Mechanisms of Land Conflict Resolution in Rural Cambodia

Bachelor Thesis

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## Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Abbreviation</th>
<th>Full Name</th>
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<tbody>
<tr>
<td>ADHOC</td>
<td>The Cambodian Human Rights and Development Association</td>
<td></td>
</tr>
<tr>
<td>CC</td>
<td>Commune Council</td>
<td></td>
</tr>
<tr>
<td>CEF</td>
<td>Community Empowerment Facilitator</td>
<td></td>
</tr>
<tr>
<td>CEO</td>
<td>Community Empowerment Officer</td>
<td></td>
</tr>
<tr>
<td>CPP</td>
<td>Cambodian People’s Party</td>
<td></td>
</tr>
<tr>
<td>BTI</td>
<td>Bertelsmann Transformation Index</td>
<td></td>
</tr>
<tr>
<td>ELC</td>
<td>Economic Land Concession</td>
<td></td>
</tr>
<tr>
<td>IDS</td>
<td>Institute for Development Studies</td>
<td></td>
</tr>
<tr>
<td>KC</td>
<td>Kampong Chhnang</td>
<td></td>
</tr>
<tr>
<td>LICADHO</td>
<td>Cambodian League for the Promotion and Defence of Human Rights</td>
<td></td>
</tr>
<tr>
<td>LMAP</td>
<td>Land Management and Administration Project</td>
<td></td>
</tr>
<tr>
<td>LWF</td>
<td>Lutheran World Federation</td>
<td></td>
</tr>
<tr>
<td>MAFF</td>
<td>Ministry of Agriculture, Forestry and Fisheries</td>
<td></td>
</tr>
<tr>
<td>MLMUPC</td>
<td>Ministry of Land Management, Urban Planning and Construction</td>
<td></td>
</tr>
<tr>
<td>NALDR</td>
<td>National Authority for Land Dispute Resolution</td>
<td></td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
<td></td>
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<tr>
<td>NRO</td>
<td>Nichtregierungsorganisation</td>
<td></td>
</tr>
<tr>
<td>RBA</td>
<td>Rights-Based Approach</td>
<td></td>
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<tr>
<td>VL</td>
<td>Village Leader</td>
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</table>
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1. Introduction

The food crisis that broke out in the year 2007 and the recent financial crisis have put a new emphasis on the value of land, especially in terms of food production, and placed land as a natural resource right next to all other highly competitive natural resources. The rapidly growing bio fuels industry, to name an example, has not only brought a welcome step forward in combating climate change, but has also increased the stress on land formerly used as arable land. In order to secure the national food production and the ability to provide enough food for the local population it has become more and more common for economically powerful countries to buy large quantities of land in developing countries, with the mere objective of having food produced for the national market, or securing access to valuable raw materials. Commonly the workforce is brought in from the buying country, thus excluding the local workforce and averting any kind of profit for the country selling the land. Countries like Saudi Arabia, Japan, China, Korea or Egypt are the precursors in the quest for foreign farmland in countries like Uganda, Brazil, Sudan, Pakistan or Cambodia. Many developing countries that were hit hard by the financial crisis see chances in taking advantage of the rising prices for land by selling them to foreign companies, meanwhile not taking into account the short-term nature of the profit made, since in many cases all revenue from the sale of the land eventually goes to the country of the company that bought it. The notion that this kind of foreign investment will promote development or benefit the local communities is mostly illusory and used as a way to justify the desire for quick profit on both ends of the deal. As a result of land increasingly becoming an economic asset, land users have become more and more vulnerable to losing their land “to those with greater economic, political or social ability than themselves to lay claim to (...) the same tracts of land.”

Those who suffer first and foremost are subsistence and small-scale farmers who often lose their land and thereby their sole source of income as a result of such international transactions. Buying up farmland from countries that can barely feed their own population and that regularly suffer from famines or supply shortages would appear a paradox, yet it is a reality. The rising value of land and the increasing competition over it, combined with a series of influencing factors such as for example a lack of democratic institutions or secured land rights, corruption, patronage systems and civil war structures have given rise to an increasing number of violent and non-violent land conflicts around the globe and especially in developing or less developed countries.

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1 For more information see: [http://www.grain.org/go/landgrab](http://www.grain.org/go/landgrab), or : A Thirst for Distant Lands: Foreign Investment in agricultural land and water. International Institute for Sustainable Development 2009.

In the first months of 2008 sharply rising food prices prompted food riots in thirty-three countries and over forty violent conflicts were underway, with contested land rights claims as the underlying cause.\(^3\)

Conflicts over land occurring within a nation state don’t merely affect individuals or groups of people, but can be an important threat to a country’s stability, especially in developing countries and countries in post-conflict transition.\(^4\) In many of these countries, opportunities for economic gain through illegal or non-regulated transactions involving land are manifold, resulting in an increasing number of people losing their land to arbitrary and often illegal economic transactions. Land tenure security and access to land are essential preconditions in reducing rural poverty and ensuring the realization of fundamental human rights. As a result the importance of securing land rights, ensuring the full implementation of existing land laws and the empowerment of local communities to claim the rights to which they are entitled cannot be stressed enough. Possible mechanisms include “training of law enforcers, building legal literacy at community level or assisting communities to pursue their land rights through the judicial system”, all of which will be discussed in this paper.\(^5\)

2. Relevance of this Subject for Cambodia

Cambodia, with over 80% of its population still working in the agricultural sector, a majority being subsistence farmers, is a good example for a country where the handling of land as a source of rapid income, a means of speculation and a sign of gratitude for those loyal to the government, have clearly gotten out of control.

With about 75% of the country’s population working in the agricultural sector, land in Cambodia is one of the most valuable natural resources and forms the basis for most of the Cambodian people’s livelihood. In fact most people in Cambodia would declare without hesitance that land is the foundation of society and life of the country.

The fact that Cambodia has only recently started to recover from the horrors of the Khmer Rouge dictatorship and the following years of civil war, have made the country even more prone to conflict over land, especially regarding the situation of the many people who were displaced and returnees from refugee camps in Thailand and Vietnam.

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\(^4\) Ibid. p.2.
\(^5\) Ibid. p.9.
Land ownership and access to land are today the most frequent source of conflict in the rural as well as the urban parts of Cambodia. At the source of the current struggles is the country’s conflict-ridden past as well as its current political situation. Even though the government is considered relatively stable, the regime is far from being democratic. Since 1985 the Cambodian People’s Party (CPP) under Prime Minister Hun Sen has managed to consolidate political power “at the expense of other political parties.” While the “democratic system of checks and balances - among state, political society and civil society institutions - exists on paper only.” He has since then managed to set up a well-functioning system of patronage and nepotism, filling almost all important positions within the government with personal allies. The extremely hierarchical systems of power, together with high levels of corruption, have given rise to an arbitrary system of land acquisition and speculation by those in power. In addition, the “absence of an independent uncorrupted judicial system has meant that effective legal remedies for victims of forced evictions are unattainable.”

Land grabbing in Cambodia involves international as well as national companies interested in mono-crop cultivation or the creation of tourist resorts, and also increasingly individuals in powerful positions, such as government officials or military officers acquiring land for private use. As a result most land disputes in Cambodia are of an asymmetrical nature involving parties with highly differing levels of power, which further complicates the process of resolution. Not infrequently does conflict over land turn violent when villagers are forced off their land by armed soldiers, or threatened and intimidated by armed security guards. Many reports and newspaper articles confirm cases of injuries and even deaths among villagers.

3. Aim, Scope and Structure of the Study

The present study is a result of a three-month research stay and internship with the Lutheran World Federation Cambodia (LWF), in Kampong Chhnang Province. It deals with a land dispute that was closely monitored by LWF and that serves as an example for ways in which land disputes are dealt with in the rural Cambodia of today.

Rather than exploring in detail the reasons, scale or consequences of the global land grab, competition over land and land conflicts in Cambodia, which would exceed the scope of this

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paper, I will try to outline the general framework in which land conflicts occur and evolve in Cambodia, focussing on the strategies and existing mechanisms used in trying to solve them. The objective is to present the chosen case study of a village in Kampong Chhnang Province involved in a land dispute from a victim’s, as well as from an NGO’s perspective and to highlight the accordance as well as differences between the two perspectives on this particular case and the approach in solving the conflict.

While also concentrating on the underlying causes of frequent land disputes in Cambodia, such as the weak implementation of existing laws, the patronage system and uncontrolled corruption, the focus will be placed on the existing alternative to governmental intervention in land disputes: the work of the NGOs. Given that there are hardly any land dispute cases that don’t involve the assistance of local and international NGOs in the resolution process, an assessment will be made in this study of the measures taken and the communication and concordance between the three NGOs involved in the resolution of the conflict. At the end, possibilities for improvement will be discussed.

The questions this study aims to answer are therefore the following:

- How does the conflict resolution process evolve and what motivations and ideas form the underlying cause?
- What are the biggest challenges the victims face during the conflict?
- How could the cooperation of the NGOs with the victims and with each other be evaluated and what improvements could be made?

After having outlined the relevance of this subject to the country of Cambodia and the guiding research questions, chapter four will give an historic overview of land tenure and ownership in the country. In Chapter Five the most important facts and figures on the current situation concerning land conflicts in Cambodia are summarized. A discussion of the main features of the Rights-Based Approach as a theoretical framework for this study can be found in Chapter Six. After outlining the methodologies used for the present research in Chapter Seven, the case study will be presented in Chapter Eight. The results of the research are summed up in Chapter Nine and discussed in Chapter Ten. Finally Chapter Eleven contains the final conclusions drawn from the study.
4. History of Land Tenure and Ownership in Cambodia

For several hundred years, until the beginning of the colonial period, land in Cambodia was “acquired by the plough”. The land theoretically still belonged to the sovereign, but the cultivation gave the land its value and was considered a form of ownership. Given the relatively low population density at that time and the absence of a market for land, people could move around the country freely, acquiring ownership of land, paying taxes for their harvest only. The establishment of the French protectorate in the year 1863 was accompanied by an attempt to introduce a system of private ownership. Fearing higher taxes and wanting to hold on to their traditional system of land ownership, the farmers opposed the processes of titling and land registration. Several attempts of the French as well as the postcolonial government (1953-1975) to formally implement private ownership rights consequently failed.

Starting from 1972 Cambodia gradually came under the control of the Khmer Rouge. Their reign of terror from 1975 to 1979 that cost the lives of around 1.7 million people, opened the darkest chapter of Cambodia’s history, with which it is most commonly associated today and that is at the source of many of the country’s current struggles. The Khmer Rouge called themselves the “revolutionary organisation” and claimed to aspire to liberate Cambodia’s poor from exploitation and enslavement. In order to transform the country and simultaneously achieve their “agrarian utopia”, everyone was forced out of cities and towns and into the countryside. Apart from the families of high ranking Khmer Rouge officials, not even those already living in the countryside could hold on to their possessions. All land was collectivised, property expropriated and, most importantly, all land records were destroyed. Almost all of Cambodia’s intellectuals and educated population were singled out for execution. The remaining people were uprooted from their traditional lands and forced to work on collective farms under dire conditions, sometimes hundreds of miles away from their home villages. Many also fled to refugee camps in Thailand or sought asylum overseas.

The capital of Phnom Penh was left behind as a ghost city the following years, as a symbol for the dominance of the countryside over the cities, seen as “breeding grounds for

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12 Sovannarith, So, Social Assessment of Land in Cambodia, A field Study. CDRI, Phnom Penh, July 2001, p.10.
13 Ibid.
17 Guttal, Shalmali, Land and Natural resource Alienation in Cambodia, Focus on the Global South, December 2006, p. 3.
counterrevolution.” Following the Vietnamese invasion that ended the Khmer Rouge Dictatorship in 1979, and replaced it with a Vietnamese-backed communist regime (Peoples Republic of Cambodia), people returned to their villages and resumed farming on available land plots. All land was now declared state property, though private plots were allocated relatively equally to the families to cultivate. After the retreat of Vietnamese troops in 1989, ownership rights from the period prior to 1975 were invalidated, yet the system of private ownership was once again installed and formalised in 1989. Still today, most families in Cambodia own only small plots of land, usually not more than 3 hectares, and subsistence farming prevails.

In the 1990s Cambodia opened its borders to a free market economy. The Constitution of the Kingdom of Cambodia adopted in 1993 included provisions for legal private ownership and for state property, whose control, use and management was to be protected by law. Additionally a Land Law introduced in 1992 extended private property rights to Cambodian citizens, allowing them to apply for certified use rights; ownership, however, could not be obtained. According to this law, land certificates were to be given to all those who applied for them and could prove to have been in possession of the land for at least five years. However, estimates show that as a result of limited capacities to process the claims, of about 4 to 6 million applicants only 15% had received formal land certificates by the year 2001. Of all applicants in 2006, only around 20-25% received a certificate.

As a result, in a majority of the land dispute cases, the victims are not in possession of land ownership documents to assert their claim, even though they might have been in possession of the land since the new distribution of land in 1989.

It was during the 1990s that the government also introduced new investment incentives, aiming to promote economic and social development. Claiming that rural development had been made a top priority of the government, large economic concessions were granted on forest and state lands to private companies. The concessions include plantations of rubber, palm oil, teak, eucalyptus, and acacia trees, as well as the large-scale production of food such as cassava, rice, corn or soybeans. According to the Land Law, foreigners cannot obtain ownership of land, but economic concessions provide investors with exclusive rights to manage and harvest land for up to 99 years. Yet very often the land acquired through economic land concessions (ELCs) is not used productively but rather for speculation, and therefore remains unused for several years.

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22 Ibid. p.11.
Until now these economic land concessions are at the source of most land related disputes and have served to dispossess a large number of rural communities, including indigenous groups, from farm- and forest lands; in most cases without prior consultation or adequate compensation. In the six years after the passage of the Land Law, which left a lot of room for acting outside of its stipulations, more than a third of Cambodia’s arable land had been lost to concession grants leading to a shortage of available land. Instead of contributing to poverty reduction and providing increased employment, as had been announced, “economic land concessions have compromised the economic, social and cultural rights of rural communities in Cambodia” The beneficiaries of the ELCs are in 42 % of the cases foreign companies, who, if employment is generated, tend to bring in workers from other provinces instead of employing local workforce. There is, additionally, a lack of clarity as to what contribution ELCs make to state revenues in Cambodia; rather than leading to economic growth, the ELCs seem to favor the “enrichment of the few”, at the expense of the country’s rural communities.

The new Land Law enacted in August 2001 was to specify and regulate all areas that had remained unclear in the 1992 Land Law, including leases, land concessions, indigenous community property, land title registers and dispute resolution. The new Land Law classifies land

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25 Guttal, Shalmali, Land and Natural resource Alienation in Cambodia, Focus on the Global South, December 2006, p. 4.
28 Ibid.
29 Ibid.
into two categories: state public land, including forests and protected areas, which cannot be acquired or owned, and state private land, which is reserved for economic and social development. Interestingly, the Law also limits the size of land to be granted as economic concessions to 10,000 ha and provides for a reduction of concessions to that limit in all cases where it has been exceeded.\textsuperscript{30} However, in order for these provisions to be fully implemented, a number of sub-decrees had to be passed, and some of these still haven’t been passed to this day. This might explain the lack of visible improvements made through this surprisingly progressive Land Law. The delay in the passing of the relevant sub-decrees is most likely deliberate, in order for government officials to retain their hold on potentially high value lands.\textsuperscript{31} More details on some of the provisions of the Land Law will be given in Chapter Seven.

In June 2002 a multi-donor supported Land Management and Administration Project (LMAP) was launched with the objective to support the Ministry of Land Management, Urban Planning and Construction (MLMUPC) in implementing the provisions of the Land Law, such as the conversion of possession rights into full ownership through registration and the issuing of land titles. The stated goals of the LMAP project are to “reduce poverty, promote social stability, and stimulate economic development.”\textsuperscript{32} Yet despite some noticeable successes, observers have come to the conclusion that LMAP has not improved tenure security for the most vulnerable members of Cambodian society. In fact, the land crisis seems to have worsened during the time of its implementation, as some have noted. Titling of land that is likely to be disputed has been excluded from the project and merely those living in undisputed rural areas have benefited from the systematic titling program.\textsuperscript{33} Parallel to systematic titling there is the possibility of ad hoc titling or sporadic titling at request, yet this process is marred by corruption and titles have been reported to cost up to 25% of the value of the land.\textsuperscript{34}

In recent years the demand for land by several groups of interest including private companies, individuals in positions of power such as government officials and military officers, has increased dramatically. Weak legal protection of ownership rights has made rural communities as well as the urban poor most vulnerable to arbitrary land grabs and forced evictions. Most importantly, in the majority of cases the Cambodian government is in violation of its own constitution by denying the recognition of rights that are fixed in Cambodia’s domestic laws on property and

\textsuperscript{31} Guttal, Shalmali, Land and Natural resource Alienation in Cambodia, Focus on the Global South, December 2006, p. 11.
\textsuperscript{32} See: Land and Housing Rights in Cambodia Parallel Report 2009, Land and Housing Working Group, Cambodia, April 2009, p. 22.
\textsuperscript{33} Ibid.
\textsuperscript{34} Ibid.
ownership. An assessment of the current situation concerning land conflicts in Cambodia will be made in the following chapter.

5. Land Conflicts and Resolution Mechanisms in Cambodia

“Increasing land value, ineffectiveness of law enforcement, lack of community’s knowledge in legal and policy matters, and unclear roles and responsibilities of key responsible authorities are in part the driving forces leading to land disputes in Cambodia.”

Little official information exists on the number, locations, severity and outcome of land disputes in Cambodia. Though some numbers exist on cases filed with the cadastral commission or courts, the Royal Government of Cambodia does not display reliable data on land disputes in general or by province. Research therefore has to rely upon the local NGOs and the media in order to get an idea of the actual dimensions of the problem. Especially the NGO Forum on Cambodia, an association of several Cambodian NGOs, has gathered substantial material and data on this particular issue through its own “land information centre”. The available figures show that conflicts related to land have continuously increased since the 1990s.

The Land and Housing Working Group, comprised of several national and international human rights NGOs working on the issue of land disputes, speaks of a “land rights crisis in Cambodia”37, considering that at least 150,000 Cambodians currently live under the threat of forced eviction, 70,000 of which live in Phnom Penh. Overall, around 133,000 residents of Phnom Penh, an equivalent of eleven percent of the city’s population of 1.2 million, have been evicted since 1990.38 Between 1997 and 2003 rural landlessness, often related to economic land concessions and evictions, rose from 13 to between 20 and 25 %.39 These figures show that land disputes are not only a threat for the country’s stability, but are one of the root causes for ever-rising rural as well as urban poverty.

In total an estimate of the year 2005 stated that 1 in 15 families in Cambodia were involved in a land dispute.40 An NGO report on land disputes that arose during the year 2008 counted 173 officially filed disputes, each involving between 5 and 4000 families. The claimed land was either

35 “Article 44 of the Constitution and Article 5 of the Land Law (2001) provide legislative protections against the arbitrary expropriation of property, which can only be carried out in the public interest with prior provision of fair and just compensation” see: Land and Housing Rights in Cambodia Parallel Report 2009, Land and Housing Working Group, Cambodia. April 2009.
38 Ibid.
39 Ibid.
40 Ibid. P. 24.
residential, farm or paddy land and those accused by the claimants of having tried to grab it were government authorities in 23.4 percent of the cases, the military in 20.6, and companies in 29.9 percent of the cases.\textsuperscript{41} The latest report of the working group accordingly states: “The Government is not only failing in its obligations to protect against forced evictions, but Government authorities are often actively involved in illegal land-grabbing”.\textsuperscript{42}

**Figure 2: Main Attributes of Land Conflicts**

![Diagram of land conflict attributes](image)

Source: Cambodia Human Development Report 2007

As a result, villagers will generally attempt to have a powerful administrative decision maker intervene on their behalf, following the existing decision making framework in which the more powerful figure within the administration can “override a decision of a subordinate.”\textsuperscript{43} Usually help is sought from several authorities at different levels, though in the majority (87%) of the cases arising in 2008, the complaint was submitted first to immediate local authorities (at the village, communal or district level). In about 49% of the cases, the complaint was referred to the Provincial governor and in nearly one third of the cases the complaint was sent directly to the Prime Minister’s cabinet. While provincial courts also received around one third of the complaints, there were strikingly few cases where complaints were submitted to the actual


\textsuperscript{42} Ibid.

\textsuperscript{43} Justice for the Poor? An Exploratory Study of Collective Grievances over Land Local Governance in Cambodia, Centre for Advanced Study, World Bank Phnom Penh, October 2006, p. 37.
institutions in charge of land dispute settlement: the district, provincial or national cadastral offices or the National Authority for Land Dispute Resolution (NALDR). This is explained by several factors, the first being an apparent lack of clarity on the responsibility of the institutions mentioned. Theoretically the Cadastral Commission has jurisdiction over land disputes involving untitled land, the courts are responsible for those where land titles exist, whereas the NALDR takes action in cases that are found to be beyond the jurisdiction of the Cadastral Commission. According to Cambodian law, however, such cases do not exist. Therefore “the practical result of the creation of the NALDR has been to strip the Cadastral Commissions of its proper jurisdiction and to refer high profile or controversial cases to the NALDR (...).” Being made up of high ranking officials, including senior police and military officials, the NALDR is a body completely unsuited for resolving such sensitive cases; especially given the fact that an estimated 3,500 families were involved in land disputes involving military or police officers in the year 2008.

The second influencing factor is the fact that the formal institutions are not trusted among villagers, on the contrary, they are generally perceived as “costly, time consuming and biased toward the rich.” In fact, a World Bank study from the year 2006 showed that in 22% of the studied cases presented to the Cadastral Commission, bribes or other informal fees had been paid. In those cases dealt with by the court the figure rose to 68-100%.

The high costs are one reason why many land disputes never reach the courts; most villagers simply lack the resources to pay for an official complaint. As a result, human rights- as well as development NGOs have increasingly begun to actively get involved in land dispute resolution processes on behalf of the poor and marginalized. Almost no cases are reported, in which NGOs did not play a prominent role as watchdogs, advocates, legal consultants or even by submitting complaints on behalf of the victims. To some extent a parallel set of resolution mechanisms has evolved alongside the malfunctioning government institutions. While this is surely a necessary measure in order to ensure at least minimum support and legal protection of victims, the question remains as to what negative impacts this might have in the long term.

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Equally unsatisfactory as earlier numbers, are the figures relating to the resolution of land disputes. From the cases studied for the year 2008, only about 12.5% were solved within that year, while other studies have shown that the process of dispute settlement can take up to ten years.49

Figure 3: Status of Land Disputes 2008

<table>
<thead>
<tr>
<th>Status of Resolution</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Partly resolved</td>
<td>5.20%</td>
</tr>
<tr>
<td>Resolved for both complaint and defendant</td>
<td>4.05%</td>
</tr>
<tr>
<td>Resolved for complainant</td>
<td>6.94%</td>
</tr>
<tr>
<td>Resolved for defendant</td>
<td>1.73%</td>
</tr>
<tr>
<td>Unresolved</td>
<td>82.08%</td>
</tr>
</tbody>
</table>

Source: NGO Forum 2009 (unpublished)

As mentioned earlier, it is not uncommon for land disputes to turn into violent confrontations or lead to threats and intimidations against villagers, but also against those trying to defend them. In recent years civil society organizations and human rights NGOs have experienced increasing pressure when it comes to their involvement in land disputes, and land and housing rights activists today are frequently targets for attacks. Forced evictions, often carried out by soldiers or police officers, sometimes in the middle of the night, usually include the use of force, the burning down of houses, arbitrary arrests and have even lead to several reported deaths.50

Box 1 on the following page offers a description of a forced eviction that occurred in October of the year 2009 in Oddar Meanchey Province, reported by Amnesty International.

Box 1: Forced Eviction in Oddar Meanchey Province

“At least 115 families were forcibly evicted on 9-10 October, and had their homes demolished, in a village in northwestern Cambodia. All are now homeless; three villagers have been arrested, and one has been hospitalized after police violence. A force of around 150 police, military police, forestry administration officials and hired workers demolished and burned the homes of at least 115 families on 9 October, mostly poor subsistence farmers, in O Bat Moan village in Oddar Meanchey province. It appears the eviction took place without a court order or judicial oversight. The security forces had blocked off the village, stopping human rights workers and journalists from monitoring the destruction. Most of the women and children immediately took refuge at a nearby temple. Police and soldiers have tried to force them to leave, using threats and intimidation. Around 40 families are still sheltering at the temple, and others are staying with other families in the vicinity. They are struggling with shortages of food, water and medicine. The vast majority of the men have fled the area. Police have arrested at least three people who were acting as village representatives. They have been taken to prison in Siem Reap province and are accused of incitement and breaches of the 2002 Forestry Law, but it is unclear if they have been charged with any crimes. The forced eviction came after a land dispute with an agro-industrial company believed to be owned by ruling party Senator Ly Yong Phat, to whom the authorities leased the land in 2007.”

Amnesty International, October 2009

6. The Rights-Based Approach: Linking Fundamental Rights and Development

“Everyone has the right to own property alone as well as in association with others.
No one shall be arbitrarily deprived of his property.”

Article 17 of the Declaration of Human Rights

Development theory and practice has seen numerous methodological changes, new approaches and adaptations in the past decades. While the ultimate goal of development practice remained relatively untouched, the failure of approaches such as structural adjustment programs ultimately forced development practitioners and theorists to rethink the ways in which these goals could be achieved. Rather than a radical change of direction, a number of new subjects were included in the debate. Gender issues, ecological impact and sustainability became the new paradigms. A lot of criticism has been voiced concerning these “new” approaches that never seemed to put the idea of development as a whole into question but instead only found new fashionable names for the same process.  At the same time however, there was one new issue that entered the debate that might have the potential to change development practice at its core, by redefining its goal and the nature of development practice: Human Rights. The linking of development processes to rights issues emerged as a new approach that became known as the “rights-based approach” (hereafter RBA), in the 1990s, at a time when the development industry had to face the fact that

over forty years of development practice had not brought the expected success, but that poverty and inequality had actually risen as a result of wrong priorities.

It had become apparent that if poverty was to be successfully reduced or even eradicated, the emphasis had to be shifted from economic growth, satisfying basic needs and the neo-liberal paradigm to the systemic causes for inequalities. The RBA was to “encourage a redefinition of the nature of the problem”52 and focus on its root causes. This entailed looking more closely at matters of state policy and discrimination, as well as a shift of development’s aims to “claims, duties and mechanisms that can promote respect and adjudicate the violations of rights.”53 Accountability of policy makers and other stakeholders is at the centre of any RBA, making way for a move away from charity to duties and from needs to rights54. As Peter Uvin argues, it is this that distinguishes the RBA from other approaches; accountability means that claims must exist alongside “methods for holding to account those who violate claims” (…) “If not, the claims lose meaning.”55 This includes reflecting on power dynamics also within development programs and their obligations towards the fulfillment of human rights through participation, transparency and accountability while promoting processes of change.56 Additionally a RBA would mean not to merely provide remedies for certain problems, but to focus on identifying the source of those problems. In that way it offers not only a tool for poverty reduction, but also for combating the causes for poverty.57

One of the most frequently cited works on this matter are the reflections of Amartya Sen’s “Development as Freedom”58, where he defines development as an expansion of capabilities and human freedom. The factors that limit freedom, he argues, include tyranny and repression and need to be removed in order to achieve freedom and hence development.

Like any other approach to development practice, the RBA has been subject to a lot of criticism, especially concerning its lack of clarity and precision as to what a RBA really means in practice, leading to a variety of interpretations of practices, methodologies and duties that are framed within the RBA.59 The somewhat arbitrary usage of the terms “rights-based approach” and “human rights-based approach” adds to this lack of accuracy. The latter, as some authors argue,

53 Ibid.
54 Ibid.
55 Ibid. p. 603.
59 See for example IDS Working paper 234, p. 13, for a listing of the different interpretations of the RBA from several NGOs or UN agencies.
refers exclusively to the international normative system of human rights, whereas the RBA includes any kind of rights and is more “locally determined as a result of power relations.” The range goes from the RBA being used as a conceptual framework to it providing a new perspective from which to view current struggles.

This lack of precision when it comes to talking of the RBA has made it prone to the accusation that it consists of little more than rhetoric and just offers an opportunity for organizations to fashionably “repackage what they have always done in the new language”. Lisa VeneKlasen (et al.) therefore argues that for many development organizations, “the process of integrating rights involves adding rights language and a legal or advocacy dimension to their work rather than weaving together two distinct, but interconnected, approaches into a stronger whole.” Another common criticism towards almost all development approaches and therefore also towards the RBA is that it is grounded entirely in western values, written by “educated, institutionalized members of the Western development community”, and that the goals and principles “are not necessarily recognised as relevant by civil society organizations in the South.”

6.1 Putting the Rights-Based Approach into Practice

Yet the difference to other approaches lies in the fact that the RBA actually seems to have the potential of being a first step towards a re-conceptualization of development practice. As Häusermann puts it, the RBA “works by setting out a vision of what ought to be”, providing a “powerful normative framework to orient development cooperation (…) and bringing “an ethical and moral dimension to development assistance.” Putting rights at the centre of reflections on development implies an analysis of power structures and a reflexive engagement with power issues. It puts the spotlight on political issues in countries at the receiving end of development programs, as well as on processes within development agencies. “As such, rights-based approaches can work both to sharpen the political edges of participation in the wake of the instrumentalism produced by mainstreaming, and to make critical linkages between participation,

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61 Ibid. p 14
65 Ibid. p. 3.
accountability and citizenship.” While participation has been a substantial part of development processes in the past years, the RBA attempts to shift participation from being an assessment of people’s needs and their inclusion in all steps of project implementation, to a way of supporting citizens to recognize and claim their rights.

In a working paper of the Institute of Development Studies, the question is raised what all these good intentions would look like when put into practice by looking at which methods of implementation for an RBA are chosen by the different development agencies. Even though variations exist in emphasis and mechanisms, there seems to be a consensus on the two basic elements of a RBA. Firstly, all organizations stress the importance of strengthening capacities of duty-holders, state as well as non-state actors, to respond to claims and successfully protect and respect human rights. Secondly the ability of citizens to recognize their rights and to be empowered to successfully claim them has to be increased by working alongside them as advocates.

An IDS-funded country study carried out in Kenya tried to show the possibilities and challenges concerning the integration of human rights issues in development practice by gathering and analyzing the views of civil society organizations on the meaning and practical application of three key concepts: rights, rights-based approaches and participation. The idea was to examine whether this new approach could contribute fruitfully to the transformation of unequal power relations and to what extent the work of human rights organizations and development agencies had converged as a result of increasingly similar objectives.

The study concluded that the gap between the approaches of rights advocacy and community development was gradually diminishing and that a greater compliance in the discourses of rights and participation was noticeable. This compliance the report stated “holds promise for an integrated and sustained approach that is more effective in questioning institutional arrangements that foster unequal power relations.” The report identifies the most important challenges in the successful implementation of participatory practices, which can easily remain dominated by professionals, and thereby only allow superficial forms of participation and no inclusion into planning processes. In the Country Study the view is put forward that the linkage of rights and participation is most successfully applied in concrete local struggles, which provide the

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66 Ibid.
67 Ibid. p. 10.
opportunity for development agencies as well as human rights activists to jointly work on developing methodological tools to “effectively challenge unequal power relations”ºº

6.2 The Rights-Based Approach as a Conceptual Framework for this Study

The issue of land conflicts in Cambodia offers an example of a local struggle that provides an opportunity of successfully linking the claiming of rights to participation. The rising number of land disputes and resulting aggravation of rural and urban poverty in Cambodia are embedded in a system of asymmetrical power relations and a systematic overruling of existing laws by those in power. Tackling this issue therefore requires not merely a curing of the symptoms, but an in-depth analysis of power structures and an assessment of possible ways for those affected to change or influence them. Or as Shalma Guttal puts it: “According to many human rights and development NGOs and researchers, the most comprehensive way to approach land and livelihood issues in the country is to locate them in a human rights framework that challenges the Royal Government of Cambodia, international donors, multilateral institutions and Cambodian society to honestly examine the unfolding land crisis and take urgent steps to address it.”¹¹

The application of a RBA in struggles concerning land (or other natural resources) entails, of course, additional challenges, since in such a context the mere recognition of a specific right is not sufficient, but needs to be complemented by an official document or title to avoid further problems. This implies an even more important role to be played by the government and its institutions as principle duty-bearers, as no NGO or human rights organization can perform government tasks and provide land titles or officially implement land rights.

In the case of Cambodia the necessary legal framework for the recognition of property rights even of the poorest and marginalized groups exists, but is not being implemented, resulting in the Cambodian Government being in violation of its own constitution and legislation in many reported cases of forced evictions and economic land concessions.¹²

Many local and international NGOs, especially human rights NGOs, have pointed to the fact that the Government’s commitment to human rights is merely rhetorical and intended to please foreign donors. In their recommendations they explicitly ask foreign donors to make more

¹¹ Guttal, Shalmali, Land and Natural resource Alienation in Cambodia, Focus on the Global South, December 2006, p 11.
efforts to support the implementation of land and housing rights and not to settle for half hearted promises and laws that exist on paper only.\textsuperscript{73}

Having identified land disputes and resulting landlessness as an important contributor to poverty, as well as unequal power relation as one of the root causes of the problem, it seems fruitful to use the RBA as a theoretical framework for this study.

In addition LWF, one of the NGOs involved in the conflict resolution process of the present case study, sees the RBA as a guiding principle of its work and describes it as “a framework that integrates the norms, principles, standards and goals of the international human rights system into the plans and processes of development. It is characterized by methods and activities that link the human rights system and its inherent notion of power and struggle with development.”\textsuperscript{74}

As the main processes involved in an RBA LWF identifies: involving the community, especially vulnerable groups at every stage of the program cycle, creating a rights climate through redressing power relations in favor of vulnerable groups and their rights, working in partnership, working with and enabling the state, empowering civil society and encouraging community involvement.\textsuperscript{75}

The following case study focuses on an analysis of the applied mechanisms of conflict resolution and their underlying cause. Yet the ideas put forward by the RBA will be accompanying the analysis as a guideline to identify in what ways a RBA is being applied in this particular case and to what extent the positive as well as negative aspects of a RBA outlined above, can be confirmed or dismissed for this particular study.

Dan Banik argues that an important hindrance to the implementation of a RBA is the lack of communication between human rights groups and development practitioners at the country level, as a result of missing common concerns between the two.\textsuperscript{76} Given that the three NGOs involved in the present case study include two local human rights organizations (ADHOC and LICADHO) and one international development NGO (LWF), this concern will be included in the analysis. Finally the discussion will address possibilities of improving current methods of dispute resolution, or better yet of preventing future conflicts, also under the guiding principle of the RBA.

\textsuperscript{73} See for example: Williams, C., Rhodri: Title through Possession or Title through Position? Respect for Rights to Housing, Land and Property in the Wake of Cambodia’s Transition, Centre on Housing Rights and Evictions, Geneva 2006, p. 23.

\textsuperscript{74} A Rights-Based Approach to Development. LWF, 2009, p. 14.

\textsuperscript{75} Ibid. p.17.

7. Methodologies

The research for the present case study on the land dispute that occurred in Kampong Chhnang Province was carried out within a three-month period from the 6th of June until the 31st of August 2009. The research was based entirely on qualitative research methods, given that the aim was not to achieve maximum representativeness, but to reveal the relationship between problems and their cause. Qualitative methods offer a high degree of openness and flexibility; attributes that seemed crucial for a study on this particularly sensitive subject. Research methods included the review of literature, internet research, group discussions and problem-centred semi-structured interviews with victims of the land dispute, members of the three NGOs involved in its resolution and two members of the local government. Additionally, an expert interview was conducted at the end of the field research, focusing on the broader perspective of the problem. The different steps taken in conducting the research will be outlined in the following paragraphs.

7.1 Review of Existing Literature on Land Disputes in Cambodia and Elsewhere

After having formulated the guiding research questions for the study, which were mentioned earlier, the existing literature on land disputes in Cambodia and other countries was compiled and analysed. A special emphasis was put on recent reports of NGOs or multinational institutions such as NGO Forum, Oxfam or the World Bank, and their assessment and evaluation of the efforts at land dispute resolution in Cambodia. Studies on land disputes in other countries and contexts were consulted as a means of comparison. Equally important were the reports and press releases of local NGOs such as LICADHO, ADHOC or CCD (Community Capacities for Development). The fact that land disputes seemed to be an omnipresent subject in the media as well, made it seem fruitful to also collect all published articles on the matter from one daily newspaper during the three-month period of the research stay.

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78 For example: Land-Based Conflicts in Somaliland and Afghanistan. Academy for Peace and Development/Institute for Development and Peace, 2008
7.2 A Review of the Press

The aim in assembling land dispute related articles was to hereby get a clearer idea of the way in which the matter of land disputes is reflected and discussed in the press. The chosen newspaper was the “Cambodia Daily”, the first daily newspaper in Cambodia to be published in English. It is an independent non-profit newspaper published six days a week and belongs to the range of the more serious and critical newspapers. However, the amount of articles on land disputes collected within the three-month period, although remarkable, has to be seen in the light of the relatively small number of Cambodians able to speak English and therefore the limited number of people it can reach. The following quote however, suggests that there is a general presence of the matter that is not limited to English newspapers:

“Almost every day there is a new conflict written about in the newspaper. From day to day it seems to become more serious. What is interesting about the land conflicts is, since it happens almost every day people start becoming aware of the problem through the media”.

Interview with NGO Forum on Cambodia (28.08.2009)

Over the period of the research stay in Cambodia from the 3rd of June till the 31st of August, all newspaper articles published by the Cambodia Daily on matters of land disputes, property rights and economic land concessions were assembled and reviewed. The objective was to enable an assessment of the presence of this subject in the media and the ways it is being dealt with. Overall a total of 79 articles that dealt with land issues were collected. A wide range of matters was discussed, including the mentioning of the publication of new NGO reports on the matter, government reactions to criticism, new laws on property rights and current conflicts over land or forced evictions. Ten of these articles made the front page and ten different cases of forced evictions or land disputes could be counted. Overall this suggests that land disputes are perceived as a pressing issue in the country and that much is done to ensure its continuous presence in the media.  

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80 Two examples of articles on land disputes published in the Cambodia Daily can be found in ANNEX 8.
7.3 Review of the Legal Framework and Legislation

In order to understand the setting in which land conflicts in Cambodia occur, it was important to gain insight into the legal framework and existing legislation on land tenure, land acquisition and land dispute resolution. As mentioned above, the most important law to be taken into account when reviewing land disputes is the Land Law of the year 2001.

According to the Land Law, ownership will be granted to all those who can prove that they are in lawful possession of land for a continuous period of five years and peacefully entered into possession of the land before the enactment of the law in 2001. Article 26 of the Land Law of 2001 also recognizes communal land titles issued to indigenous communities. However, the legal and policy framework for the registration of collective titles is yet to be finalized.\(^81\) Additionally, the lack of enforcement of the Land Law results in a continued vulnerability of indigenous groups to land speculators, while pressure from outsiders and the limited access to information make it very difficult for them to successfully claim their rights.\(^82\)

"If the competent authorities refuse to issue a title of possession to immovable property, the holder of the immovable property may file a complaint with the Ministry of Land Management, Urban Planning and Construction"  
Land Law 2001 Article 45

In reality, titling of land is increasingly linked to the personal interests of those in power, resulting in those who live on land that is sought after by powerful individuals or companies not receiving a valid land title.\(^83\) The last section of the Land Law is dedicated entirely to penalty provisions for ownership infringement caused by administrative authorities. According to the stipulations, any member of the government authorities found to have abused his position and power to seize immovable property has to pay a fine of up to twenty-five million Riel (approx. 6000$). In the case of use of violence while forcefully acquiring land, imprisonment of up to two years is added to the fine.\(^84\) Again the weak enforcement of the law has meant that up until now, very few cases have been reported where such measures were taken against corrupt and illegally acting government authorities.\(^85\)

The numerous forced evictions taking place throughout the country reported by the media and local NGOs are almost all in violation of the Land Law, which states that forced evictions can only take place when they are in the public interest and occupants of the land must be given fair

\(^{81}\) Ibid.  
\(^{83}\) Land and Housing Rights in Cambodia Parallel Report 2009, Land and Housing Working Group, Cambodia, April 2009, p. 4.  
\(^{84}\) Land Law 2001, Article 261.  
\(^{85}\) See: Chorn, Chansy: Official Fired for taking Bribe in Land Dispute, The Cambodia Daily, July 9\(^{\text{th}}\) 2009
and just compensation in advance. The fact that land conflicts have become one of the most pressing problems in the past years, has given rise to the formation of several new institutions to resolve land disputes, on the district, provincial and national level. As a result of the reasons discussed earlier they are, however, rarely found to be active agents in the resolution of a land conflicts.

**7.4 Review and Translation of the Existing Documents on the Case**

An important source for the understanding of the causes of the studied land dispute and the measures taken in order to resolve it, are several documents, including letters of complaint from the victims, statements of local government members and reports of two fact-finding committees. The documents had to be translated from Khmer into English and were then to form the basis of the analysis of both conflict cause and the process of its resolution.

**7.5 Semi-structured Interviews**

After having gained insight into the complex conflict resolution process, a list of potential interview partners was compiled and a catalogue of questions for problem-centred, semi-structured interviews was assembled. Having already gained insight into the matter and broadly formulated the research questions, it seemed sensible to compile a set of guiding questions that would lead to the core of the research interest. According to Mayring, this problem-centred approach is most useful in a context where a problem analysis has already been conducted and specific research questions form the foreground of the study. The questionnaire consisted of two parts, the first one concentrated on information on the interview partner and his role in the dispute, as well as on information on the source of the conflict and its evolution. The second part of the questionnaire focused on the research questions and therefore on motivations, struggles, judgements and suggestions for improvement. As the main aim was to be able to directly compare the views of the villagers with those of the NGOs involved in the resolution process, the question catalogues of both groups differed very little and included a set of identical questions.

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86 Land Law 2001, Article 5.
87 The translations were performed by the translation Agency Ang Khmer Group in Phnom Penh.
88 See ANNEX 4 for a detailed list of interview Partners.
90 See ANNEX 5 and 6 for both Question Catalogues.
The questions were all formulated very broadly and did not necessarily follow a specific order, giving the interview partners the liberty to answer freely and, if wanted, steer the conversation into a different direction. During the process of conflict resolution, an “advocacy network” was formed, consisting of five villagers who would act as representatives of all victims. A group discussion with the advocacy network was regarded as a good way to gather additional information on motivations, opinions and self-assessment of the efforts made. Taking the role of a moderator rather than interviewer allowed for a more natural flow of the conversation and offered the possibility of an assessment of moods, levels of commitment and knowledge among the group.

Following all interviews, a short “postscript” was written with some impressions on the course of the interview, behaviour of the interview partner and outside influences. These short assessments can contribute to the following process of interpretation as they allow for the comparison of contexts and other aspects of the different interview situations. The chosen interview partners included, apart from the village leader and the Advocacy Network, four victims of the land dispute (three female and one male), two members of the local government, staff of the three NGOs involved in the resolution process and one employee of NGO Forum, an NGO that collects data on land disputes throughout the country. Overall, 16 people were interviewed for between 20 minutes and two hours, over a period of two and a half weeks.

7.6 Evaluation of the Conducted Interviews

For all but two of the conducted interviews, a translator was needed to translate form Khmer into English and vice versa. This presented several difficulties that have to be taken into account when reviewing the results of the present study. Though familiar with the subject and highly committed, the two people translating during the interviews were not professional interpreters and therefore faced some difficulties in transmitting the essence of the questions and the given answers. In conducting interviews through a translator, a loss of detail and above all, the loss of a natural flow of the conversation was inevitable. One attempt to tackle this problem was made during a group interview, where only one initial question was asked and the interpreters were then asked to write down the following discussion and to translate it afterwards.

92 Ibid. p. 145.
93 Ibid. p. 138.
Another difficulty arose when scheduling interviews with the villagers due to the fact that they had to take time out of their work on the rice field in order to speak to me. As a result, a lot of interviews started later than arranged or had to be rescheduled.

The subject of land disputes in Cambodia is a highly sensitive one and there were some concerns about the willingness of people to cooperate in order to support the Study. The Cadastral Officer, as well as the Commune Council chief did not agree to meet for an interview, but all other interview partners showed a lot of enthusiasm and commitment in assisting the study.

8. The Case Study

8.1 The Study Site, Kampong Chhnang Province

Kampong Chhnang province is one of Cambodia’s 24 Provinces and lies about 90km north of the capital Phnom Penh at the centre of the country. Around 470,000 people live on a surface of approximately 521 km². The topography varies from east to west, from the Tonle Sap floodplains through lowland paddy fields and forested areas in the west. Kampong Chhnang is divided into eight districts composed of sixty-nine communes and 557 villages. The province is known for its pottery products but mostly the income is raised from fishery, rice production and fruit cultivation. Overall, figures for access to land for Kampong Chhnang Province lie slightly under the national average. A selection of the most recent available figures on access to land and employment are presented in the following tables.

95 World Food Program, http://www.foodsecurityatlas.org/khm/country/provincial-Profile/Kampong-Chhnang
Table 1: Agricultural Land Access in Kampong Chhnang

<table>
<thead>
<tr>
<th>Agricultural land per rural household</th>
<th>% of Rural HH in Kampong Chhnang</th>
<th>% of Rural HH (National)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No agricultural land (landless)</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Less than 1.0 ha</td>
<td>59%</td>
<td>49%</td>
</tr>
<tr>
<td>1.0-&lt; 3.0 ha</td>
<td>28%</td>
<td>30%</td>
</tr>
<tr>
<td>&gt;=3.0 ha</td>
<td>3%</td>
<td>6%</td>
</tr>
</tbody>
</table>

Source: MAFF 2004

Table 2: Employment and Labor Force Indicators in Kampong Chhnang

<table>
<thead>
<tr>
<th>employment and Labor Force Indicator</th>
<th>Kampong Chhnang</th>
<th>National</th>
</tr>
</thead>
<tbody>
<tr>
<td>Literacy Rate &gt; 15 years % total population</td>
<td>64</td>
<td>67</td>
</tr>
<tr>
<td>Literacy Rate &gt; 15 years % females</td>
<td>57</td>
<td>60</td>
</tr>
<tr>
<td>% of the labor force in the primary sector incl. Agriculture</td>
<td>71</td>
<td>60</td>
</tr>
<tr>
<td>% of the labor force in the secondary sector/ Industry</td>
<td>12</td>
<td>13</td>
</tr>
<tr>
<td>% of the labor force in the tertiary sector/ Services</td>
<td>17</td>
<td>25</td>
</tr>
</tbody>
</table>

Source: World Food Program 2004

The land conflict presented in this study occurred in the Tuek Phos district in the west of the province in the village of Ta Nai, inhabited by approximately 624 people.  

Figure 4 shows the distribution of land disputes throughout the country and illustrates the average number of land conflicts occurring in each province. It shows that Kampong Chhnang Province belongs to the group of provinces with relatively high numbers of land disputes.

96 Information given by LWF staff.
8.2 Background to the Conflict

The sheer number of differing accounts of the conflict I collected during the process of the research confirmed my prior concern that I would only be able to determine an approximate course of events but would not obtain a verifiable chronology. Therefore, the description of the chain of events given in the next chapter is the most precise that could be arrived at, but there is of course no guarantee for the accuracy of the given declarations.

The review of all existing documents on the land dispute together with the interviews conducted showed a highly complex case of an asymmetrical land dispute and its unsystematic resolution process. Additionally, the case presents itself as two conflicts in one. The major conflict involves an area of about 1500ha and has already been resolved, whereas another conflict about an area of 15ha is still pending resolution by the court. The 15ha conflict involves a member of the provincial court who claims to have a valid land title for the land, which is currently used by 16 families. The 15ha lie within the 1500ha and the research has given reason to conclude that both
cases are linked and have the same source. Both cases were taken care of simultaneously and the Advocacy Network formed during the conflict to represent the victims, worked in the name of both groups in the protest. In the interest of simplicity and to ensure maximum comprehensibility, there will therefore be no difference made between the two conflicts in the following description unless necessary.

The above-mentioned land of about 1500ha is currently being used by 107 families. Resettlement began in the year 1991, when around 80 families from the neighbouring village Tum Nob Tmey began to cultivate the land. They had been forced to leave it behind during the Khmer Rouge dictatorship. Exact numbers could not be obtained but according to the Village Leader, a few of the families are also newcomers who settled on the land between 2005 and 2007. The whole area served as area of retreat for Khmer Rouge soldiers until 1998, which is why the victims stated that they had started to cultivate the land extensively only from the year 2000 onwards. None of the victims interviewed are in possession of a valid Land title, though all but one stated that the land had been in family possession for generations. The families do not have settlements on the land and use it merely for rice cultivation and the planting of fruit trees.

According to the village leader, who was the first to learn of the conflict, the dispute began in December 2008, when a member of the provincial court, accompanied by a police officer and a journalist, came to find the families living on the 15ha plot and told them that they had no right to use it since he was in possession of a Land title. Later that week the village leader was asked to meet with the Commune Council chief. During that meeting the Commune Council chief confronted him with the claim to the 15ha and added that the Cambodian Company Pheapimex Ltd. Co was interested in purchasing an area of 1500ha. The village leader was asked to sign a document listing 120 people as “owners” of that land, none of who corresponded to the actual occupants of the land. Knowing that signing this document, would de facto dispossess the 107 families living on the land, the village leader refused to do so, informed the families affected and organized a meeting during which five villagers were elected to form the “Advocacy Network” representing the 107 families affected by the dispute.

The relationship between the villagers and the Commune Council chief was strained as a result of his involvement in the case. As he was apparently getting support from the District Governor, Provincial Governor and the local Chief of the Police department in trying to dispossess the families of their land, the trust in the entire local government was lost. Fear and lack of trust in local authorities were to greatly influence the measures taken by the villagers in trying to resolve the conflict.

Unfortunately none of the interviewees could indicate the exact location of the disputed land on a map of the commune, a map with an indication of its approximate location can be found in ANNEX 3.
8.3 The Process of Conflict Resolution

Overall, three NGOs were actively involved in resolving the land dispute; the international NGO LWF (Lutheran World Federation) and the two local human rights NGOs, LICADHO (Cambodian league for the promotion and defence of human rights) and ADHOC (Cambodian Human Rights and Development Association). From the declarations of the villagers, it could be discerned that the village leader is widely trusted and respected within the community and that there was broad support for him taking over the lead in organising the protest against the land grab.

As in the cases reviewed by NGO Forum for the year 2008, none of the existing institutions on land dispute resolution were involved in the resolution of this case. The first action taken was to file a complaint directly to the Commune Council. When this showed no result, the Village Leader informed several NGOs asking for their support in the matter, because, he stated, “I knew about the NGOs working in the field of Human Rights and was sure they would help us”. Following the advice of the NGOs, the villagers filed their complaint with the Senator of the National Assembly in Kampong Chhnang town on the 19th of January 2009. The Senator forwarded the complaint to the Ministry of the National Assembly and invited the Advocacy Network to join him and the Minister for a meeting in Phnom Penh. One week later the complaint was sent to the Minister of Agriculture, who immediately forwarded it to the chief of the Agricultural Department in Kampong Chhnang. Meanwhile,

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98 A short description of each NGO can be found in ANNEX 1.
following the advice of LICADHO, at the end of February the complaint was also filed with the Cadastral Commission, but the villagers never received a response. In the meantime the village Leader was summoned several times to the Commune Council chief’s office and threatened with prison and “severe problems”, if he didn’t agree to evict the villagers. During the conflict ADHOC provided legal assistance to the villagers and acted, together with LICADHO, on behalf of the villagers by meeting the district governor to discuss the matter. LWF remained in the background, offering advice and financial support.

According to information given by the commune council clerk, the chief of the Agricultural Department had been involved in the plans to sell the plot of land to Pheapimex, and his actions clearly showed no urge to solve the matter fairly.

He wrote a report for the Minister of Agriculture on the 16th of March, claiming to have sent a committee to talk to the villagers, concluding that the matter had been taken care of. The report stated first of all that the conflict was not occurring in the village of Ta Ney, but in the neighbouring village called Tum Nub Thmey and that the land in question had been illegally occupied by the villagers. The report also implied that the commune clerk stood at the source of the conflict, who had tried to sell the 15ha land plot that actually belonged to a member of the court. The commune clerk was accused of having agitated the community against the court member when he tried to regain his land and to have told the people that in total an area of 1500ha was to be grabbed. In fact, the report stated that there never was a conflict over 1500ha and the commune clerk had tricked people into believing this in order to use them to cover up his illegal transactions. The report concluded that there had been a meeting with the community and that the conflict had been resolved.

In reality the committee had only met with the district governor and no one had spoken to the Village Leader, or the victims. The commune clerk is in fact himself a victim of the 15ha land dispute and has the trust of the entire community. He responded to this report with a letter of his own to the Minister of Agriculture, in which he denied being guilty of any of the accusations.

The Minister of Agriculture decided to further investigate the matter and formed a committee of twenty people to meet with the villagers on the 21st of May 2009 to resolve the dispute.

The committee came to the conclusion that the land in question, which is partly covered by forest, was state public land and could therefore neither be sold to the company, nor claimed by the villagers. They were, however, given permission to continue cultivating the land if they would not clear any more of the forest. Yet the villagers were not given any hope of ever gaining legal possession of the land. The above-mentioned case on an area 15ha is pending to be resolved by the court, as it involves a land title whose validity has to be confirmed. Given that the 15ha are
located within the area declared state public land, the claim of the court member is not likely to be successful.

**Figure 5: Process of Conflict Resolution (simplified)**

Source: compiled from gathered information

**9. Results**

**9.1 Comparison of the Victims and NGOs Perspectives on the Case**

In comparing the results of the interviews with victims of the land dispute and the NGOs, it became apparent that there were different opinions when it came to judging the efforts on both sides and the reasons for the partial success of the campaign. Asking about the biggest challenges faced by the victims of the land dispute also brought very varied responses. The villagers all put strong emphasis on their lack of financial resources and the additional loss of income while taking care of the matter, as their biggest challenge. “I had to sell my chicken in order to pay for the travels of the Advocacy Network, says one victim. The second biggest concern was security and fear of not being able to win the case due to an imbalance of power between the villagers and those claiming the land. The chief of the Advocacy Network stated:
“When I was travelling with documents, I was worried that someone would beat me and take them away, or that someone would provoke an accident or shoot me”. Another victim declared: “My biggest concern was that the Advocacy Network would not be successful, because those who want the land are powerful and we are powerless”.

From the NGOs perspective, the most significant problem lay in a lack of knowledge of the ruling law and in a missing strategy on how to react to the conflict. Merely LWF mentioned that the pressure put upon the Village Leader and the constant threats presented a significant difficulty. Overall, the fact that staff members of LWF live in their target villages as part of their programme seemed to result in a deeper understanding of the villagers’ biggest concerns and a greater similarity in the answers given.

When it came to judging the degree of solidarity among the villagers and the efforts made by the Village Leader and the Advocacy Network, all villagers agreed that solidarity had been very strong and that this had contributed significantly to the successful outcome of the campaign. In fact solidarity is given as a reason for winning this case before mentioning outside support. While LWF agrees and mentions that the level of solidarity exceeded that of other villages they worked in, the two other NGOs disagreed. Both were under the impression that the solidarity was linked to this specific case and arose merely because “people were fighting for a common cause”. In fact they argue that the campaign had been a partial success despite the fact that solidarity and networking had been lacking during the period of conflict resolution. In their opinion it was the outside help from the NGOs and higher-level authorities that had helped resolve this dispute.

All victims seemed to agree on the importance of knowing about human rights, yet none of them confirmed to have a deeper understanding of their rights. In fact they stated that they had heard about the subject on the radio, or had attended a training, but had remembered very little of it.

There was general agreement on the position that more could have been done to help the villagers, among the NGOs as well as the victims of the dispute. The focus of the villagers is on the lack of financial support and when asked for ideas for improvement, increased assistance is expected and sought merely from the NGOs. The existing institutions for the resolution of land disputes are not known among the villagers and expectations towards local authorities are extremely low. “They (local authorities) don’t have the power to resolve such issues when a high ranking officer is involved” explains one victim. All NGOs agree on the necessity of increased training on human rights, but there also seems to be a consensus on the improved functioning of governmental institutions being a priority. “Without interventions of the authorities, these conflicts will continue to occur, due to a rising value of land”, says ADHOC. When asked in a more informal setting about the reason for the support of higher level authorities in the
resolution of this case, a staff member of LWF speculated that apart from the fact that the land could not be sold according to ruling law, the affiliation of the community to the ruling party (CPP) had been equally important. He argues: “Help from higher levels of authority depends entirely on the support for the CPP, they receive help if they support the CPP, if not they won’t be supported by the government. In fact”, he said, “the two or three months of the electoral campaign are always the best moment for people to receive help with a land conflict, because it makes the government look good and they receive people’s votes in return.”

9.2 Assessment of the Work of the NGOs

Asking each NGO about their involvement in the case, their point of view on the villager’s actions and their own contributions, revealed highly differing perspectives on the conflict and its resolution. More strikingly, none of them declared to have consulted the other NGOs involved in the case in order to discuss the matter and a course of action. One of the aspects in which there is agreement among all three NGOs is that their assistance was not sufficient and more could have been done. While LWF prefers the advising position in order to ensure that the villagers advocate for their own cause, LICADHO and ADHOC usually take direct action in talking to the relevant stakeholders. In this particular case however, the lack of communication between the two led to staff members of both LICADHO and ADHOC meeting with the District Governor to address the issue, with similar results: the advice to stay out of the matter. Furthermore, there seemed to be different views on the course of events and different levels of knowledge on the details and backgrounds of the case. Three different dates of settlement on the land in question were given as well as slightly differing descriptions of the course of events. Additionally only ADHOC emphasized the legal status of the disputed land, arguing that neither the company nor the villagers had a right to ownership of this land since it had been classified state public land and could therefore not be sold. Even though all three NGOs seemed to be aware of this, it had no effect on the course of action. More importantly, neither the villagers, nor the Village Leader appeared to have knowledge of this fact.

The relatively unsystematic attempts of conflict resolution following the advice given by the NGOs are, according to all of them, a result of the complete inefficiency of the responsible institutions and the lack of knowledge and understanding among the highly corrupt local authorities. “They all think they are powerful and don’t provide the required services”, says one LICADHO staff. Nonetheless, the same NGO gave the advice to submit the matter to the Cadastral Commission, whereas the other two stated that there was no assistance to be expected from that institution. “They support the rich, not the poor”, explains the ADHOC employee.
Therefore their advice was to file the complaint directly with higher-level authorities, explaining that there was usually more willingness and capability to intervene in such matters among higher-level authorities. The three NGOs agreed that no improvements could be expected in the matter of land conflicts, if the authorities didn’t begin to take responsibility and provide the necessary assistance. Asked about whether there was to be a change in the role of the NGOs concerning their involvement in land disputes, there was a consensus on the importance of increased human rights training programmes for all communities, with the objective of enabling the people to take action without outside help. Both LWF and LICADHO stated to have conducted human rights trainings in this community in recent years; however LICADHO has not planned any future training due to a lack of budget and ADHOC reported never to have conducted human rights training in this commune for the same reason. Yet ADHOC especially emphasised the importance of training the authorities and increasing their ability to fulfil their mandate. It is important to note that no comments were made on the general approach of the NGOs towards land dispute resolution, nor were better coordination of actions or consultations on methodologies mentioned as a ways of improvement. All seemed to agree on the necessity to increase and intensify what is already being done. The impression remains that no real alternative to the current course of action is being envisaged and that the main constraint to further intervention is the budgetary problem, mentioned by all NGOs.
### Table 3: NGOs Perspectives in Comparison

<table>
<thead>
<tr>
<th>NGOs</th>
<th>Biggest Challenges</th>
<th>Evaluation of victims’ efforts</th>
<th>Evaluation of NGOs work</th>
<th>Ideas for improvement</th>
</tr>
</thead>
<tbody>
<tr>
<td>LWF</td>
<td>• Threats</td>
<td>• Strong solidarity</td>
<td>• Not sufficient</td>
<td>• HR training for all</td>
</tr>
<tr>
<td></td>
<td>• Lack of knowledge</td>
<td>• Strong commitment</td>
<td></td>
<td>• More money and material</td>
</tr>
<tr>
<td></td>
<td>• Money</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ADHOC</td>
<td>• Ignorance of law</td>
<td>• Solidarity linked to case only</td>
<td>• Not sufficient</td>
<td>• Intervention of authorities</td>
</tr>
<tr>
<td></td>
<td>• Isolation of Community</td>
<td>• aimlessness</td>
<td></td>
<td>• Land titles</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Improvemen of legal system</td>
</tr>
<tr>
<td>LICADHO</td>
<td>• Absence of Land title</td>
<td>• Solidarity linked to case only</td>
<td>• Not sufficient</td>
<td>• HR trainig</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• aimlessness</td>
<td></td>
<td>• Intervention of local authorities</td>
</tr>
</tbody>
</table>

### 10. Discussion

As outlined in the previous paragraphs, the interviews revealed strongly differing views on the process of conflict resolution not only between victims and NGOs, but also among the three assisting NGOs themselves. While the difference in perspectives between the victims and the NGOs are somewhat comprehensible, they do shed light on the quality of communication between the two groups. LWF, as the one NGO where the staff live alongside the villagers and therefore get a more precise idea of people’s needs and worries, showed most compliance with the victim’s perspective.

However, the divergent views and priorities among the NGOs do raise some questions. When asked about the level of cooperation between the organizations, LWF declared to have given the victims the advice to contact ADHOC and LICADHO but that no meeting or consultation took place between the organisations to discuss the case and the following steps. The fact that both ADHOC and LICADHO went to speak to the District Governor confirms the concern of lacking communication to some extent. With all NGOs complaining of a lack of budget this unnecessary overlap of measures taken seems even less understandable. The differing views and
priorities of the organisations are reflected in the unsystematic approach to conflict resolution. Instead of following a coherent path, the victims are advised by one NGO to approach the Cadastral Commission, whereas the two others consider this a waste of time. In order to make the people more aware of the prevailing power structures and eventually able to tackle such matters without external help, an agreement among NGOs on whom to trust and whom to expect assistance from seems sensible. Overall, better coordination of actions and closer cooperation between the organisations with the aim of developing a shared approach could have a positive impact on budgetary issues and the systematisation of chosen methods. Equally important seems the fact that the legal status of the land as public property was somewhat disregarded during the resolution process, given that all claims of the villagers included a claim to ownership of the land, with reference to the number of years it had been used by the occupants. Acknowledging the status of the land would have immediately excluded the possibility of rightful ownership, but might also have speeded up the process of dispute resolution in proving the company’s claim to be illegal.

Out of the analysis of the victims’ motivations for proceeding the way they did another consideration arises: that of the sustainability of the NGOs approach to land conflict resolution. While they are adapted to the current situation and certainly indispensable at the moment, the question needs to be asked whether at long sight the taking-over of government tasks and the bypassing of the official institutions and responsible authorities, might have negative repercussions. In an example given in the IDS working paper mentioned earlier, a group of Kenyan farmers joined together to form a company for marketing their products, and with assistance from an NGO they managed to obtain contracts with exporters and access to credit facilities, instead of waiting for the government extension officers to provide this service. While having an immediate positive effect it raises the following questions: “In such circumstances, where will the impetus for improvement in public services come from?” and “does that take the pressure off the government to improve public services?” Despite the difference in subject and context of the present case, the concerns raised are to a certain extent transferable to other cases, at least when it comes to by-passing official institutions for land dispute resolution and trying to resolve conflicts unsystematically.

Adding to this concern was the fact that the evaluation of the interviews with the victims gave rise to the impression that names and working areas of NGOs were better known than the responsibilities or even existence of government authorities. This brings with it the possible danger of leading villagers to believe that their first point of call is always the NGOs without

questioning it further. This difficulty is pointed out in the IDS Kenya country study that states: “the biggest challenge is to avoid creating another type of dependency, where people begin to view you as the “rights giver” since you are the one telling them about their rights.”

This concern was addressed in the expert interview held with a staff member of NGO Forum, working in the Land Information Centre. He embedded the current work of the NGOs into the theoretical framework of the RBA; as opposed to the relief-oriented approach that was followed until very recently. Today’s role of the NGOs, he argues, is to fight for the recognition and fulfillment of people’s rights through the government and to assist those whose rights have been denied. In doing so, it is inevitable for the NGOs to take over some government responsibilities until their capacity and availability has been increased. As an example he mentions that no official court hearing can be held without lawyers, so if there weren’t NGOs who provided lawyers free of charge, no court hearings would even come about.

In consideration of the current situation, he concluded that NGOs could not withdraw from their role as a legal educator, as well as a provider of basic services. Asked about whether land conflicts had the potential of challenging the country’s stability, the interviewee noted that it is particularly the constellation of the “rich versus the poor” or “the powerful versus the powerless” inherent in all conflicts, which bears the danger of confrontation and a loss of stability for the country. Efforts to prevent future conflict, he suggested, should include a speeding up of the titling program and mandatory consultations with villagers prior to granting new economic land concessions. In the meantime he stressed that authorities should be provided with more legal power to resolve pending disputes, since the number of unresolved disputes could mainly be traced back to the lack of accredited bodies to take over that task.

11. Conclusion

The issue of conflicts over land in Cambodia will not be solved from one day to another, but gradually and by using a range of different measures and approaches. The complexity of the factors contributing to the current situation, such as the post conflict setting, the historical background of ownership and the current political situation makes it highly difficult to tackle.

While this is by no means a representative study, the details of the case showed strong resemblance to other cases studied concerning the asymmetry of the conflict involving the misuse of power, as well as the resolution mechanisms and roles of NGOs. Therefore some of the findings bear the possibility of being useful also from a broader perspective.

The concern voiced by Banik (see Chapter 5) about a lack of shared concerns between development NGOs and human rights organisations can only be confirmed in part, yet it could be gathered that a lack of communication can constitute a major hindrance to a successful process of dispute resolution. Thorough planning of the course of action and regular consultations among the organisations would probably have saved time and resources.

The RBA to development aims at an alteration of the balance of power by promoting the assertion, recognition and protection of rights. Importance is given to the fact that individuals take responsibility for themselves and are eventually capable of making their claims independently through methods of empowerment and advocacy. In this particular case the NGOs stood behind the affected community, but also took direct action in its name. An emphasis was put on the victims gaining knowledge on their rights and taking collective action against those rights being denied; and the organizations were able to offer substantial assistance during the process of conflict resolution and provide protection for those affected. Yet it remains to be seen whether this approach, concentrating predominantly on human rights and advocacy trainings, will in the long run also contribute to a challenging of power structures and an increased efficiency of local authorities and government institutions for land dispute resolution.

To this end, keeping this subject present in the media to increase people’s awareness will continue to be of great importance. Additionally, an emphasis of the NGOs work on augmenting transparency of processes and intensifying knowledge transfer from occasional workshops to regular exchanges could contribute to the broader, systemic changes aspired to.

While systematic titling is an important factor, the process has proven to be extremely slow and it does not provide any immediate remedies for those already involved in a land dispute. If, however, the LMAP program that was officially to be closed December 31st 2009 were to be prolonged for another term, then donors should reconsider its efficacy and substantially improve its implementation. A titling system that systematically leaves out all land that might become subject to conflict and deprives, of all people, the most vulnerable of a secure land title, clearly cannot effectively contribute to an improvement of the current situation.

Land disputes have the potential of endangering Cambodia’s long fought-for stability. Their presence in the media reflects the rising concerns of the country’s civil society and media about the possible impact of this situation especially on the poor. The work of local NGOs will continue to play a prominent role in combating the problem, assisting people in claiming their rights, and improving the capacities of authorities. However, there might be an increased necessity to merge the efforts and approaches of human rights- and development NGOs in order to achieve better coordination and outcome of projects. Equally important will be the positioning of international donors, who should feel increasingly compelled to monitor more closely the
implementation of funded projects and should not settle for lip service from the government instead of real improvements.

12. Zusammenfassung


Umsso wichtiger erscheint es, die Möglichkeiten, für jene, denen ihre Rechte verweigert werden, dennoch eine faire Bearbeitung von Fällen zu erwirken, genau in Augenschein zu nehmen. Die vorliegende Arbeit untersucht daher existierende Lösungsmechanismen bei Landkonflikten im ländlichen Raum Kambodschas. Die ungewöhnliche hohe Anzahl von lokalen, aber auch internationalen NROs, die an den Lösungsprozessen von Landkonflikten maßgeblich beteiligt


Gewaltsame Landnahme ist in Kambodscha ursächlich für den starken Anstieg ländlicher, sowie städtischer Armut und ist somit als Problem sowohl aus entwicklungspolitischer, als auch aus rechtlicher Sicht zu betrachten.

Von den drei für diese Studie untersuchten NROs bekannte sich die internationale Entwicklungsorganisation (LWF) explizit zum Rights-Based Approach (RBA), der Entwicklungsvorhaben mit dem Einklagen von fundamentalen Rechten verbindet. Als Menschenrechtsorganisationen verfolgen die beiden anderen NROs (ADHOC und LICADHO) ein ähnliches Ziel, verwenden allerdings nicht dieselben Begrifflichkeiten.

NROs übernehmen in der Bearbeitung von Landkonflikten sowohl die Funktion als Überwacher staatlicher Aktivitäten, als auch die Rolle der direkten Vermittler zwischen Opfern und staatlichen Institutionen. Nicht selten bieten die Organisationen kostenlosen Rechtsbeistand an und stellen Anwälte für die Verhandlungen zur Verfügung.
Aus dem hier untersuchten Fall, sowie in einer großen Anzahl anderer dokumentierter Fälle, geht hervor, dass die existierenden Institutionen zur Konfliktbearbeitung in den meisten Fällen umgangen werden, und sich Opfer vermehrt direkt an höhergestellte Regierungsbeamte wenden. Zum einen erhoffen sich die Opfer von jenen mit größerem Handlungsspielraum, auch eine raschere Lösung des Konfliktes; hinzu kommt allerdings, dass auch die NROs eine Einbeziehung der staatlichen Stellen aufgrund des hohen Grades an Korruption für aussichtslos halten.

Zwar ist diese Einschätzung der gegenwärtigen Lage sicherlich angepasst, dennoch stellt sich die Frage, ob ein dauerhaftes Umgehen der staatlichen Institutionen nicht eine Verbesserung dieses Bereichs auf lange Sicht hinauszögern könnte.

So wie auch in diesem Fall, schlägt sich die Auffassung der NROs gegenwärtig in hauptsächlich unsystematischen Konfliktslösungsprozessen nieder, bei denen die Klage der Opfer mithilfe der NROs parallel an mehrere Stellen eingereicht wird und der positive Ausgang eines Konflikts meist von dem guten Willen eines Einzelnen abhängt.


Überwindung des Problems wird viel Zeit in Anspruch nehmen und die Nutzung unterschiedlicher Strategien erforderlich machen, die sowohl das Bewusstsein der Bevölkerung und der ihnen zustehenden Rechten stärken, als auch Anreize für die Regierung schaffen, ihren Aufgaben nachzukommen.
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ANNEX 1: Description of LWF, ADHOC and LICADHO

LWF Cambodia:
The Lutheran World Federation is a Geneva based international development NGO, which operates in 78 countries in the area of humanitarian and development assistance. LWF Cambodia was one of the few organizations that started working in the country shortly after the end of the Khmer Rouge dictatorship in 1979. Over the years the humanitarian strategies shifted from emergency relief programs to integrated rural development with an emphasis on rights-based empowerment. LWF is currently running projects in six provinces and always has part of the staff living directly in the target villages. The organization is planning to be localized by the end of 2010, being transformed from a country program of the Lutheran World Federation Department for World Service to an autonomous Cambodian NGO.\(^{101}\)

ADHOC:
The Cambodian Human Rights and Development Association is a local NGO, which was founded in the year 1991 by a group of former political prisoners. The organizations sees its tasks in addressing the denial of basic rights, freedoms and liberties in Cambodia by providing people with knowledge and understanding of human rights, law and democracy and of how to claim and defend these rights independently. The organizations work is divided in two sections; the monitoring section, which oversees the human rights program, the land rights program and the women’s rights program, and the advocacy section which implements the campaigns, training programs, radio broadcasts and publications. The headquarters of ADHOC are in Phnom Penh, but the association also runs provincial offices in all 24 provinces.\(^ {102}\)

LICADHO:
The Cambodian League for the Promotion and Defense of Human Rights is a local human rights organization that was founded in the year 1992. The organization has its main office in Phnom Penh and additional offices in twelve of the country’s provinces. LICADHO describe their task as being advocates for the people and a monitor of government actions. Their areas of focus include human rights, women’s and children’s rights and a project against torture.\(^ {103}\) Their services include: medical assistance, legal assistance, human rights education and the assembling and publication of data on human rights violations.

\(^{101}\) See: \url{http://www.lwfcam.org.kh/index.php?page=history}
\(^{102}\) See: \url{http://www.adhoc-chra.org/?id=2&p=1}
\(^{103}\) See: \url{http://www.licadho-cambodia.org/aboutus.php}
ANNEX 2: Map of Kampong Chhnang Province

Map of Kampong Chhnang

Legend
- Provincial boundaries
- District boundaries
- Commune boundaries
- National roads
- Provincial roads
- Rail way
- Rivers
- District centers
- Health Centers
- Hospital

Source: MAFF
ANNEX 3: Map of Chiep Commune

Source: MLMUPC

Legend:

: Approximate location of the disputed land in Chiep Commune, Tuk Phos district
# ANNEX 4: List of Interviewees

## Village Level

<table>
<thead>
<tr>
<th>Position</th>
<th>Date and location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Village Leader (VL)</td>
<td>29.07.2009, House of VL</td>
</tr>
<tr>
<td>Victim 1 (15ha conflict)</td>
<td>29.07.2009, House of VL</td>
</tr>
<tr>
<td>Victim 2 (15ha conflict)</td>
<td>29.07.2009, House of VL</td>
</tr>
<tr>
<td>Advocacy Network</td>
<td>05.08.2009, House of VL</td>
</tr>
<tr>
<td>Victim 3 (1,500ha conflict)</td>
<td>19.08.2009, House of VL</td>
</tr>
<tr>
<td>Victim 4 (1,500ha conflict)</td>
<td>19.08.2009, House of VL</td>
</tr>
</tbody>
</table>

## Communal Level

<table>
<thead>
<tr>
<th>Position</th>
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</thead>
<tbody>
<tr>
<td>Commune Council Deputy</td>
<td>6.08.2009, LWF office,</td>
</tr>
<tr>
<td></td>
<td>Tuck Phos</td>
</tr>
<tr>
<td>Commune Clerk</td>
<td>05.08.2009, House of VL</td>
</tr>
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</table>

## NGOs

<table>
<thead>
<tr>
<th>NGO</th>
<th>Name</th>
<th>Position</th>
<th>Date and location</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADHOC</td>
<td>Sam Chankea</td>
<td>Staff Member</td>
<td>29.07.2009, ADHOC office, KC town</td>
</tr>
<tr>
<td>LICADHO</td>
<td>Kong Chammony</td>
<td>Kampong Chhnang Coordinator</td>
<td>04.08.2009, LICADHO office, KC town</td>
</tr>
<tr>
<td>LWF</td>
<td>Suong Bunhor</td>
<td>Community Empowerment Facilitator (CEF)</td>
<td>05.08.2009, LWF office Samaki Meanchey</td>
</tr>
<tr>
<td>LFW</td>
<td>Hiev Kong</td>
<td>Community Empowerment Officer (CEO)</td>
<td>19.08.2009, LWF office Samaki Meanchey</td>
</tr>
<tr>
<td>NGO Forum on Cambodia</td>
<td>Hep Sokhannaro</td>
<td>Senior Researcher, Land Information Centre</td>
<td>29.08.2009, NGO Forum office Phnom Penh</td>
</tr>
</tbody>
</table>
ANNEX 5. : Questionnaire Villagers

Date:______ Time : ______ Location: _____

Part I: Basic Data

Name: __________
Age : _______
Number of people in Household: _____
Size of land: ______
Use of land: _____
Date of settlement on the land: ________________
Land title: __________
Land received from: __________________________

Part II: Research related questions:

1. How did you find out about the land conflict?
   __________________________________________

2. What actions did you take (and why)?
   __________________________________________

3. What did you feel was the biggest difficulty you faced during the land conflict?
   __________________________________________

4. Do you feel that there is solidarity among the villagers?
   __________________________________________

5. Do you feel like you are working together as a group to solve the problem?
   __________________________________________

6. How would you judge your knowledge on Human and Land rights?
   __________________________________________
7. How would you judge the efforts of:
   - The Village Leader?
   - The Advocacy Network?

8. What kind of assistance was required during the conflict?

9. Did you have trust in the Local Authorities taking care of the matter?

10. Was that assistance you received sufficient?

11. If no, what could have been done better?

12. Was this campaign a success? (if yes, what made it successful?)
ANNEX 6: Questionnaire NGOs

Part 1: Basic clarifications on land conflict

1. How did your organization learn about the case?

2. What actions were taken?

3. Did you face any difficulties?

4. Can you explain the interests of the Company/ Mr. Senarthy in the disputed land?

5. How do you judge the involvement of the Commune Council in this case?

6. How would you describe the current situation? What do you expect to happen next?

7. Will there be further action taken by your organization?

8. Have you ever conducted a human rights related training in this commune, or plan to do so?

Part 2: Research related questions

1. What were the biggest challenges the people faced regarding this land conflict?

2. How would you judge the
   - Solidarity,
   - Teamwork
   - Networking
   - Knowledge on rights, especially land rights within the village?
3. How important do you think these factors are for the outcome of a land conflict?

4. What kind of assistance is needed from all different stakeholders (NGOs, local authorities...) in such cases?

5. How were those needs met?

6. Is there need for improvement?

7. What prevented the local authorities from providing the needed assistance in this case?

8. How would you assess the role of the NGOs in such cases?

9. What has shown to be a successful approach to solving such conflicts in general?

10. What made this particular advocacy campaign (partly) successful?
ANNEX 7: Images

Image 1: Interview with Village Leader (right), LWF staff (left)

Image 2: Advocacy Network
Image 3: LICADHO staff

Source: private photographs

Image 4: Victim of 1500ha Land Dispute

Source: private photographs
Report Claims Land-Grabbing An ‘Epidemic’

BY BETHANY LINDSAY
THE CAMBODIA DAILY

The number of Cambodian families affected by land disputes and forced evictions nearly doubled between 2007 and 2008, representing an “epidemic of land-grabbing,” according to a report released Saturday by local human rights group Licadho.

The group’s records for the 13 provinces in which it has offices showed that, since 2003, approximately 500,000 Cambodians have been victims of land-grabbing by powerful individuals and companies, its report said.

Last year, 16,661 families were involved in 10,300 land dispute cases monitored by Licadho, up from 8,846 in 2007. The 2008 total dwarfed the previous high, in 2006, of 12,259 families affected by disagreements over property.

Licadho’s paper’s release marked the third anniversary of the death of Save The Children.

Two Bodies Recovered From Jetliner Crash

BY ANDREW DONWIE
AND NICOLA CLARK
NEW YORK TIMES

SAO PAULO, Brazil - Search crews recovered the bodies of two men in the Atlantic Ocean on Saturday morning about 65 km from where Air France Flight 447 last gave its position before vanishing on the evening of May 31.

The announcement came just hours after French investigators said that the airliner had not yet replaced a key part for monitoring air speed on the plane as recommended by its manufacturer.

The bodies and some personal items—which appeared to be the first physical evidence of the plane—were fished from the sea hundreds of kilometers off Brazil’s northeast coast, according to Brazilian officials. Crews also found a lessor briefcase containing an Air France boarding pass with the flight number on it, a blue airplane seat with a serial number and a nylon backpack with a vaccination card inside, the officials said.

D-Day Emotions Stir in ‘a Different France’

BY MORRIS ROSENBLOOM
GETTY IMAGES

CAEN, France—It’s D-Day up in Normandy, but down here people are watching their coins pounce, not their TVs, trying hard to hold onto a beloved way of life they see slipping away.

At one supermarket, a grinning gentleman in one of those fat caps favored by Frenchmen of a certain age polled among a mountain of avocados as carefully as if selecting a 50th-anniversary diamond.

“These are only 65 francs (€5 cents),” his freshly coiffed wife said.

“Do you think we can afford a third?” This hardly approaches the price paid by 9,000 men buried at Omaha Beach, whose sacrifice helped defeat what French President Nicolas Sarkozy called “one of worst barbarisms of all times.”

Continued on page 4
NGOs Say Gov't Is Biased, Dilatory in Resolving Land Disputes

BY PAIR CHAN THUL
THE CAMBODIA DAILY

NGO officials told lawmakers Monday that the government has dragged its feet in resolving land disputes and that often in land dispute resolutions the government shows a bias against the poor in favor of wealthy developers, though several senators also present at a land conference at the Senate Library said that such a conclusion was one-sided.

NGO Forum on Cambodia Executive Director Chith Sam Ath said during the meeting, titled Parliamentary Briefing on Land Disputes and the Impact on Cambodia's Poor, that 173 land disputes had been reported in 2008 but that little more than 10 percent of them had been solved by authorities.

"A very small number, less than 13 percent, were solved in 2008," Mr Sam Ath told the assembled senators and lawmakers at the Senate Library at an event organized by the Senate and the UNDP. "Some cases have taken as long as 10 years to solve," he said.

In addition to the glacial pace of resolutions, 54.43 percent of land disputes in 2008 involved agricultural land, which has dire effects on the livelihoods of the farmers who use the land, according to a report from NGO Forum.

"It will affect negatively the living conditions and activities, the income of people, because the disputes mostly involved agricultural land in Siem Reap, Mondulkiri, Kompong Speu and Kompong Chhnang provinces," Mr Sam Ath said.

Brian Rohan, land and livelihood advisor with the American Bar Association, raised the issue of Phnom Penh's Group 78 with the lawmakers as an example of people not being treated fairly under the law. Group 78 residents, who have complete possession rights under the land law to own the property, are still facing eviction, he said.

Mr Rohan said that the Phnom Penh Municipality had denied Group 78 residents the right to land titles as a pretext to give them small compensation for leasing their land.

"Unfortunately, for big cases where maybe there is a big investor, money involved, the courts do not dare to take action."

--BRIAN ROHAN, LAND AND LIVELIHOOD ADVISOR, AMERICAN BAR ASSOCIATION

The lawmakers called for a city hall fair where they will say that don't have any rights at all. There is complete denial that possession rights give some strong legal rights to the land," he said.

Mr Rohan accused the Cadastral Commission at the Land Management Ministry, the Council of Ministers' National Authority for the Resolution of Land Disputes and the courts of political bias.

"The communities are supposed to be able to go to the Cadastral Commissions, and the Cadastral Commission would solve the problem, but for big cases, the Cadastral Commission does not dare to take any action. They do not dare to solve the problem," he said.

"So these institutions, such as the Cadastral Commission, do not dare to go and solve the problem because of the political situation," he added.

"Unfortunately, for big cases where maybe there is a big investor, money involved, the courts do not dare to take action."

CPP Senator Chhit Kinsayu responded, saying that the NGO Forum representation was one-sided. He added that some land disputes had occurred due to the incitement of a political party, which he did not name, but which appeared to be the opposition Sam Rainsy Party.

"There are a lot of cases of bad people and there is even a political party behind their backs," the CPP senator claimed.

The senator continued adding that "it has been difficult to solve land disputes because some NGO workers defended "bad people," pointing to an example in Kratie province in which he said people encroached on legally purchased properties.

Mr Kinsayu did not elaborate on what NGO workers and political party he was referring to.

CPP lawmaker Von Soryn then took the floor and praised the work of Ministry of Land Management officials.

"This commission takes care of the land very seriously," Mr Soryn said.

INVITATIONS FOR BIDS (IFB)

GRANT No: CAM-405-G10-M/CAV-607-G10-M
TENDER No: GFATM/CNN/CAM/18-19/001

1. The Office of National Center for Parasitology, Entomology, and Malaria Control, the Sub-Recipient (SR) of the GFATM Project now invites sealed bids from eligible bidders for the supply of 20,200 Long-Lasting Insecticidal Nets (LLINs).

2. Interested eligible Bidders may obtain further information from inspect and obtain the Bidding Documents in English at the Office of National Center for Parasitology, Entomology, and Malaria Control (CNNM).

3. All bids must be accompanied by a bid security of not less than 2 percent of the total bid amount in United States Dollars and must be delivered to the National Program, National Center for Parasitology, Entomology, and Malaria Control for the GFATM.

Attention: H.E.De. Duong Socheat, CNNM Director
#372, Monivong Blvd. (Corner st. 132), Phnom Penh, Cambodia
Tel/Fax: (855-23) 966 202
Email: covidrounda@gov.kh
On or before Monday, June 29, 2009 at 0900AM

4. The National Centre for Parasitology, Entomology and Malaria Control will bear no liability for loss or late delivery to bidders who request for the bidding documents.

5. The National Centre for Parasitology, Entomology and Malaria Control will not be responsible for any costs or expenses incurred by Bidders in connection with the preparation or delivery of bids.

6. The bidding documents will be opened in the same day at 0930AM in the present of representative of bidders who will be attended in the bid opening at the address cited above.
ANNEX 9: Declaration

I hereby certify that this thesis is my own work, based on my own independent research. Only the indicated literature and sources have been used. Parts that are direct quotes or paraphrases are identified as such.

Berlin, April 7th 2010

Lavinia Helen Schwedersky