



**មជ្ឈមណ្ឌលសិទ្ធិមនុស្សកម្ពុជា**  
Cambodian Center for Human Rights

July 2013

## Land Reform Policy Report: Findings from Roundtable Discussions and Policy Platforms



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## **Cambodian Center for Human Rights (“CCHR”)**

CCHR is a leading, non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights in the Kingdom of Cambodia (“Cambodia”). Our vision is of a non-violent Cambodia in which people enjoy their fundamental human rights, are treated equally, are empowered to participate in democracy and share the benefits of Cambodia’s development. We desire rule of law rather than impunity; strong institutions rather than strong men; and a pluralistic society in which variety is harnessed and celebrated rather than ignored or punished. Our logo – a dove flying in a circle of blue sky – symbolizes Cambodia’s claim for freedom.

### **About the Report**

The “*Land Reform Policy Report: Findings from Roundtable Discussions and Policy Platforms*” (the “Report”) was compiled following a number of roundtable discussions and policy platforms held across Cambodia, seeking to gauge the impacts of current land policies on Cambodian citizens’ life and work. Its aim is to document the constructive dialogues that took place during these meetings between political parties, non-governmental organizations, relevant institutions and the Cambodian population on the problems created by these policies, with a view to providing solutions to these issues through recommendations for reform.

### **Acknowledgments**

This Report is made possible by the generous support of the European Union. The contents are the responsibility of CCHR.

### **Queries and Feedback**

Should you have any questions or require any further information about the Report, or if you would like to give any feedback, please email CCHR at [info@cchrcambodia.org](mailto:info@cchrcambodia.org).

This Report, and all other publications by CCHR, is available online on the award winning Cambodian Human Rights Portal, [www.sithi.org](http://www.sithi.org), which is hosted by CCHR.



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## Definitions and Acronyms

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Cambodia	Kingdom of Cambodia
CCHR	Cambodian Center for Human Rights
COMFREL	Committee for Free and Fair Elections in Cambodia
Constitution	Constitution of the Kingdom of Cambodia, 1993 (as amended)
CPP	Cambodian People’s Party
CNRP	Cambodian National Rescue Party
DMP	Democratic Movement Party
ELC	Economic Land Concession
EU	European Union
FUNCINPEC	National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia
KAPP	Khmer Anti-Poverty Party
Land Law	Land Law 2001
LDP	League for Democracy Party
NGO	Non-Governmental Organization
Report	This Report entitled <i>“Land Reform Policy Report: Findings from Roundtable Discussions and Policy Platforms”</i>
RGC	Royal Government of Cambodia
SRP	Sam Rainsy Party
UDHR	Universal Declaration of Human Rights
UN	United Nations

## Executive Summary

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The dissemination of clear policies by political parties during the preamble to an election is essential in order for citizens to effectively exercise their democratic will. In the Kingdom of Cambodia (“Cambodia”), where a significant percentage of the population have been subjected to forced evictions and land tenure insecurity by both state and business actors, it is extremely important for party policies to reflect and address the land current crisis. The purpose of this Report is to provide stakeholders, including communities affected by land disputes, political parties, civil society and relevant provincial government departments, with information gathered during a series of six roundtable discussions and two policy platforms on the topic of land reform in Cambodia. The Report aims to establish clear expectations in the minds of Cambodian citizens as to the intentions of political parties in relation to land rights, in the run up to the national election scheduled for 28 July 2013 and thereafter. The roundtables and policy platforms were planned and organized as part of CCHR’s Land Reform Project in cooperation with several other partner non-governmental organizations (NGOs), with the generous support of the European Union (the “EU”).

**Chapter 1 (Introduction):** In this Chapter the general state of land rights in Cambodia is outlined, and a comparison is made between the strong formal protections given to land rights under Cambodian law versus its weak implementation.

**Chapter 2 (Methodology):** This Chapter provides an outline of how the information in the Report was gathered. It explains the roundtables and policy platforms that took place across Cambodia with the involvement of community participants, NGOs and political party representatives. The challenges encountered by the organizers of these events are also briefly highlighted.<sup>1</sup>

**Chapter 3 (Problems Identified and Recommendations of Community Participants):** This Chapter presents the key concerns of community participants in relation to land rights in Cambodia, as discussed during the roundtable discussions. Their recommendations for change are also outlined.

**Chapter 4 (Land Policies of Political Parties):** This Chapter records the changes that the participating political parties promise to introduce in relation to land rights in Cambodia if their party is elected.

**Chapter 5 (Conclusion):** The Report concludes with a brief summary of the most important findings from the roundtables and policy platforms.

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<sup>1</sup> The discussion points of each roundtable discussion and policy platform are contained in CCHR’s mini-reports concerning each session, available at [http://www.cchrcambodia.org/index\\_old.php?url=media/media.php&p=reports.php&id=5](http://www.cchrcambodia.org/index_old.php?url=media/media.php&p=reports.php&id=5)

# 1 Introduction

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The rights of Khmer citizens to own property and to have access to adequate housing are recognized both through Cambodian national laws as well as international human rights treaties such as the International Covenant on Economic, Social and Cultural Rights, which was ratified by Cambodia in 1992. The Universal Declaration of Human Rights (the “UDHR”), which is recognized under the Constitution of the Kingdom of Cambodia (the “Constitution”), also protects housing rights.<sup>2</sup> The Constitution recognizes and respects the human rights of Khmer citizens that exist under international law<sup>3</sup> and a decision by the Constitutional Council in 2007<sup>4</sup> confirms that international human rights treaties, as well as the UDHR, must be applied by Cambodian courts. Khmer citizens’ right to ownership is also provided for under Cambodia’s Land Law 2001 (the “Land Law”),<sup>5</sup> which provides for protection against arbitrary expropriation of property, requiring that property can only be seized if doing so is in the public interest, and even then only on the condition of fair and just compensation.<sup>6</sup>

Furthermore, the Royal Government of Cambodia (the “RGC”) accepted the recommendations of the 2009 Universal Periodic Review by the United Nations (“UN”) Human Rights Council,<sup>7</sup> following which, and in an effort to provide increased security in land titles and housing, the RGC established its Land Reform Policy under Cambodia’s National Strategic Development Plan 2009-2013,<sup>8</sup> largely focusing on protecting the use of land by Khmer people and achieving land ownership for Khmer citizens.

However, despite the protections that are embodied in Cambodian laws, housing and land rights violations are the most prolific and prevalent forms of human rights abuses occurring in Cambodia today. These violations often arise from the granting of Economic Land Concessions (“ELCs”), which are concessions given to companies with the aim of furthering economic development in Cambodia. According to the law they can only be granted from state private land, which is land owned directly by the state.<sup>9</sup> However, frequently they are granted from within state public land - land used communally by members of the public - which can negatively impact the environment and seriously affect people’s livelihoods, as well as lead to land conflicts. In total, over 3 million hectares of land (over 16% of the total 18.1 million hectares of land in Cambodia) have been granted through ELCs to foreign and domestic companies as well as wealthy political elites for the development of agro-industry, building hydropower and coal power plants, building ports, and for mineral extraction,

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<sup>2</sup> The relevant international provisions are found in the Universal Declaration for Human Rights (“UDHR”), arts 17 and 25(1); and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), art 11(1), which is explained in Committee on Economic Social and Cultural Rights (“CESCR”), ‘General comment 4: the right to adequate housing (Art. 11(1) of the Covenant)’ (6<sup>th</sup> Session, 1991) E/1992/23, art. 8(a).

<sup>3</sup> The Constitution of the Kingdom of Cambodia (the “Constitution”), art 31.

<sup>4</sup> Page 7 of the Declaration of Human Rights in the Cambodian Institution, Decision of the Constitutional Council of 10 July 2007

<sup>5</sup> Land Law 2001, art 4.

<sup>6</sup> Land Law 2001, art 5.

<sup>7</sup> United Nation a Human Rights Council report A/HRC/13/56 para 356

<sup>8</sup> Royal Government of Cambodia (the “RGC”), ‘National Strategic Development Plan Update 2009-2013’ (2010).

<sup>9</sup> Land Law 2001, Article 16

often without meeting applicable legal standards. It has recently been estimated that some 700,000 Cambodians across the country have been adversely impacted by such ELCs.<sup>10</sup> This devastation cannot be rectified without policy reform. Hence, the roundtable discussions and policy platforms were designed as public forums for stakeholders to discuss and address the above issues prior to the upcoming national election on 28 July 2013.

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<sup>10</sup>Human Rights Watch, 'Cambodia: Land Titling Campaign Open to Abuse' (12 June 2013)  
<<http://www.hrw.org/news/2013/06/12/cambodia-land-titling-campaign-open-abuse>>.



## 2 Methodology

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This Report is based on the findings from six roundtable discussions and two policy platforms held by CCHR in various Cambodian provinces between September 2012 and June 2013, in the run up to the national elections scheduled for 28 July 2013.

### 2.1 Roundtable discussions

Each roundtable discussion took place over one day. The morning sessions involved discussions between citizens affected by land disputes, independent analysts, guest speakers and representatives from relevant provincial government departments and civil society. The afternoon sessions were also attended by political party representatives. The roundtable discussions aimed to bring relevant groups and community representatives together with representatives from NGOs and political parties, in order to provide a forum in which views can be presented freely on the designated topic. The roundtables aimed to identify broad issues for concern, rather than focusing on individual cases. Recommendations were then put forward by participants from affected communities for the improvement of the land situation. These recommendations were intended to be considered for adoption and integration into the policies of the political parties in the lead up to the national election and thereafter.

While the overarching topic of each roundtable discussion was that of land reform in Cambodia, each discussion emphasized specific issues pertaining to the Cambodian land regime, depending on singularities and problems encountered in each region: In Phnom Penh, participants discussed the Land Law; in Kratie the land rights of indigenous were highlighted; in Battambang, female participation in society and land rights were discussed; in Koh Kong, the roundtable fixed on issues of investment and ELCs; and in Preah Sihanouk and Mondulkiri, participants discussed land rights and the impact of the land grabbing on the environment.

### 2.2 Policy Platforms

Access to information is critical to the healthy functioning of a democracy. A fundamental element of a democratic society is that all citizens have the opportunity to hear the policies of all parties contesting in an election, and that the parties are allowed to express those policies in public and disseminate them widely. Such an environment must be promoted and guaranteed in order for citizens to participate freely in the political lives of their nations and for democracy to flourish. Accordingly, CCHR, in conjunction with several other NGOs and civil society organizations, organized a series of policy platforms in which community members could learn about various policies in anticipation of the up-coming national election on 28 July 2013.

The policy platforms focused on input from guest speakers, specifically political party representatives, who were given the opportunity to speak directly to participants, outlining their party's policies in relation to land. To ensure that debates were policy-driven, CCHR's Land Reform Project Coordinator moderated the guest speakers, addressing the party representatives on an issue-by-issue basis. Finally, each platform included a questions and answers session, to allow the participants to scrutinize the policies outlined by the respective parties.



Such policy platforms are extremely important in allowing community members access to policies outlined by political party representatives, especially concerning key issues affecting them such as environmental and land protections. This kind of exposure by community members to political party representatives, in a forum where they are allowed to question the representatives directly, is rare.

The first policy platform was held in Svay Rieng on 7 May 2013, and was a discussion of land policy. The second was held in Phnom Penh on 6 June 2013 and was entitled “Key Issues for Cambodia”. Topics included economic and land reform; the environment, forest management and climate change; social and human development issues; and rule of law, good governance and access to information.

## 2.3 Some Challenges

Although the six roundtable discussions and two policy platforms generally proceeded as planned, some challenges were encountered, such as local authorities’ attempts to ban the organization of the events; the refusal of ruling Cambodian Peoples Party (“CPP”) parliamentarians, who the participants particularly wished to meet, to participate in the roundtables and policy platforms; criticism by RGC officials of the roundtables and policy platforms;<sup>11</sup> and lack of cooperation from local authorities and relevant provincial state departments.

The criticisms from the CPP were convoluted and demonstrated a particular unwillingness on its part to engage with civil society. Party officials deemed that the status of CCHR as *merely* an NGO meant that any event organized by CCHR would be unfit for an RGC official to attend.<sup>12</sup> This occurred persistently across the course of roundtable discussions and policy platforms,<sup>13</sup> and led to one of the most important voices being absent from the constructive dialogues that the events sought to facilitate.

It should be noted that CPP representatives were not the only ones who were not present at the roundtables and policy platforms but that other party representatives, even some of those who had promised to attend, were also absent. These included the Human Rights Party, the Nationalist Party and several the National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia party (“FUNCINPEC”) representatives.

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<sup>11</sup> There was a reaction from the Prime Minister Hun Sen four days after the roundtable discussion on Land Law which was hosted by CCHR on 17 September 2012, at Phnom Penh. The reaction was broadcasted by the Voice of Democracy Radio (VOD) on 21 September 2012, and was titled; “Prime Minister Hun Sen Mocks A Civil Society Organization Without Mentioning its Name.”

<sup>12</sup> on 14 September, in the course of CCHR confirming by telephone which representative from the Ministry of Land Management, Urban Planning and Construction would attend the roundtable discussion, H.E. Mrs. Ou Vuddy, Permanent General Secretary for Council for Land Policy, stated that since CCHR was merely an NGO, they were offended by CCHR having dared to invite an officer from the Ministry to join its workshop

<sup>13</sup> On 14 September 2021, in the course of CCHR confirming by telephone which parliamentarian from the Cambodian People Party (CPP) would attend the roundtable discussion, CPP’s representatives warned that CCP has never assigned any of its representatives to attend any Event which was organized by CCHR, and advised that there was no need to confirm their attendance.

### **3 Problems Identified and Recommendations of Community Participants**

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The roundtables and policy platforms outlined in this Report allowed community representatives from various regions throughout Cambodia to explain to other stakeholders how they have been affected by land disputes and lack of protection of the environment. The improper application of laws has resulted in widespread illegal deforestation, loss of natural resources and widespread transfer of land from vulnerable and marginalized groups to a wealthy and politically connected elite. The main issues that were raised during the six roundtable discussions and two policy platforms are outlined below.

#### **3.1 Failures regarding the general implementation of the law**

The speakers and participants took part in a debate concerning land and forced eviction issues, and the failure of the RGC to implement the law protecting land rights. The sessions also provided a means for participants to make recommendations for the improvement of the legislative framework in relation to land so that political parties could consider integrating these recommendations into their policies in the lead up to the national election. During the discussions, the failures of the general implementation of the law were highlighted, with particular emphasis given to the fact that Cambodia does not currently have a mechanism for the review of legislation or its implementation. As a result there is no authority for determining whether or not laws are effective, or whether they are fully and properly applied, and concern was expressed that this lack of oversight has resulted in a gap between the adoption of laws and in assessing whether they have met their intended goals.

However, it was noted by many participants that the Land Law does theoretically protect possession rights. Unfortunately participants' experiences suggest that these formal rights are often not respected in practice, even if the possession of the land began before the Land Law came into effect.<sup>14</sup>

Discussions also covered the proliferation of forced evictions, which have removed people from their land without appropriate compensation, despite the legal requirement to do so as stipulated in Land Law.<sup>15</sup> Further, it was noted that the victims of these evictions were often doubly victimized as they are left without accommodation or a means of procuring such. Desperate, the evictees are frequently driven to illegally occupy other parcels of land from which they are then inevitably evicted once more.

An issue of similar importance in preventing forced eviction, mentioned during the events, was the administration and issuance of hard titles for land, which was deemed by the participants to be a very slow process that does not meet the needs of the free market system in which property owners need security of title and the ability to freely transfer their properties.

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<sup>14</sup>Glossary of Land Law 2001, definition of possession.

<sup>15</sup>Land Law 2001, art 5.

With the lack of hard titles comes the ease of forced evictions, which many participants noted, are carried out through the inappropriate and illegal use of armed force and extreme violence. This force and violence has similarly been applied to groups protesting the evictions. Of particular concern is the use of unofficial, privately hired forces to carry out forced evictions and to suppress protesters,<sup>16</sup> along with the proliferation of politically motivated arrests and convictions resulting in the imprisonment of land activists;<sup>17</sup> and the impunity that those involved in the violent suppression of land rights demonstrators seem to be able to act with.<sup>18</sup>

Issues were also raised in relation to the situation faced by communities following these evictions, especially the failure of the authorities to provide evictees with an adequate infrastructure at resettlement sites as promised,<sup>19</sup> or grant evictees the necessary identification cards owed to all Cambodians.<sup>20</sup>

## Recommendations

- A broad series of information sessions should be launched to train relevant stakeholders in Cambodian land laws/regulations.
- Pressure should be placed on donors that have enabled groups to commit unlawful actions in relation to land, such as those supplying funding for military assault rifles which are used against land activists. These groups should also be prosecuted.
- Hard land titles should be provided universally.
- All legal persons or entities involved in the grabbing of state land should be prosecuted.
- Royal armed forces should not be allowed to be stationed on people's land as a pretext for land grabbing or sale.
- Laws should be properly implemented and applied in accordance with the hierarchy of laws in Cambodia.
- No new laws should be created that affect the land titles of Cambodians, such as the draft Law on the Management and the Use of Agricultural Land, which "*threatens to eviscerate private property ownership rights and eliminate all limitations on [ELCs].*"<sup>17</sup>
- Suppression of land activism should be eliminated.
- The National Assembly should establish an institution to monitor and enforce the implementation of laws.

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<sup>16</sup>For example, on 18 January 2012, in Kratie province, TTY Corporation Co Ltd's security guards opened fire on land protesters, wounding six villagers, two of them seriously.

<sup>17</sup>Such as Yorm Bopha

<sup>18</sup>For example, on 16 May 2012, a 14-year-old girl was shot and killed by the military while they were firing their weapons in order to suppress land protesters at Pro Ma village, Kratie province.

<sup>19</sup>For example, those who were evicted from the Sambok Chab area to their location site at Andong village.

<sup>20</sup>For example, those who were evicted from the Dey Kraham area to the relocation site at Anlong Kangan village.

- The RGC should put an end to the politically motivated arrest, prosecution, conviction and imprisonment of land activists.
- Investments should be made for the training of civil servants in relation to land law and human rights, since it is they who are responsible for the implementation of government laws and policies.
- Citizens should be informed of their rights by the RGC, so that they can advocate peacefully for them.
- The methods of disseminating information regarding land conflicts should be diversified to incorporate television and other media reaching all regions.
- Efforts should be made by authorities, companies and NGOs to engage in further dialogue on land issues prior to the upcoming national elections.
- Representatives of the authorities and NGOs should help to host and facilitate negotiations between companies and communities

### **3.2 Failures regarding the implementation of the law specifically in relation to Economic Land Concessions and investments**

The floor was then open to community representatives to comment on how they have been affected by ELCs and the resulting forced evictions in their communities. These included criticisms of the standard “notification letter”, sent to the relevant parties by the local authorities to signify the RGC’s intention to remove inhabitants from their land. It was deemed to be improper due to the fact that it is inconsistent with the law as it fails to provide details of consultation, compensation and resettlement as required by the Appropriation Law 2009. By abiding by the terms of notification letters, a lower form of law than the Appropriation Law 2009, the RGC violates the hierarchy of laws in place in Cambodia.

Further questions were also voiced concerning the constitutionality of the law in relation to ELCs. In particular it was highlighted that as the highest law in Cambodia, the Constitution dictates the overarching principles relating to land and state properties, whereas the Land Law governs the more specific regulations in relation to land, and provides the ability for parliament to pass such regulations regarding the reclassification of “state public property” to “state private property”.<sup>21</sup> However, only a sub-decree was issued to this effect,<sup>22</sup> signed only by the Prime Minister and the Council of Ministers, rather than a law passed through Parliament. The mechanism for land reclassification has therefore been implemented illegally.

It was highlighted that this illegality extends still further, due to the fact that the Royal Decree allows

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<sup>21</sup>2001 Land Law, Article 16.

<sup>22</sup>RGC, ‘Sub-Decree on Rules and Procedures on Reclassification of State Public Properties and Public Entities’ (No. 129 ANKr.BK) (2006)<<http://www.opendevdevelopmentcambodia.net/law/en/ANK-129-Reclassification-of-State-Properties-E.pdf>>.

for the reclassification of state public properties only when such properties are already registered in the state inventory. However, despite this requirement, many properties have become the subject of land concessions through reclassification without being registered in the state inventory.

The confusion persisting around the different management responsibilities that pertain to state public and state private land was noted, and attributed to Cambodia's lack of a legal code to clearly define the management of the different properties.

What's more it was noted that, despite legal requirements, ELCs have been granted without public announcement, public bidding or multiple bidders, and without the required research and study on their social land environmental impact. Furthermore, whilst RGC policy, the Land Law, the Sub-Decree on Economic Land Concession, the Sub-Decree on Social Land Concession and Government Direction number 01 are adequate in providing formal land rights to Cambodian citizens, in practice these provisions are not properly applied. Concern was similarly voiced that those responsible for implementing the laws and regulations take advantage of the lack of commitment and capacity to observe, review, and improve such implementation.

Next, the failure of the RGC in granting land concessions by not proceeding in accordance with the Sub-Decree on Rules and Procedures on Reclassification of State Public Properties and Public Entities was raised, especially the failure to ensure bidding takes place before a concessionaire is chosen. The law itself provides that:<sup>23</sup>

- “[Leases of] state private property shall be created [by] bidding or negotiating the price” (art. 10); and
- “Bidding can be held if there [is the] participation of natural person[s] or entity [ies], ...[and] depend[s] on the size of [the] state private property to be rented” (art. 12).

Similarly, the failure of the RGC to revoke ELCs in cases where a holding company has failed to meet the legal requirements for either obtaining the ELC or for keeping it, and especially where the ELC has adversely impacted on the local inhabitants, was voiced as an issue.

Issues pertaining to the RGC's lack of implementation of its land conflict resolution policy were also raised, and a concrete example given in the form of the Boeng Kak area of Phnom Penh where the RGC retracted the “third choice offer” it had given to the residents, via which it had agreed to allow residents to remain on their land while the development took place. Instead the RGC forced the residents to either accept their “first choice offer” of US\$8,000 plus two million riel as compensation, or their “second choice offer” to relocate to a building in Damnak Trayoueng, a distance of 25 kilometres from Phnom Penh.

Further exacerbating factors in relation to land conflicts were also discussed, especially the failure of companies and authorities to consult with villagers regarding proposed developments, as required under the law relating to ELCs.

Finally, the environmental impact of ELCs were noted, particularly through the proliferation of illegal

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<sup>23</sup> RGC, ‘Sub-Decree on Rules and Procedures on Reclassification of State Public Properties and Public Entities’ (No. 129 ANKr.BK) (2006) <<http://www.opendevdevelopmentcambodia.net/law/en/ANK-129-Reclassification-of-State-Properties-E.pdf>>.

logging, deforestation, mining and land clearing for the construction of hydropower plants.

### **Recommendations**

- The ELC policy should be reformed so as to reduce the number of ELCs issued, while increasing the number of SLCs.
- Priority should be given to the need to avoid the eviction of people from their land when considering ELC applications in the future and developments should first take place on uninhabited land.
- The environmental, social and economic effects of land concessions should be assessed through discussions with citizens and local authorities.
- Prior to any transfer of land and subsequent relocation of communities, consultations must be conducted with representatives from the relevant community.
- The process of granting ELCs should be transparent and communities should be promptly informed of any proposed investments in their area by companies and authorities, so that consultation can begin as early as possible.
- Any disagreement over ELCs must be settled in advance before concessionaires take possession of land.
- Compensation for ELCs must be agreed and provided in advance.
- Investors who have contributed to the negative impacts on peoples' rights to their land should:
  - a. Be strongly encouraged to employ the affected people, with the provision of appropriate wages; and
  - b. Fund the construction of replacement houses, hospitals and schools.
- The RGC should strongly consider and address the immediate need for housing and shelter for evictees.
- The RGC and companies should provide increased and direct support to poorer inhabitants.

### **3.3 Issues regarding the land rights of women**

According to the UN Food and Agricultural Organization (“FAO”), women constitute over 65% of the farming population in Cambodia and therefore play an essential role in Cambodia’s economy. Despite the importance of women’s empowerment with regards to family life, politics, communities and the country’s overall development, discrimination against women continues to be widespread. Human rights violations, including land rights violations, have particularly significant effects on the stability of women’s lives and the lives of their families. As the primary care-givers in the family unit, women are especially vulnerable to the effects of land conflicts and the impact of forced evictions,

particularly in communities with high levels of illiteracy, low levels of employment and high numbers of single-parent families. The majority of individuals who take legal action in court regarding land rights are women, which demonstrates their willingness to participate in the land conflict resolution process.

The roundtables and policy platforms were therefore held to provide female politicians the opportunity to share the challenges they have faced with regards to political participation, and to provide recommendations for overcoming such challenges. Additionally, political parties were given a forum to discuss their ideas on promoting the political participation of women through the resolution of land conflicts.

Raised as an issue of particular concern were the low levels of education amongst women in Cambodia, which can limit their ability to actively participate in politics and decision-making. Indeed it was noted that the majority of Cambodian women have little or no knowledge about their country's history, present political situation or future developments, while they have very little access to information about their legal rights in general, and land laws in particular. Furthermore, their participation in community training aimed at educating citizens about land rights was said to be very limited, often as a result of economic migration. It was stated that this widespread lack of understanding of land rights in Cambodia means that women are often not able to effectively defend their rights or participate politically.

The importance of this capacity to participate politically was then further emphasized by pointing to the fact that houses and land tend to be more fundamental to the every day lives of women in Cambodia than they are to men; hence when their houses and land are lost to ELCs it is often women who suffer most. Accordingly, it is often women who lead protests and demonstrations on behalf of their communities in response to land disputes.

Practical issues were also raised in relation to the time and effort spent by women on protesting in order to demand the return of their properties, which frequently leaves little opportunity for them to actively participate in social and political actions regarding policy reform, and also negatively impacts their ability to maintain livelihoods.

Furthermore, the lack of female politicians participating in land resolutions was noted, and understood to translate into a lack of real understanding amongst politicians as to the pertinent issues affecting women, thereby disadvantaging the female community members who have been affected by land disputes.

The significant lack of economic support for women participating in land dispute resolutions was also raised as a problematic factor, meaning that they often lack the means to travel to various courts in order to challenge their land cases.

Also the fact that women who are actively involved in land disputes often find themselves facing politically motivated criminal charges, ultimately resulting in their imprisonment, was raised as an issue of concern. Participants expressed their belief that this was often due to discrimination against women by the corrupt judiciary.

The familial impacts of the RGC's land policies were also noted, especially the effect of grabbing which has led to increased incidents of broken families and divorce, often because husbands are



required to seek alternative income in distant places where they ultimately find new wives.

Finally the fact that women who are affected by land disputes often develop illnesses, causing them to become weaker and thus reducing their ability to earn a daily income, was also highlighted.

### Recommendations

- NGOs and political parties should support women's participation in politics.
- In particular, women should be supported in their efforts to participate in the resolution of land conflicts, including by the RGC providing women with: 1. Economic family support for childcare, to enable financial independence translating to a greater ability for women to actively participate in land conflict politics; and 2. Subsidies to enable them to travel to attend various meetings and court hearings concerning land disputes affecting them.
- Political parties should aim to increase the representation of women in the upcoming national election, and women should be advanced to higher positions within the parties so that the gender perspective of land conflicts is adequately considered in the formation of policy.
- There should be increased investment in women's education, particularly in politics and law, in order to facilitate empowerment and understanding of land conflict debates.
- In addition, men should be educated about women's rights to ensure women receive fairer entitlements to land.

### 3.4 Problems regarding the land rights of indigenous people

It is estimated that between 101,000 to 190,000 indigenous people live in Cambodia,<sup>24</sup> across 15 provinces, accounting for approximately 1.4% of the total population. According to the statistics of the International Labour Organization there are 114 indigenous communities that are in the process of applying for collective land titles, 57 of which are already facing problems relating to their land and resources (such as from the granting of ELCs, mining, illegal land sales, illegal logging, as well as the impacts of privatization).<sup>25</sup>

A primary concern of the participants were the implications of Sub-Decree no. 83 adopted by the RGC in 2009 which stipulates that certain plots of land occupied by indigenous peoples (which tend to be community land areas) are state public land.<sup>26</sup> This has, in effect, legitimized the grabbing of such land through reliance on the principle that state public land can be subject to ELCs.

Furthermore, the particular problems associated with the registration for land titles of indigenous

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<sup>24</sup>page 7 of the draft of Country Technical Note on Indigenous People's Issue:  
<http://www.ifad.org/english/indigenous/pub/documents/tnotes/philippines.pdf>

<sup>25</sup>ILO Overview of Cambodia at <http://www.ilo.org/indigenous/Activitiesbyregion/Asia/Cambodia/lang--en/index.htm>, accessed on the 14th July 2013.

<sup>26</sup>RGC, 'Sub Decree on Procedures of Registration of Land of Indigenous Communities' (No. 83 ANK.BK) (2009)<[http://www.nea.gov.kh/main/images/law\\_collection/e\\_molm/6\\_sd\\_83\\_ank.pdf](http://www.nea.gov.kh/main/images/law_collection/e_molm/6_sd_83_ank.pdf)>.

peoples' land was raised. In particular the long and complex nature of the process, consisting of several stages, coupled with the fact that Indigenous people in Cambodia typically have a very limited level of education, was said to put their communities at a disadvantage as they are unable to proceed with land registration without assistance from relevant provincial government departments and NGOs.

Concerns were also raised that concessionaire companies have conspired with local authorities in order to grab and bulldoze land belonging to indigenous communities without conducting the required impact studies, opening dialogues with the community members, or giving any notice to the people who will be affected.

Environmental issues were also voiced, such as the destruction of forests used and relied upon by indigenous people, by companies and influential individuals, leading to the loss of community land and the harming of their indigenous identities which are closely tied to the land.

Furthermore, the use of coercion against indigenous people was criticised both innately and for the proliferation of inaccurate "private ownership certificates" i.e. false land titles, issued through a land measuring project undertaken by volunteer students. Indeed, participants noted reports of people being told that no one would be responsible for the loss of their land if they did not accept the private ownership certificates. Consequently, some indigenous people have left their communities, deciding to accept the registration of private owner land titles.

The business-politics nexus was also raised as a concern, and the perception that some local authorities have been involved in the grabbing of community land, rather than helping to protect indigenous people's land.

Moreover, the intimidation of community representatives who have become known publicly (for example, through leading protests against land grabbing), including criminal charges being brought against them, was criticised, along with the detention and arrest of such individuals.

Finally, the lack of transparency that pervades the decision-making processes of the authorities was said to lead to discrimination against indigenous peoples, who consequently face a great deal of uncertainty in relation to their continued existence on their land.

## **Recommendations**

- The RGC should prioritize respect for and acknowledgement of indigenous land rights with regards to the development and implementation of land policies and laws.
- The RGC should amend Sub-Decree no. 83 which provides that indigenous community land is public state property.
- The RGC should progress the registration of indigenous peoples' land through systematic land measuring as soon as possible, in order to prevent greater loss to land and identity.
- Political parties should also intervene to ensure indigenous communities' forests are properly registered, in order to protect them from future destruction and to ensure these communities

are able to continue benefiting from the forest by-products on which they have traditionally relied.

- Parties should intervene in the granting and use of ELCs to ensure that they meet appropriate development purposes that can also benefit indigenous populations.
- The RGC should review the agreements of companies who have improperly obtained land from indigenous communities in order to identify any breaches of the law and prosecute those breaches accordingly.
- Political parties should endeavour to find solutions to conflicts over the land of indigenous communities that has been grabbed by companies under the banner of development.
- Wrongfully acquired land should be returned to indigenous groups.
- Political parties should take action against intimidation and threats by companies against indigenous peoples partaking in protests against land grabs.
- Authorities should cooperate to prevent illegal logging and the destruction of indigenous peoples' traditional forest grounds.

## 4 Land Policies of Political Parties

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The land policies of some of the political parties contesting the upcoming national election were outlined by their representatives at the roundtable discussions as well as (and in particular) the policy platforms, responding to the recommendations raised by the participants. Parliamentarians and representatives of most political parties who have seats in the present National Assembly were invited to participate in the roundtables and policy platforms, including the ruling CPP, the Cambodian National Rescue Party (“CNRP”) and the FUNCINPEC party; however, the CPP declined invitations to the events. However, in addition to the CNRP and FUNCINPEC, political party representatives from the Khmer Anti-Poverty Party (“KAPP”), the League for Democracy Party (“LDP”),<sup>27</sup> and the Democratic Movement Party (“DMP”) also participated in the roundtables and policy platforms to outline their land policies. The policy ideas supported by these participants are the following:

- Sufficient penalties for persons who violate land rights – an end to impunity in this regard;
- To prosecute any individual who intimidates or threatens any one for the purpose of grabbing their land;
- Review all ELCs and eliminate all contracts or leases that violate the law;
- To review the ELCs which have been issued, and to keep those which benefit the country and its people;
- Reassess current ELC contracts, and reduce the term of each ELC from 99 to 25 years
- If a review of the purpose or implementation of any land concessions awarded to date finds them to be improper, their contracts will be terminated;
- Review the law and policy related to land management;
- Investment in factories for the processing of materials farmed by Cambodian nationals shall be encouraged. For example, because the people know how to grow cassava, there would be no need for any investments to be made in order to use the land to grow cassava. A company should, however, be encouraged to invest in the construction of a factory for the purpose of transforming cassava to cassava flour. This would then support local inhabitants by providing a market for their agricultural products;
- To remedy the systemic corruption of the government and authorities leading to land right violations;
- To provide land titles to the people in a timely manner;
- A no tax policy for agricultural land;

- To support the social land concession policy in order to provide land to people for housing and agriculture;
- To provide technical assistance and funds to seek a market for people to sell their agricultural produce;
- To provide scholarships to poor students and provide loans to those students whose study major focuses on agriculture or land cultivation;
- To provide low interest loans to poor people to invest in plantations;
- To promote the land rights of indigenous people and to solve land conflicts regarding their land reservations;
- To provide land titles to indigenous people
- To eliminate violations against peoples' land through the distribution of hard land titles to all, without discrimination;
- Providing social land concessions to the poor, homeless and those who lack land for agricultural work;
- To provide study programs on land issues;
- To encourage the local officers working in relation to land to implement their works effectively;
- Provide economic land concessions and social land concessions to Cambodian citizens;
- Provide agricultural technical assistance, irrigation systems, fertilizer, and a greater budget for agricultural work;
- Encourage economic land concessions only as a means of betterment for all parties (the people, companies and the state).

## 5 Conclusion

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Through the six roundtable discussions and the two policy platforms, participants, including those who have been impacted by the land disputes, NGO representatives, independent analysts, local authority representatives and the representatives of political parties<sup>28</sup> agreed that there are currently in place sufficient legal provisions, at both the national and international level, to protect the land rights of Cambodians. The roundtables and policy platforms successfully facilitated an open dialogue between the participating stakeholders, which was essential for the formation of recommendations in response to what were seen to be the greatest concerns of the community participants.

Of particular significance was the participants' agreement that the main problems in relation to land policy in Cambodia stem from a failure to implement the law, especially in relation to ELCs and investments, the rights of women and the rights of indigenous people. From these discussions it is clear that the failures of the RGC that are most in need of redress, are the failures to respect the hierarchy of laws, the lack of commitment to implement existing laws and the lack of a mechanism to ensure that the laws are implemented.

CCHR hopes that these roundtables and policy platforms shall provoke political parties to explicitly state their policies in relation to land, as well as other areas, in the future, and especially before important electoral battles. Furthermore, CCHR hopes that the recommendations proposed in this Report are taken into consideration by the newly elected RGC in the formation of its land reform policy, especially considering that the majority of these recommendations come directly from those most affected by the current state of land management in Cambodia.

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<sup>28</sup> Please see the composition of all participants in the annex

## 6 Annex: Summary of Attendees

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A total of 1,191 participants (including 501 women) took part in the six roundtable discussions and two policy platforms, including independent analysts, along with representatives from:

- Communities that have been most impacted by land disputes;
- Partner NGOs;
- Local authorities;
- Relevant provincial government departments;
- Companies and political parties.

Two donors also took part – Diakonia and Dan Church Aid. Koh Kong Sugar Industry Co Ltd. Was the only company that participated.

Further details on each category of participants are provided below.

### 6.1 Community participants

The following representatives from communities affected by land disputes participated in the events:

*Phnom Penh*: 383 participants<sup>29</sup> (including 129 women) including:

- Five land communities from Khan Pur Sen Chey, Khan Duan Penh, Khan Prampi Makara, and Khan Sen Sok, Phnom Penh; and
  - 35 land and forestry communities from 23 provinces.<sup>30</sup>
- *Koh Kong province*: 36 participants (including 11 women) from:
  - Three land communities from Sre Ambel and Botum Sakor district.
- *Preah Sihanouk province*: 130 Participants<sup>31</sup> (including 77 women) from:
  - Seven land communities from Preah Sihanouk City, Prey Noup and Steung Hav district, Preah Sihanouk province;
  - 4 land communities from Chhouk and TeukChhou district, Kampot province; and
  - 5 land communities from Kiri Sakor, BotumSakor, Thma Bang and SreAmbel district, Koh

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<sup>29</sup> The stated number of participants includes 27 participants from the round table discussion on “Land Law”, which took place on 17 September 2012, and 356 participants from the policy platform on “Key issues for Cambodia” including “Economic and Land Reform”, “Environment, Forest Management and Climate Change”, “Social and Human Development Issues” and “Rule of Law, Good Governance and Access to Information”, which took place on 6 June 2013 (the “Key issues for Cambodia policy platform”).

<sup>30</sup> These representatives participated in the Key issues for Cambodia policy platform on 6 June 2013.

<sup>31</sup> Participants from Kampot, Koh Kong and Preah Sihanouk provinces were invited to participate in the round table discussion on “Environment and Land” held on 31 May 2013 in Preah Sihanouk Province.



Kong province.

- *Kratie province*: 31 participants (including 8 women) from:
  - 4 indigenous communities from Pnong, Steang, Mil and Kouy from Chet Borey, Sambo and Snoul districts.
- *Mondulkiri province*: 120 participants<sup>32</sup>(including 25 women) from:
  - 6 communities, including land and forestry-reliant and indigenous communities, from O.Rang, Sen Monorom, Kaoh Nhaek, Koa Pich Seyma, and Pech Chenda districts, Mondulkiri province;
  - 4 communities, including land and forestry-reliant and indigenous communities from Sambo and Snoul district, Kratie province;
  - 3 indigenous communities from Andong Meas, Veun Sai and Koun Mom district, Ratanakiri province;
  - 2 land and forestry-reliant communities from ThalaBarivat and Sesan districts, Stung Treng province; and
  - 3 forestry communities from Rovieng, Tbaeng Meanchey and Kuleaen districts, Preah Vihear province.
- *SvayRieng province*: 450 participants (including 224 women) from:
  - 3 land communities from Svay Chrum and Romeas Hek district.
- *Battambang province*: 47 participants<sup>33</sup>(including 27 women) from:
  - 6 land communities from Battambang City, Bavel, KoasKrala, Samlout and Ek Phnom districts; and
  - 3 land communities from Poipet City, Malai and Thma Puok district, Banteay Meanchey province.

## 6.2 Non-governmental organizations

The NGOs that participated and helped to organize were as follows: NGO Forum on Cambodia; Community Legal Education Center; Cambodian Center for Human Rights; The Committee for Free and Fair Elections in Cambodia; Coalition of Cambodia Farmer Committee; Cambodians for Resource Revenue Transparency; Cooperation Committee for Cambodia; SILAKA; Building Capacity for Change; Cambodian Human Rights Action Committee; Community Peace Building Network; Voice of Democracy; Vigilance; Gender and Development for Cambodia; Committee to Promote Women in Politics; Development and Partnership in Action; Cambodian Women’s Network for Development; Banteay Srei Organization; Khmer Youth Association; Legal Aid of Cambodia; Development

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<sup>32</sup>Participants from 5 provinces(PrearhVihea, Ratanakiri, StuongTreng, Kratie, and Mondulkiri provinces), were invited to participate in the round table discussion on Environment and Land on 19 June 2013 in Mondulkiri Province.

<sup>33</sup> The participants from 2 provinces, Battambang and Banteay Mean Chey province, were invited to participate in the round table discussion on Women’s Participation and Land Rights which was hosted on 21 February 2013 at Battambang Province.

Association Resource Economic; Office of the United Nations High Commissioner for Human Rights; Caritas Cambodia; Community Managed Development Partners; Mlup Promviheathor Center; Morodok Organization; Cambodian Human Rights and Development Association; Cambodian League for the Promotion and Defense of Human Rights; International Labor Organization; Community Economic Development Organization.

### **6.3 Local authorities**

The following representatives from local authorities participated in the events:

- Deputy Provincial Governor, Mondulhiri and Preah Sihanouk Province;
- Provincial Council Member, Mondulhiri, Preah Sihanouk and Koh Kong Province;
- City Governor, Mondulhiri and Preah Sihanouk province;
- District Governor, Svay Chrum district, Svay Rien Province;
- Chief of commune, Chheu Teal commune, Svay Chrum district, Svay Rien Province; and
- First Deputy Commune Chief, Chi Khor Leu commune, SreAmbel district, Koh Kong province.

### **6.4 Provincial government departments**

Representatives from the following provincial government departments participated in the Events:

- Provincial Department of Land Management, Urban Planning and Construction (Kratie, Svay Rieng, Battambang, Preah Sihanouk, and Mondulhiri provinces);
- Provincial Department of Environment (Preah Sihanouk, and Mondulhiri provinces);
- Provincial Department of Agriculture (Preah Sihanouk, and Mondulhiri provinces);
- Provincial Department of Rural Development (Preah Sihanouk, and Mondulhiri provinces);
- Provincial Department of Industry Mines and Energy (Mondulhiri provinces); and
- Provincial Department of Women’s Affairs (Battambang, Preah Sihanouk and Mondulhiri provinces).

### **6.5 Political parties**

#### ***FUNCINPEC***

The following FUNCINPEC parliamentarians and representatives participated in the events:

- H.E Kuch Moly, parliamentarian;
- H.E Tep Nanry, General Director responsible for electoral campaign;
- H.E Chhim Sakhorn, member of Director Committee; and
- H.E Koy Sokha Rith, former General Secretary Deputy of Nationalist Party.

**CNRP:**

The following CNRP representatives participated in the events:

- H.E Son Chhai, former parliamentarian of Sam Rainsy Party (“SRP”);
- H.E Mou Sokhour, former parliamentarian of SRP;
- H.E Eng Chhai Eng, former parliamentarian of SRP;
- H.E Ho Vann, former senator of SRP;
- Mr. Chin Sophall, the Koh Kong Provincial Council member from SRP;
- H.E Ou Chan Rith, former parliamentarian of Human Rights Party (“HRP”); and
- H.E Ou Chan Roth, former vice chief of Director Committee of HRP.

**LDR:**

The only LDP representative to participate in the events was:

- Mr. Khem Veasna, the president.

*Khmer Anti-Poverty Party (“KAPP”)*

The only APP representative to participate in the events was:

- Mr. Sin Vanarith, General Secretary

**DMP:**

The only DMP representative to participate in the events was:

Mr. Kong Bunthoeun, President

## **6.6 Independent analysts**

The following independent analysts participated in the events: Dr. Lao Mong Hay, Dr. Kem Ley and Dr. Meas Ny.