Land Law, any person who enjoys peaceful, uncontested possession of land (except for not state public land) for at least five years prior to the law’s promulgation has the right to request a definitive title of ownership of this land. Those who enjoy such land possession for at least five years may obtain a definitive title of ownership. The Land Law authorises the granting of land concessions as a response to either social or economic circumstances. Land concessions must be based on a specific legal document, issued by a competent authority prior to the occupation of the land, and must also be registered with the Ministry of Land Management, Urban Planning and Construction (MLMUPC).

Economic Land Concessions can only be granted for state private land and for a maximum duration of ninety nine years. These concessions cannot lead to the establishment of ownership rights over this land. However, apart from the rights to alienate land, concessionaires are vested with all other rights associated with ownership during the term of the contract. The economic land concession must not exceed 10,000 ha and concessions granted prior to the implementation of the Land Law must be reduced to comply with this area limit, although exemption may be granted if the reduction will compromise the exploitation in progress.

Article 18 of the Land Law states that land concessions that fail to comply with the above provisions are null and void, and cannot be rendered legal in any form. Article 55 declares that concessions may be revoked by the Government for non-compliance with legal requirements, and that concessionaires may appeal against this decision. Furthermore, a court may cancel the concession if a concessionaire does not comply with clauses specified in the
contract. Article 62 states that the ELC must be exploited within twelve months of being granted, or will be considered cancelled.

The sub-decree on Economic Land Concessions\textsuperscript{21} determines the criteria, procedures, mechanisms and institutional arrangements for granting ELCs. These include processes of monitoring the progress of ELC contracts, reviewing compliance with the Land Law of concessions granted prior to the effective date of the sub-decree.

Proposals for ELCs are to be evaluated based on various criteria including the promotion of the local community’s living standards, the protection of the environment, the management of natural resources, the minimisation of negative social impacts and the creation of employment opportunities.

The sub-decree stipulates that the MAFF is authorised to grant and approve investment projects involving ELCs. Provincial governors are also authorised to approve land concessions of up to 1,000 ha per company. However, this authorisation was withdrawn in September 2008 and given instead to the central authority of MAFF, as in the case of land concessions of larger sizes.

The MAFF also chairs an inter-ministerial committee to make decisions regarding ELC application approvals which are determined after a pre-feasibility study is conducted. ELC proposals must comply with the required environmental and social impact assessment, and must not involve the resettlement of local people.\textsuperscript{22}

\textit{Trends in land acquisition}

Economic Land Concessions (ELC) are defined as a mechanism for the government to grant private state land to a concessionaire for agricultural exploitation. This refers to the cultivation of food crops or industrial crops, animal husbandry and aquaculture, the building of power plants, factories or other facilities to process domestic agricultural raw materials or a combination of some or all of the activities above. The purposes for which ELCs may be granted also include the generation of state revenues, an increase in rural employment and a diversification of livelihoods opportunities for
local inhabitants. The Sub-decree stipulates that any ELC investment must receive the approval of the MAFF.

Unfortunately, analysis of ELC trends is hampered by the incomplete data available at present. Up to July 2010, only ELCs approved by the end of 2006 were reported and disclosed by the MAFF. In early 2010, on the MAFF website, the list was updated to include ELCs granted afterwards and those cancelled. However, nine companies are listed by name only, with no details provided, thereby limiting the amount of information available on their respective ELCs.

Cambodia appears to be emerging as a main exporter of natural resources to its neighbouring states. Interested investors come from Thailand, Vietnam, Malaysia, Singapore and China. Even with the little amount of information available, ELCs already appear to be numerous; eighty seven companies were valid as of April 2010. The MAFF website reports the cancellation of forty five ELCs. However, only twelve of those were recorded on the website. It suggests the other thirty three ELCs cancelled never appeared on the MAFF website. The total land area for the remaining eighty seven ELCs is of 1,081,245 ha (out of 18 million ha in Cambodia as a whole).

To date, fourteen companies have been granted a total of 232,255 ha for oil palm plantation (see table 1). By July 2010, only five companies occupying 98,155 ha were still in operation whereas two companies occupying 56,700 ha have not shown any significant progress in their activities. In sum, a total of 150,210 ha of ELCs were accounted for as oil palm plantations in 2010.

Table 1: Palm oil plantation companies in Cambodia

<table>
<thead>
<tr>
<th>Province</th>
<th>Company Name</th>
<th>Year of Granted</th>
<th>Area Covers (Hectare)</th>
<th>Current Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kampot</td>
<td>Camland Co., Ltd</td>
<td>2000</td>
<td>16,000</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Kampot</td>
<td>Shing Yu Commercial</td>
<td>1996</td>
<td>10,000</td>
<td>Terminated 2005</td>
</tr>
<tr>
<td>Kampot</td>
<td>Cambodia Tapioca Ent</td>
<td>1999</td>
<td>5,100</td>
<td>Terminated 2005</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Location</th>
<th>Company Name and Details</th>
<th>Year</th>
<th>Acres</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kampot</td>
<td>China Evergreen Cambodia Agriculture Development</td>
<td>1998</td>
<td>4,000</td>
<td>Terminated 2005</td>
</tr>
<tr>
<td>Koh Kong</td>
<td>TALAM Plantation Holding SDN BHD</td>
<td>1998</td>
<td>36,700</td>
<td>Terminated 2006</td>
</tr>
<tr>
<td>Koh Kong</td>
<td>Cambodia Palm Oil</td>
<td>1999</td>
<td>15,200</td>
<td>Terminated 2000</td>
</tr>
<tr>
<td>Koh Kong</td>
<td>Chung Shing Cambodia</td>
<td>1996</td>
<td>16,000</td>
<td>Terminated 2005</td>
</tr>
<tr>
<td>Koh Kong</td>
<td>Green Rich Co. LTD</td>
<td>1998</td>
<td>60,200</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Kampong Speu</td>
<td>Henan (Cambodia) Economic &amp; Trade Development Zone</td>
<td>1999</td>
<td>4,100</td>
<td>Terminated 2010</td>
</tr>
<tr>
<td>Kampong Speu</td>
<td>The Cambodia Haining Co. Ltd</td>
<td>1998</td>
<td>23,000</td>
<td>Terminated 2010</td>
</tr>
<tr>
<td>Kampong Speu</td>
<td>Fortuna Plantation (Cambodia) Ltd</td>
<td>2009</td>
<td>7,955</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Pursat</td>
<td>Ratanak Visal Development Co., Ltd</td>
<td>1999</td>
<td>3,000</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Ratanakiri</td>
<td>Global Tech Sdn., Bhd. Rama Khmer International and Men Sarun Friendship</td>
<td>1999</td>
<td>20,000</td>
<td>No Activities</td>
</tr>
<tr>
<td>Prah Sihanouk</td>
<td>Mong Reththy Investment Oil Palm Cambodia Co., Ltd</td>
<td>1995</td>
<td>11,000</td>
<td>Ongoing</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>232,255</strong></td>
<td></td>
</tr>
</tbody>
</table>
Primary regions of oil palm plantation

Cambodia has a limited amount of land suitable for the growth of oil palm which requires a tropical forest climate with over 3,000 mm of annual rainfall. The climate renders Cambodia more suited to the plantation of *Jatropha* as raw material for bio-diesel fuel (BDF).

In 1995, a 20,000 hectare concession to plant an oil palm plantation in O’Yadao district, Ratanakiri province, was granted by a joint venture company of Globaltech Sdn. Bhd. (Malaysia) and Cambodian companies Mittapheap-Men Sarun and Rama Khmer International. However, a trial plantation in 1996 turned out to be a complete failure and the land cleared by the company was simply left unused. The company then started a coffee plantation, building a dam to provide water to irrigate the plantation. Cambodia’s Haining company, granted 23,000 ha located in Kampong Speu province, also made no significant progress after their oil palm plantation experiment failed in the area in 1998.

At present, oil palm is mainly grown in the southern part of Cambodia, primarily in three provinces of mountainous relief along the coastal zone; Kampong Speu, Koh Kong, and Preah Sihanouk (see map below). Oil palm plantations occupying thousands of hectares in the coastal zone have had limited success. The initial plan of setting up a refinery to produce cooking oil was not realised; instead the seeds were collected and exported to Malaysia and Cambodia imported tax-exempt cooking oil. Few workers were employed because wages were low and there was a lack of infrastructure for residential settlements. This example underlines the importance of sustained commitment from investment companies and the need for high global prices to ensure the success of commercial ventures such as oil palm plantations.
Social and environmental impacts

It is frequently reported that ELCs have had a negative impact on the human rights and livelihoods of rural communities who depend on forest and natural resources for their survival. Commonly cited concerns include encroachment on agricultural and grazing land, loss of customary livelihoods, loss of access to non-timber forest products and environmental destruction.

The Law on Environmental Protection and Natural Resources Management requires environmental impact assessments to be carried out on all private and public projects and activities. According to the Sub-decree on the Environmental Impact Assessment Process, responsible entities must carry out an Environment Management Plan for a period of six calendar months,
commencing from the date of the MoE confirmation of their EIA report. Within at least two years of the promulgation of this sub-decree, responsible entities must compile their EIA report and submit it to the Provincial/Urban Environmental Office (PEO) for review and approval.²⁶ However, the Sub-decree is unclear in terms of exactly how EIAs are carried out, over what period of time, and according to what indicators and evaluation standards.

The United Nations Office of the High Commissioner for Human Rights (UNOHCHR) report of June 2007 raised the issue of the logging of valuable timber within the oil palm concession land of Green Rich’s oil palm in Koh Kong. In early 2005, the Ministry of Environment filed a lawsuit against the company for violating the terms of its contract by logging outside the concession areas and destroying hundreds of hectares of evergreen forest in the Botum Sarkor national park in Koh Kong province for logging purposes.²⁷ Legal action against Green Rich was also taken due to the company failing to submit an environmental impact assessment (EIA) to the Ministry of Environment.²⁸ The company’s actions were taken as a prime example of a concession exploiting the status of a plantation in order to log national park forested areas.

**Land conflicts: human rights abuses, indigenous peoples and land-grabbing**

The Royal Government of Cambodia has granted hundreds of thousands of hectares of land as ELCs for industrial tree plantations in particular. The results have had a severe impact on the forests, local people and workers employed by the plantation companies.

Few cases relate solely to oil palm plantations, as large scale land concessions for other plantations such as rubber, teak, coffee and cashew nuts present similar problems for local communities in Cambodia. The companies lease land from the government and hire rural and often migrant, workers. Local communities are hardly ever consulted and in many cases residents are violently evicted from their land to make room for these plantations.

One of the greatest concerns of international NGOs is the increase in concession demands leading to the legalisation of land-grabbing.
from inhabitants of the poorest rural areas. Data available on land grabs in Cambodia is limited and the range of cases vast, as many regions are experiencing a redistribution of land that disenfranchises marginalised communities. Since non-speculative empirical data is limited, fieldwork to uncover real data is a necessity. A detailed analysis of the situation of the rural poor who are losing land to land grabbers is crucial to understand whether they are indeed benefiting from these forms of land redistribution.

Land grabbing causes and exacerbates conflict and struggles over access and rights to natural resources between companies and local communities. ELCs have had a devastating impact on indigenous and non-indigenous communities alike, but indigenous communities are particularly vulnerable, despite the protection of their rights to collective ownership of land under Cambodian law.

As quoted in the Watershed publication by Chris Lang, in 2007, Yash Ghai, the UN’s Special Representative of the Secretary General for Human Rights in Cambodia, wrote,

“It is clear that ELCs have not had tangible benefits in rural areas but instead have deprived communities of vital sources of livelihoods, thus aggravating and worsening their already difficult situation. It is also clear that the granting of economic land concessions has increased the accumulation of property and wealth in the hands of those with political or economic influence.”

On paper, contracts for ELCs in Cambodia do not violate the land and land use rights of peasants since ELC contracts are only granted on state land. However, the categorisation of areas as state land does not reflect reality. Economic Land Concessions regularly encompass households’ paddies, fields, grazing land, water and forest resources. The state’s definition of land as marginal, idle or degraded has led to a “very rough, sometimes misleading, representation of actual existing rights to land.”

Thus, it is a false assumption that supposes that such land is available and suitable for exploitation. In reality, this land is often
inhabited, densely forested or utilised as a communal resource. Consequently, imposed government land categorisations that disregard actual land use practices result in the dispossession of the rural poor. By defining land as marginal, idle or degraded, the state can benefit by leasing or contracting land to capitalist interests for agricultural development and resource exploitation. The dispossession of Cambodians from their land results from state land policies that unfairly represent land as marginal and underproductive.\textsuperscript{36}

In addition, although state public and private property are differentiated in the 2001 Land Law, to date, the identification, mapping, and registration of state land has not occurred. The government rarely differentiates between state public and state private land when making claims that villagers are living illegally on state land. Therefore, villagers can legally be evicted for ELCs or private investment interests. Since there is no public information on what is state public land, it is difficult for the occupier to question the state’s claims that they are living on state property.\textsuperscript{37}

The 2005 Sub-decree on State Land Management states that State land must be mapped and this information must be entered into a central database that is accessible to the public. This is not being implemented systematically or transparently in Cambodia as large tracts of land are selected and classified by the government as state private land so that they can be transferred or leased to private interests.\textsuperscript{38} Moreover, land tenure security for rural inhabitants is inadequate as land grabbers legitimise evictions by stating that they are illegally occupying state land. The information cannot be verified because registration of state land has not been implemented. This determination is made \textit{ad hoc} and when investment interests in an area are expressed.\textsuperscript{39}

The ambiguous nature of state land and the convenient transferability of state public land (such as forests, fallow, or non-private lands) to state private land facilitates land grabbing in rural Cambodia. The state determines who can have access to land registration, what titles are recognised, and how forest resources can be utilised. The rural poor are left out of the picture because of the
power disparities in the system of land governance.\textsuperscript{40} The following examples illustrate the nature of oil palm development as experienced by local inhabitants and smallholders.

In 1997, MRICOP planted an area of 3,800 ha with oil palm trees. With the help of the Phnom Penh Municipality, ninety families illegally dwelling in Phnom Penh were relocated to work on the plantation area located along the National Route 4. The company promised to give them two hectares of land plots for their individual plantations. According to villagers in the area, the land used for the oil palm plantation included both forest and farmland. About 300 families located in Tanei village, which is adjacent to the plantation, reportedly lost their land to the company's plantations at that time.\textsuperscript{41} As the result, the village moved to an area adjacent to the national route and many of them are now generating income by selling drinks and fruit from the small shops lining the road.

According to the results of Chris Lang’s field investigations since 2001, some villagers feel they were tricked by the companies to give up their land as they never received any compensation from them. However, in the same report, it is also mentioned that some villagers received money for their land, but not for their trees. The problems persisted for two years without resolution, particularly regarding the two ha of land promised to the plantation workers. The company still claims that the land granted was empty land, but locals have protested, leading to numerous acts of violence. In February 2001, about 6,500 oil palm trees used by the company were burnt down, leading to an estimated damage cost of around US$ 70,000.\textsuperscript{42} Meanwhile, most of the migrant families are unemployed. They make a living by collecting firewood in nearby forests to sell in Phnom Penh and some have already moved back to Phnom Penh in search of a better job.

A similar case also occurred in Kampot province in early June 2009, when about 300 villagers wielding axes and knives assembled to protest against Camland Company, claiming the company was clearing their land without their consent. The company possessed a seventy-year license from the government to develop oil palm plantations but the community claimed the same area to be their
ancestral land on which they have lived for generations. The local community threatened to set fire to the company’s bulldozers if it failed to stop its activities. To date, over 3,000 ha of land have already been cleared and the company has retaliated by calling upon the protesting villagers to produce documents of proof for their claims.43

In some extreme cases, criminal charges have been filed against local communities who protest against the destructive impacts of land concessions for oil palm plantation. However, the judicial system has not yet been used to uphold local communities’ rights so companies that blatantly violate the law have not been held accountable for their activities. In December 2005, three community activists were charged with incitement and destruction of property belonging to the Ratanak Visal Concession Company. The company filed a complaint after the community activists signed a petition to local authorities on behalf of affected communities when the company blocked off a stream essential for the irrigation of their rice fields.

Other concessions were granted over indigenous land for oil palm plantation in O’Yadao district in Ratanakiri. In 1996, a joint venture company, Globaltech Sdn. Bhd., Mittapheap-Men Sarun and Rama Khmer International, were granted 20,000 ha of land concession for oil palm plantation right in the middle of land inhabited by highlander communities. The local people were not consulted, 4,500 people were reportedly forcefully displaced from their land and employment opportunities were provided by the company for only 400 workers44, some recruited to clear the land and forest. As oil palm turned out to be an unsuitable crop for that area’s climatic conditions, the company started to plant coffee instead. A dam to provide water to irrigate the coffee was built as the result of a drought. The local community’s submerged lands were bought by the company at a derisorily low price (US$ 52 per hectare) as they were told that, in any case, the company would take the land even if they refused to sell it.45

The efforts to compensate for some of the inequalities exacerbated by land grabs in Cambodia are failing because peasants have few
options to successfully fight the system.\textsuperscript{46} Since explicit and outward resistance is met with brutal force by the military and privately contracted police in Cambodia, speaking out against government officials or people that have powerful connections to the state can place individuals, their families, and entire villages in danger of bodily harm, eviction, and arrests.\textsuperscript{47} However, notwithstanding these risks, there are an increasing number of cases where local people are overtly challenging land grabs and the system that promotes land-grabbing as rural economic development. On the other hand, most peasants resist the takeover of their lands through covert actions of deception and non-compliance.\textsuperscript{48} In Cambodia today, everyday resistance to land grabs for oil palm plantation development is becoming frequent, often in the form of overt, unorganised and unstructured opposition by the rural poor. The increasing tensions, especially in the battle between capital and the rural poor over land, may well result in the emergence of advocacy politics in the near future.\textsuperscript{49}

**Other issues related to estates**

The use of some ELCs for agricultural production appears to have remained at the speculative level. Some companies lacked the capital to convert their ELCs into agricultural enterprises. Others came into conflict with other stakeholders over land rights, particularly with local communities, and were unable to implement their plans.

Overlapping claims to land are made both by local villagers and influential people who purchase land from these local villagers or are granted land by the government. According to the NGO Forum on Cambodia’s database 2009 land dispute report, 108 cases identified related to an abuse of power by the plantation companies, the luring of local leaders’ support through financial rewards and the intimidation of activists opposing plantation development.\textsuperscript{50} The resolution of such conflicts has been particularly difficult, as reflected by the fact that numerous land conflicts have persisted for over a decade.
The legal and regulatory frameworks for granting ELCs are clearly far from strict enough. Nor are environmental impact assessments and social impact assessments being properly implemented and enforced according to the sub-decree on the Economic Land Concession. Only consultancy firms recognised by the Ministry of Environment are allowed to conduct EIAs. However, these assessments are hardly reliable as they tend to be reduced to the aleatory ticking of boxes.\textsuperscript{51}

A review of the MAFF website found that many palm oil concession companies carried out a slow or insignificant implementation of their initial contract or business plan. Very few projects appear to have taken a serious and committed stance towards implementing their agricultural/agro-industry development proposals, as confirmed in the meeting of the Technical Working Group on Land in March 2007.\textsuperscript{52} This has partly resulted in illegal land-grabbing, causing conflicts that will be difficult and time-consuming to resolve.

Local villagers appear to be even worse off financially than before, although some receive temporary benefits from the ELC projects. The disadvantaged ethnic minorities living in the remote plateau areas in particular have been losing their traditional livelihood practices, and no alternatives are available to them at the moment. An illustrative example of this situation is the previously described case of Globaltech Sdn. Bhd., Mittapheap-Men Sarun and Rama Khmer International, granted a 20,000 hectare land concession for oil palm plantation in Ratanakiri.

Official information relating to working conditions on oil palm plantations are severely lacking. So far, the only information available has been collected by human rights NGOs and other independent studies. Indeed, as reported by Chris Lang, the working conditions of workers for Green Rich were absolutely appalling.\textsuperscript{53} The company hired loggers from another north eastern part of the country. The report claims that the sub-contractors inflated food prices for workers and many workers found themselves having to rely on borrowing money and food in order to survive. A number of workers fled, swimming across the river at night and walking
dozens of kilometres through mangrove forest to escape these exploitative conditions.

In some cases, workers migrated from other areas to live and work with the concession companies. An example of this is that of MRICOP in Prah Sihanouk province. In early 1999, the Phnom Penh Municipality, in collaboration with the company, relocated ninety nine families illegally squatting behind the Russian embassy in the capital to Monorom 1, a new village adjacent to MRICOP. These people were promised work on the oil palm plantation together with a new house. The municipality built a school and a market. However, as reported by Chris Lang, only about fifty people actually got jobs with the company. By June 2001, it was reported that migrant workers could freely do whatever they pleased to earn their living, while the company itself was not even aware how many villagers were working for them.\textsuperscript{54}

By 2001, the oil palm venture was not making any profits. Though the first fruits were being harvested, there was no factory for processing. In his report, Chris Lang stresses the fact that the company had totally failed to benefit either the local population or the people relocated from Phnom Penh. The community surrounding the plantation areas had lost their access to land and forests, and all this without compensation. Of all the migrant workers who had moved from Phnom Penh and were promised work with the company, only a handful had received jobs and none had received the land the company had promised them.

**National standards and norms**

Though the Royal Government of Cambodia has a policy to promote bio-energy in order to reduce Cambodia’s dependency on imported oil, there is no specific agenda for palm oil development yet. As reported by a local media source, MAFF does not particularly encourage palm oil projects as they are not seen as having much positive benefit. MRICOP has also expanded their plantation project with a focus on cassava instead.

Since July 2010, there has been no information available regarding the membership of any companies in Cambodia to the Roundtable
on Sustainable Palm Oil (RSPO). However, the RSPO’s principles and criteria relating to indigenous peoples, local communities, workers and smallholders, community safeguard standards and norms are in theory in line with existing Cambodian legal frameworks, including statutory and international laws. Besides these, NGO position papers and statements made at the Cambodia Development Cooperation Forum (CDCF) meeting provide another source based upon which CSOs can raise their concerns regarding the impact of government policies on communities at the local level.

The Cambodian Constitution states that all citizens have the same rights, regardless of race, colour, language or religious belief. Indigenous people are regarded as citizens of Cambodia. Cambodia is signatory to a number of international instruments that protect human rights as ratified since 1992, including the International Covenant on Economic, Social and Cultural Rights. Article 31 of the Cambodian Constitution also states that Cambodia shall recognise and respect the UN conventions relating to human rights.

In response to this, international and local NGOs have produced a number of reports related to the impacts of oil palm plantations on local peoples’ livelihoods, rights, resources and choices. With reference to ELCs more broadly, the Committee on Economic, Social and Cultural Rights wrote in its 2009 Concluding Observation that it is

“concerned about the report that the increase in economic land concessions in the last several years, even within protected zones, is the major factor for the degradation of natural resources, adversely affecting ecology and biodiversity, resulting in the displacement of indigenous people from their land without just compensation and resettlement, and the loss of livelihood for rural communities who depend on land and forest resources for their survival.”

In response to ELC activities, communities are calling for action to safeguard their livelihoods. They are mobilising to notify the concessionaires and authorities about the impacts of these activities through petitions and public protests. In some cases, actions to
resolve these conflicts have been promised, but have not always been actualised.

Another window of opportunity for Cambodia’s NGO community to engage with the Royal Government of Cambodia in order to address such issues is through the NGO position paper presented at the annual Cambodia Development Cooperation Forum. It provides observations and policy recommendations based on the government’s performance against its Joint Monitoring Indicators (JMIs) and National Strategic Development Plan (NSDP). Though NGO statements rarely directly mention oil palm issues, the 2010 statement asserted that “ELCs are the root cause of forestry disasters and land conflict in the country, with generally negative impacts on affected community”. The statement also asked the government to ensure public disclosure and regular updates of the ELC log book, particularly regarding the progress of companies’ plantation-related activities.

In the same statement, NGOs working on environmental protection, conservation and climate change expressed their concern that insufficient attention was being paid to the quality of EIAs carried out for development projects. They recommended the government review ELC projects currently under implementation or in operation without EIAs and suspend these projects until their EIA report had been submitted.

**Recommendations**

- To disclose and make available to the public at all levels information related to ELCs, and particularly for the production of palm oil. This information should include the location of these oil palm plantations with their geographical coordinates, the area of land used, the status of progress of palm oil production, production capacity and the targeted export market.
- To ensure that all concessions comply fully with the provisions of the Land Law and Sub-decree on Economic Land Concessions.
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- To ensure the effective participation of local communities through prior and public consultations.
- To ensure that environmental and social impact assessments are made prior to the granting of land concessions.
- To ensure that oil palm land concessions are not granted over forested land and that the customary use rights of local communities are protected.
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Endnotes

1 Colchester 2010
2 Ngo S & Chan S 2010
3 *ibid.*
4 MAFF 2010
5 New sub-decree to eliminate the authorisation of provincial authorities to grant land to private companies.
6 2001 Land Law, Article 17, 58; Article 61; Article 59
7 Schneider A E 2011
8 Schott C 2009
9 Japan Development Institute (JDI) 2007
10 MAFF 2010
11 Telephone interview with Mr. Neou Senior, Senior Researcher of Online Database Manager of the Economic Institute of Cambodia on July 19 2010.
12 Cambodia Business Intelligence
13 Mong Reththy Group
14 DAP-News 2010
15 The total area is not only for palm oil also includes other agro-industry crops. Data on the specific land allocation for palm oil is not available.
16 Lang 2001a
17 Lang 2005
18 Quoted in Lang 2008
19 The Land Law was promulgated on August 30 2001.
20 The sub-decree on Economic Land Concession authorised the Council of Ministers to grant such an exemption, but specifies that clearing of land does not constitute exploitation in progress.
21 Sub-decree signed by the Prime Minister on December 27 2005.
23 Previously known as Sihanouk Ville
24 Japan Development Institute (JDI) 2007
25 WRM 2002
26 Sub-decree on Environmental Impact Assessment Process, Kingdom of Cambodia.
27 Lang 2008
28 WRM 2005
29 Schneider 2011:11
30 *ibid.*
31 Lang 2003
32 OHCHR 2007
33 Lang 2008

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34 Schneider 2011:11-12
35 Scott 1998: 47
36 ibid.
37 CHRAC 2009
38 Grimsditch & Henderson 2009:6
39 Ibid.
40 Schneider 2011:14
41 Lang 2001b
42 ibid.
43 Cambodia News Online 2009
44 WRM 2002
45 ibid.
46 O’Keefe 2009:6
47 CHRAC 2009
48 Schneider 2011:15
49 ibid.:8
50 NGO Forum on Cambodia 2010
51 Ngo S & Chan S 2010
52 H.E. Chhan Saphan, a secretary of state in the Ministry of Land Management, Urban Planning and Construction, at a meeting of Technical Working Group on Land in March, 2007 that Mong Reththy Investment Cambodia Palm Oil (MRICOP) is only one economic land concession that have been successful.
53 WRM 2005
54 Lang 2001
55 Indigenous People NGO Networks, 2010
56 This publication is a compilation of information from local and international NGOs working in a wide variety sectors in Cambodia. Learn more at <ngoforum.org.kh>
57 CDCF is the high level forum between the Royal Government of Cambodia and its Development Partners for discussing Cambodia’s development progress and aid mobilisation.
58 NGO Forum on Cambodia 2010