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## **Whose land is this anyway? The role of collective action in maintaining community rights to the land in Kratie, Cambodia**

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*The enactment of Economic Land Concessions (ELCs), a policy to promote large-scale agro-industrial economic development, has provoked widespread land conflict in Cambodia. Conflict typically emerges when ELCs operate on land also claimed by local communities. In many cases, this conflict becomes violent, disfranchising local communities, disintegrating social norms and degrading resources. This paper examines a conflict between an ELC company and a community in Kratie Province, examining conflict escalation and the interaction between conflict and collective action. Data were collected through semi-structured interviews, focus group discussions, and a literature review conducted over more than two years. A lack of clarity regarding property rights was found to be fundamental. The community had legal right to the land and had applied for a Community Forest. This claim came under threat when an ELC was granted on the same land. The presence of the company places the community's claims and access to the resources under threat. A mass protest resulted as a manifestation of community anger. Though collective action such as this secured some recognition of community rights, collective action was ultimately subverted when the company hired armed military guards. Despite this case's dark undertones, it positively suggests two things in relation to collective action. First, that conflict over resources can motivate stronger collective action at the community level. Second, that while this collective action may lead a conflict to escalate initially, it can also help to defuse conflicts whilst a more permanent solution is sought.*

*Keywords: conflict, collective action, Cambodia, Economic Land Concessions, Community Forestry*

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### **1. INTRODUCTION**

Conflict over land is common in Asia and the Pacific (de Jong et al. 2007, Wulan et al. 2004). This conflict is driven by multiple actors and ultimately derives from intense competition over the land itself and its natural resources. In some cases, conflict occurs between or within communities. In many others, however, it occurs when outside actors seek to claim land that is already occupied.

Among other developments in a rapidly changing sector, agricultural food insecurities are intensifying and demands for raw materials are rising. More land is sought for both conservation and infrastructure development, particularly as climate change carbon offset programs gain momentum (FAO 2009). These developments drive government and investor land grabbing, land encroachment and land confiscation for national parks.

Conflict is increasingly the case in Cambodia, and increasingly, this conflict is related to Cambodia's economic development. In 2009, of the 792 disputes over the land, some 30% revolved around Cambodia's disputed Economic Land Concessions (ELCs) policy (NGO Forum on Cambodia, 2009).

ELCs are the primary vehicle for land development in Cambodia. Authorized by the 2001 Land Law, concessions of up to 10 000 hectares can be granted to domestic or international investors for social or economic purposes. This is a broad mandate, and concessions range from mining enterprises to fishing operations and industrial development. In general, however, ELCs have been used to

encourage agro-industrial development, e.g. sugar cane or timber plantations. As of November 2009, official government statistics suggest that ELCs have been granted to 65 companies for a total land area of 845 920 ha. This is roughly 5% of the country's total land area (MAFF 2009).

The government of Cambodia explicitly stresses the positive impacts of ELCs on the people that already occupy the land: the jobs they will provide; the infrastructure that can be constructed after revenues are collected; the sustainable resource use they will ensure, etc. But communities have benefited little. Often, by limiting access to resources, ELCs actually reduce or completely cut off community livelihood options. In some cases, they also undermine community attempts to obtain tenure via Community Forests (CFs) (United Nations 2007).

Much of this is suggested by the high incidence of conflict surrounding ELCs. However, while the incidence of conflict is well known, less is known about how a particular conflict manifests itself at the community level; how it escalates and who or what forces its escalation. Even less is known about how conflict is potentially mitigated or resolved. In particular, little is known about the interaction between conflict and collective action, i.e. what role collective action plays in escalating or mitigating conflict and what role conflict plays in strengthening or weakening collective action.

This paper examines a conflict between a rubber plantation company that had been granted an ELC and a community with claims to a community forest that predated this ELC in Kratie Province, Cambodia. This conflict was nearly violent, and is still on-going as of April 2010. Despite its dark undertones, however, it positively suggests two things in relation to collective action. First, that conflict over resources can motivate stronger collective action at the community level. Second, that while this collective action may lead a conflict to escalate initially, it can also help to defuse conflicts whilst a more permanent solution is sought.

## **2. THEORETICAL REVIEW**

### **CONFLICT**

Conflict arises from the different interests, perceptions, power and goals of various actors (Daniels and Walker 2001). These different perceptions lead to conflict where one actor perceives his behavior is impaired by the behavior of another actor (Glasl 1999).

In the context of common pool resources, e.g. the co-management of fisheries, the potential impairments that lead to conflict include restriction to access; exclusions; or pollution from resource mis-use (e.g. Ostrom 1990, Yasmi, 2009). There have been recent attempts to examine what conflict means specifically in regards to forestry. Raitio (2008) has argued that forestry conflict is best understood as a frame-conflict, in which different actors are approaching with different perceptions and values (see also Lewicki et al. 2003). Findings by Marfo (2006) and Yasmi (2007) are complementary.

### **ELC POLICY IN CAMBODIA**

Cambodia has a rectangular strategy for development which purports to simultaneously increase economic growth; employment; equity; and social justice. ELC policy exists within this framework. Supported by the Land Law, promulgated on 30 August 2001, which authorizes both social and economic land concessions, the government has argued that by increasing investment, ELCs will increase the capacity and diversity of economic growth in individual communities. Concessions are granted by the relevant authority and then registered with the Ministry of Land Management, Urban

Planning and Construction (LMUPCC). LMUPCC is the organization responsible for registering land as either 'State' or 'private' land (United Nations 2007).

While ELCs are authorized by the Land Law, their development is guided by sub-decree 146, signed into law on 27 December 2005. The sub-decree provides information on the legitimacy of proposals; the mechanisms of granting concessions; the performance evaluations made after an ELC is granted, etc.

Built into sub-decree 146 are a number of environmental and social safeguards. Among the most important requirements are:

- A Social and Environmental Impact Assessment (SEIA). This assessment must be performed prior to granting an ELC<sup>1</sup>
- A public consultation. This consultation must include territorial authorities and local residents and must be conducted prior to authorizing an ELC. Further, residents have an opportunity to review the detailed document for the ELC and provide comments to their Commune Council. If these comments are rejected by the party granting the ELC, a specific rationale must be provided.<sup>2</sup>

If the described procedures are not followed, an ELC can rightfully be considered illegal.

## COMMUNITY FORESTRY POLICY

Simultaneous to ELC policy has been Community Forestry (CF), which emerged in the early 1990s. Its goal, broadly scripted, is to secure forest management rights for communities historically occupying land; heavily reliant on that land; and in many cases, in threat of being pushed off that land, whether physically or politically.

CF initially only benefited communities by securing them rights to small degraded forest areas close to their villages through development projects.<sup>3</sup> Since, major legislative advances have made possible meaningful CF. In particular, the 2002 Forestry Law first recognized CF as a valid management modality. Over the next five years, the complete legal framework for CF was gradually constructed. It now includes the 2002 Sub-decree on Community Forestry and the 2006 Guidelines

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<sup>1</sup> Sub-decree 146, Article 4: An economic land concession may be granted only on a land that meets all of the following five criteria: 1. The land has been registered and classified as state private land in accordance with the Sub decree on State Land Management and the Sub decree on Procedures for Establishing Cadastral Maps and Land Register or the Sub decree on Sporadic Registration. 2. Land use plan for the land has been adopted by the Provincial-Municipal State Land Management Committee and the land use is consistent with the plan. 3. Environmental and social impact assessments have been completed with respect to the land use and development plan for economic land concession projects. 4. Land that has solutions for resettlement issues, in accordance with the existing legal framework and procedures. The Contracting Authority shall ensure that there will not be involuntary resettlement by lawful land holders and that access to private land shall be respected. 5. Land for which there have been public consultations, with regard to economic land concession projects or proposals, with territorial authorities and residents of the locality.

<sup>2</sup> Sub-decree 146, Article 35: After receiving the development of detailed economic land concession project document or detailed unsolicited proposal, the Contracting Authority shall organize public consultations with territorial authorities and representatives of local residents by sending a copy of the document to each of the Commune Council(s) of the affected area for their review and recommendation within 28 (twenty-eight) working days from the date the Commune-Sangkat Council receives a copy of the detailed document for solicited economic land concession project or detailed unsolicited proposal. The Contracting Authority shall consider the comments of the affected commune council(s). If comments of the affected commune council(s) are rejected, specific reasons shall be given.

<sup>3</sup> At this point, much valuable land was being signed to investors via concessions.

for Community Forestry (known as parkas). It also explains how a CF can be established; managed; and used, generally providing provisions for communities to participate in reforestation, rehabilitating, and conserving forests and other natural resources.

As of February 2010, there are 420 CFs that cover about 0.4 million hectares.<sup>4</sup> However, only 128 sites (covering 145 500 hectares) have been officially approved by MAFF and CF agreements have been prepared for only 94 sites (covering 113 500 hectares). In theory, CF claims are somewhat protected even before full approval; under Cambodia's Land Law, Article 23, non-traditional management forms (e.g. an ELC) are not allowed before community registration and land titling is completed. However, in practice this means little and there are cases where communities lose "their" forests before the lengthy and complex registration and approval process can be completed (Blomley et al. 2010)

### COLLECTIVE ACTION

Collective action, broadly described, is the pursuit of a goal or set of goals by more than one person. In the context of resource management, it has long been held that management failures are really a breakdown of collective action; in other words, that they are really a situation in which each actor acts independently and for themselves (Hardin 1968, Ostrom 1990).

Collective action operates through institutions. These institutions are the rules of the collective action game, and can be as informal as consistent gossip. As pertains to resource management, successful collective action institutions are generally more formal. A formal institution, for instance, might be a management committee that oversees the management of a community forest by local people.

Ostrom (1990) outlined eight "design principles" of successful and stable institutions. Among these eight principles were clear group boundaries; rules regarding resource appropriation and use; participatory decision-making; effective monitoring; graduated sanctions for agreement violations; cheap and easy-access conflict resolution mechanism; recognition of the community's self-determination by higher-level authorities; and multiple layers of organization.

Throughout Cambodia, these eight design principles for successful community resource management have yet to be achieved. For instance, Ostrom's design principle five is "a scale of graduated sanctions for resource appropriators who violate community rules." In Cambodia, this resource appropriator is often backed by the government! The decades of war, genocide and forced collectivization experienced by the population should also be taken into account. Given Cambodia's recent history, Weingart and Kirk (2008) have argued that "it is not surprising that neither property rights systems nor collective action yet fulfill the expectations of research organizations, civil society organizations, or donors".

### 3. METHODS

The conflict in Kbal Damrei Commune, Kratie Province was selected as a case study area because it exemplifies a now common situation in Cambodia where CF application predates an ELC and conflict later arises. RECOFTC has also worked on a project in support of CF within the Kbal Damrei Commune, witnessing and following its application for a CF. This association with the community enabled researchers to gather secondary data almost immediately after the first sign of conflict.

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<sup>4</sup> Data from the Forestry Administration CF database (February 2010).

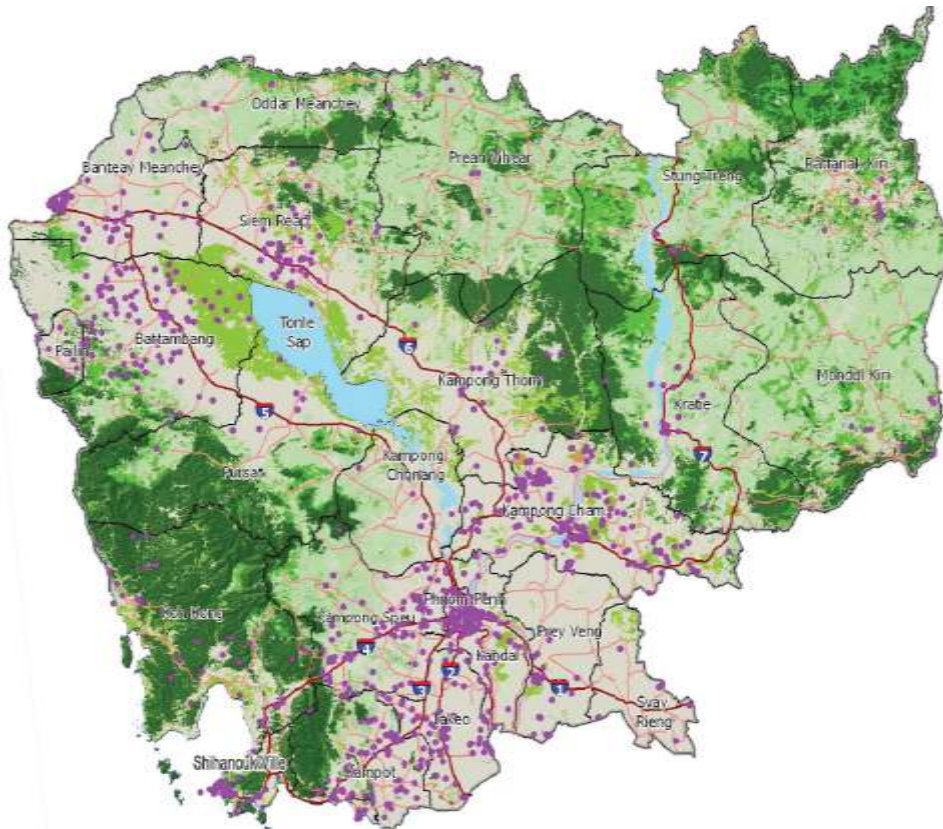
Various data acquisition methods were used over a two-year period that began in 2006. Of the five villages in Kbal Damrei, data were collected from the three villages most directly involved in the conflict, O Po, Sre Treng, and Chang Horb.

Key village leaders; Commune Council members; and Forestry Administration (FA) officers were interviewed. A focus group discussion with members of the Community Forestry Management Committee (CFMC), a body elected by the community to manage their proposed CF. A household survey was conducted in the three villages. One hundred three randomly selected residents (out of a total of 954) were interviewed. Data from household surveys presented here was statistically analyzed with standard error limited to 15%. Data from relevant local authorities and group discussions is introduced as complementary data. A literature review provided additional information.

#### 4. STUDY LOCATION AND STAKEHOLDERS

Kbal Damrei Commune is part of Sambo District, Kratie Province in the northeast of Cambodia (Figure 1). Kratie Province is among the most affected by ELC policy in Cambodia. Though information is incomplete and somewhat out of date, the UN lists at least seven concessions which are all nearly 10,000 ha in size dating from 2001 (UN 2007), primarily for teak or other tree plantations. MAFF on its public website<sup>5</sup> lists that another 18 companies, 8 more companies than any other province, that have been granted concessions less than 1,000 ha since the 2005 sub-decree on ELCs (MAFF 2009).

Figure 1: Map of Cambodia; arrow to Kbal Damrei Commune



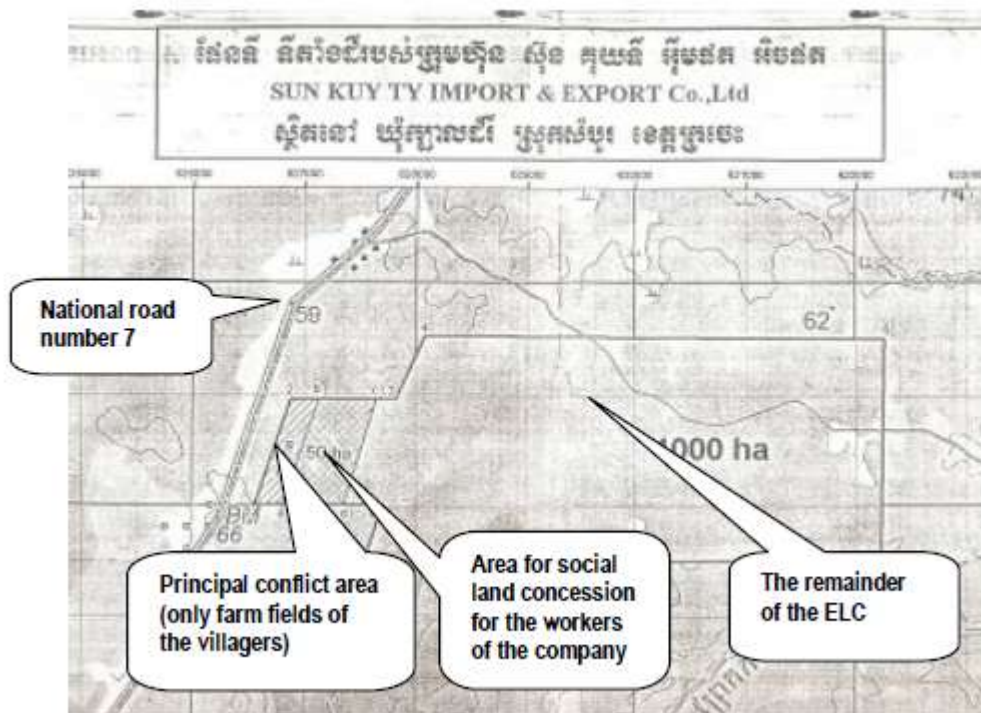
<sup>5</sup> <http://www.elc.maff.gov.kh/overview.html> (accessed April 2010).

Communities within Kratie Province are also at varying levels of advancement in the process of applying for CFs or for traditional lands as indigenous groups. In the context of these often overlapping claims, various conflicts have been reported. For instance, in Snoul District, in a community that has lost communal land to an ELC, some villagers are facing criminal charges of robbery and destruction of property charges, harassment and intimidation after protesting the company's land clearing (Cambodia Human Rights Action Committee 2009).

The majority of the 954 inhabitants of the three study villages are Khmer (58%), though there are sizable numbers of both Phnong (28%) and Moel (13%) indigenous peoples. Villagers are heavily reliant on agriculture and natural resources. Eighty percent of villagers are farmers and most rely on supplementary income from various means of forest harvesting; charcoal or timber production or fishing. Forest products are also used for many subsistence purposes – fuelwood, foods, fibres, poles, medicinal plants, etc., a fact substantiated by McKenney et al.'s (2004) findings in similar and nearby areas.

In Kbal Damrei Commune, beginning in May 2006, villagers from four villages identified 2 725 ha for a Community Forest (CF) together with the Forestry Administration (FA). They also formed a CFMC, recognized by a deika, or order from the Commune Council. Finally, establishment request letters were sent to the Kratie FA Cantonment and Commune Council, and were to be directed to district and provincial authorities. The application for the CF in Kbal Damrei was also submitted to MAFF on 18 August 2006, though no response was registered from either the district or provincial level regarding the proposed CF. Simultaneous to this development, the Governor of Kratie Province granted the Sun Kuy Ty Company a 999 ha ELC on 27 May 2008 for a rubber plantation. Part of this ELC overlaps with the proposed CF (Figure 2).

Figure 2: Map of overlapping claims



## 5. RESULTS

### CONFLICT CAUSES AND HISTORICAL DEVELOPMENTS IN KBAL DAMREI

Ultimately, the conflict in Kbal Damrei was caused by overlapping claims to the same land. There was intense uncertainty as to whose land it actually was, an uncertainty fostered by poor coordination at higher government levels.

On the one hand, villagers of the Kbal Damrei Commune perceived they had management rights to the land, given their de facto management of the land, and given the application for the CF they had sent to District and Provincial officials. Legally, this right was legitimate. Under Cambodia's Land Law, Article 23, non-traditional management forms (e.g. an ELC) are not allowed before community registration and land titling is completed. Legitimizing their claim that land titling had begun, their CF application had been supported by the Forestry Administration and recognized by their Commune Council.

On the other hand, the owners of the Sun Kuy Ty Company perceived they held claim to the land; in fact, they had been granted this right by the Provincial Governor who was either not aware of the community's application for CF or ignored of the application when he signed over 999 ha of land to the company. Such a concession, short only of land alienation, vests concessionaires with strong rights, with the exception of alienation. Both parties, then, had been granted claims sanctioned by different branches of the government.

On the basis of their ELC, Sun Kuy Ty Company began transporting bulldozers, tractors and other equipment to the area in mid-August 2008 and began clearing land within the boundaries of the proposed Kbal Damrei Commune CF shortly thereafter. The start of the operations triggered the conflict.

Local uncertainty exacerbated this fundamental political uncertainty. When the company began operations, the majority of villagers (87%) were not aware the Sun Kuy Ty Company had been granted an ELC. Likewise, the company did not know where the proposed CF was, or where the farmland of villagers was located. Even further confusing the situation, while all villagers desired a CF, only 23% – the majority of whom were members of the CFMC – were cognizant of the rights granted to communities in the process of developing a CF.

Though the legal framework for the granting of ELCs (as well as the 2003 Forestry Law) clearly states that Social and Environmental Impact Assessments (SEIAs) have to be conducted, and that adverse social impacts should be mitigated, it was by this point clear that the spirit and letter of the law was not being followed by the Government of Kratie Province that granted the Sun Kuy Ty Company its ELC.

If an SEIA was conducted in Kbal Damrei, villagers were not aware that it had occurred. Had it been conducted the location of agricultural land and burial grounds would have been clear to every party involved. Also, it would have been known that an area for a CF had been identified. Both social safeguards would have prevented the ELC from proceeding or required the ELC location be moved.

Further, ELC legislation states that public consultation with local people should take place. Either the Commune Council received all the documents regarding the ELC, as they should have according to ELC legislation, and did not share them with the villagers, or the law was broken. Regardless, the Commune Council knew about the CF in development, having supported its establishment. Both the

failure to conduct an SEIA and the failure to hold a public consultation directly contributed to conflict in this case.

## CONFLICT ESCALATION

Unaware of competing claims to the land, and for the most part, unaware of their full rights to the land, more than 200 villagers assembled between 1-2 September 2008 to demand that the company stop the land clearing. During the protest, villagers refused to return to their homes and demanded a definitive resolution from the local authorities. At one point, villagers were found in possession of old CK gun holding six rounds near the company's staff cottage though policemen from Kbal Damrei Police Post were able to confiscate this.

Mr. Long Kosal,<sup>6</sup> a member of the CFMC from Sre Treng Village, argued later that “protesting was the only way to succeed in stopping land clearing or to obtain information from authorities regarding the land clearing.” His statement is indicative of how outside the process the community already felt by this point; that the use of force was believed necessary to even obtain information.

Eventually, following long discussions between villagers and Commune Councilors, a facilitator from a local NGO, and also the intervention of the Commune Chief of Kbal Damrei, the protesters agreed to return home, having obtained a promise that the claims would be resolved.

At a follow-up meeting, held on 6 September 2008 at the Sambo District Office under the District Governor's chairmanship, five village representatives, two village chiefs, the deputy commune chief, district military chief, district military police chief and three staff from RECOFTC met to discuss the situation. Seventy villagers crowded around the front of the district office during the meeting. Three villagers, who would not want to share their names, alluded to the importance of collective action and strength: “We went there to accompany our representatives because we are concerned about their security. When more people come, we have more voice.” Collective action here was physically substantiating and strengthening the villagers' voice at the negotiation table.

Faced with the threat of future protest, the District Governor agreed to temporarily stop the company's activities while authorities investigated the situation. In response, village representatives agreed to refrain from protesting. The presence of military personnel and police in the background during demonstrations and discussions may have made it possible to “ask” the villagers to return home.

A further meeting was then held at the Kratie Provincial Hall on 11 September 2008 with participants from the Provincial, Commune and village-level governments, as well as staff from the local NGO Community Economic Development and RECOFTC. At this meeting, it was decided that a working group involving staff from the FA Cantonment, Office of LMUPCC, local authorities, CFMC members, and NGOs working in the area would check the CF boundary in the conflict area.

Following this meeting, the conflict intensity declined as the company halted activities, and as villagers stopped their protests. The working group, however, has yet (April 2010) to check the CF's boundary, in large part because the Provincial Governor has not actually issued a deika officializing the group and its activities.

There have been a further five meetings since, all held at the community level, conducted by the Commune Council, and facilitated by the Commune Chief, with villagers, CFMC members, village chiefs, the Local Facilitator of a Community Natural Resource Management project, and

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<sup>6</sup> Not the actual name of the interviewee.

representatives of the company. During the meetings, villagers have been able to explain their need to lands and forests within a distance of three kilometers along National Road 7 (see Figure 2), beyond which there would not be overlapping claims and the company may operate.

The company agreed and it was determined that several community representatives would check to ensure that the company maintained this agreement. However, on 29 October 2008, a national holiday in Cambodia, the company violated this agreement. Protected by 8 military police, it resumed land clearing.

At a meeting on 1 December 2008, villagers from four of the five concerned villages requested a new CF outside the ELC. Only villagers from Sre Sbov village did not agree with this course of action as all of their adjoining forest area lay inside the ELC.

Lack of communication persists, a constructive consultation process has not been initiated and the working group has yet to perform the agreed-upon tasks. To date, villagers have not been informed by the Commune Chief of whether or not the company agrees with the villagers' request. Further, the demarcation of the new CF has been further postponed.

## COLLECTIVE ACTION

Conflict strengthened collective action in Kbal Damrei Commune. In turn, this collective action led to conflict escalation as community members did not passively accept an ELC on their proposed CF and farming lands.

Collective action emerged in the form of organized protests, advocacy from the CFMC, a community institution, and later, in a proposal to change the CF location and therefore begin their application anew. Perhaps the most salient positive result of this collective action was that it allowed the community to secure some of the rights actually granted by Cambodia's legislation, however after-the-fact.

For instance, ELC legislation states that that public consultation with local people must take place. As mentioned previously, either the Commune Council received all the documents regarding the ELC, as they should have according to ELC legislation, and did not share them with the villagers, or the law was broken. Village-level advocacy and leadership here helped ensure that villagers obtained a "consultation," however after-the-fact it truly was. This is confirmed by Mr. Long Kosal's statement that protesting was a means of obtaining information.

SEIAs are also required under ELC legislation. If an SEIA was conducted in Kbal Damrei, villagers were not aware that it had occurred. As discussed, if it had occurred, it would have certainly noted the proposed CF. On this point, collective action was again important towards making the company and government aware of the social and environmental impacts – again, however, after-the-fact.

In these instances, collective action was a means of obtaining rights, but it also contributed to conflict escalation and intensity, particularly when protesters gained hold of the gun. In such situations, where conflicting actors have rigid positions, collective action may be geared toward securing one's own interests rather than finding a compromise. The whole effort is made to "win" the conflict. The escalation of conflict in these circumstances is likely, if not inevitable.

Nonetheless, collective action was ultimately positive, important towards securing information and voice for the community. It forced a clear articulation of community demands; led villagers to become more cognizant of their rights; and made the Sun Kuy Ty Company and District and Provincial Governments better aware of community claims to the land. It also secured certain

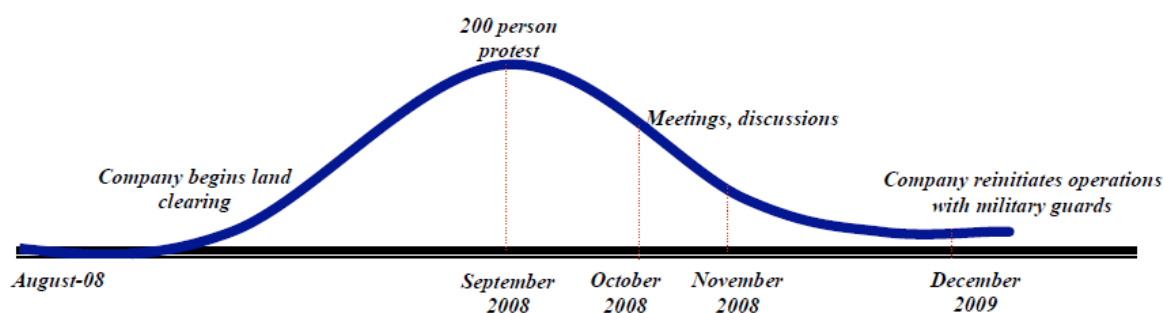
victories in terms of community rights, however short-term. In particular, the threat of protest led the company to agree that it would not clear land within three kilometers along National Road 7.

That this agreement was then broken only one month later, however, highlights the obstacles successful collective action faces. While it is impressive that the community was able to assert itself given Cambodia's recent history, the role of collective action should not be overstated.

There were two important caveats to the role that collective action played, or indeed, to the role it is capable of playing. The first, and by far most pernicious aspect, was that collective action was subverted by strong players using military police. This is a case of a State institution, designed to protect State citizens, actually being co-opted to operate against its citizens. This occurred when the company proved able to break its agreement under the protection of 8 military policemen on 29 October 2008 and begin clearing land again. The force this had in intimidating villagers is obvious; in December, one month following their presence in the community, 4 of 5 villages agreed to begin the entire CF application process anew.

A second point that cannot be overlooked in its relevance to the emergence of collective action in Cambodia is the active role played by NGOs. This point ultimately questions to what extent collective action yet truly exists. In Kbal Damrei, villagers were not fully aware of the rights granted them in the Land Law or of the procedures regarding the establishment of a CF. While this makes the presence of external players highly understandable, they nonetheless simultaneously make clear that one necessary step towards strengthening collective action will be reducing the roles played by NGOs and other external parties. One important means of doing so will be to increase awareness of the Land Law, the CF establishment policy, and necessary ELC procedures.

Figure 3: Map of conflict escalation



## 6. DISCUSSION

### CONFLICT ESCALATION

Unclear and overlapping resource rights; poor coordination among government departments; and a failure to strictly follow the law lead to conflict in the context of Cambodia's current economic development and forest policies. This case demonstrates this clearly. Again, it was far from the most violent incarnation of this type of conflict in Cambodia. Often such failures lead to evictions, coercion, and even assassinations.

As has been discussed, the procedures outlined in the sub-decree on ELCs were not followed. Alone, this is grounds for an ELC to be suspended and investigated. The rights granted to the community in

Land Law, Article 23, were not adhered to either, and villagers should be able to legally demand a cessation of land clearing until land titling is completed. As long as the local and provincial authorities remain unwilling to enforce the law, however, advocating for legal rights will have little effect on the outcome of the conflict. Further, in this case, the Sun Kuy Ty Company has already demonstrated its unwillingness to operate within the confines of the law. This situation is common in Cambodia but despite its commonality there has been no systematic review of ELCs (United Nations 2007).

Ultimately, conflict arose in this case because the government had granted two parties the rights to the same land. This suggests an urgent need for the FA, MAFF, Commune Councils and Provincial Governments to better coordinate the implementation of government policies. Finally, the recognition of CFs in Cambodia is arduous and complex. If the community had had their CF approved, there would at very least have been less confusion on the ground as to their particular rights in this case.

### COLLECTIVE ACTION

To fully understand collective action in Kbal Damrei, one must see it in context with what is going on in the rest of the country. Conflict in Kbal Damrei was neither an isolated incident nor the most violent incarnation of what is possible.

On 4 July 2007, Mr. Seng Sarorn, the elected leader of the CFMC in Sre Kor Commune in the Se San District of Stung Treng, was murdered. He was reported shot dead with an AK weapon by unknown persons while sitting with his wife in their home in Sre Kor I village. Mr. Sarorn had been the driving force behind mobilizing villagers to establish a CF and had also been involved in protests demanding that the company Sal Sophea Pheanich give State Forest Land back to the poor people of the community (Observatory for the Protection of Human Rights Defenders 2007).

Not only does this exemplify the potential severity of land disputes in Cambodia, it helps underline how serious the personal consequences can be for those that take an active part in a conflict to claim their land. In many cases, as in Kbal Damrei, the very livelihoods of entire communities are threatened. This makes the disputes very real for communities who fear losing their land. Yet, simultaneously, there are various means of threatening and intimidating communities away from action.

This case demonstrates clearly that collective action has a long way to go in Cambodia. Perhaps most saliently, it cannot fully or truly function without support from the government. This support will range from a practice of expatiated recognition of existing land claims to more stringent legislation against corruption. This latter point refers to the current capacity of investors to “hire” State actors for coercive purposes.

While these measures are strengthened, this case also makes clear the important role mediation can play in the meantime. Mediators can not only act as an intermediary to facilitate communication, they can help advocate for local communities where their rights are ignored, or further, where communities are fully cognizant of their rights.

## 7. CONCLUSIONS

The solution suggested at the meeting on 1 December 2008, where four of the five villages opted to abandon their claim on the proposed CF and instead demarcate new areas for submission to the local FA, could prove to be the solution that ends up securing forest tenure for the villagers. This solution has obvious drawbacks.

Villagers will need to restart the process of formalizing their CF, and nothing prevents history from repeating itself. Further, one village itself is situated inside the ELC and cannot agree to this measure. This case, and this limited potential outcome, demonstrates how crucial it is not only to ensure ELCs meet certain provisions before they are granted, but to provide law enforcement that allows room in which collective action can safely operate – hopefully before the point of conflict.

More fundamentally, ELC policy needs to be re-thought. When smallholder and community initiatives could achieve the goals ELCs purport to achieve and when subsequent conflict could largely be mitigated by doing so, the current system must be questioned.

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