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Winning back land in Cambodia: community work to navigate state land titling campaigns and large land deals

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Abstract

Control over land is highly contested in Cambodia where market forces and the state combine to drive populations, often violently, from the land to grow plantation crops. As land conflicts were peaking in 2012, the Prime Minister announced Order 01, a moratorium on concessions and a national campaign to rapidly measure and title land that specifically targeted areas with large land deals for agri-industrial plantations, forestry, as well as state forests and state land. The goal of this campaign was to legally transfer nearly 2 million hectares (ha) of land from both the state and concessionaires to the Cambodian smallholders who farm and use it. However, in spite of promises to continue land surveys and titling after the 2013 elections, there have been no new surveying activities and households and communities have been partially or entirely excluded from receiving legal title. In the context of this one-time flurry of activities to grant legal land rights to families near concessions, this paper explores how communities have since successfully negotiated the processes of making legal claims to land after being either excluded from the titling activities entirely or affected by the suspension of the campaign. In the broader context of tenure uncertainty and large-scale land dispossession, this paper considers what 'success' looks like in Cambodia in terms of asserting rights to land. I detail two cases situated in the Cambodia-Vietnam borderlands of Kratie province, a site of intense investment in rubber plantations by more than thirty concessionaires that takes place against a backdrop of massive logging. I consider two high profile cases of communities that in 2014 grabbed onto the loose ends of this land titling campaign to win back land from rubber concessions held by Vietnamese and Korean companies. One community successfully advocated for the completion of land titling activities in their village such that they received more than 1,560ha of land that had been granted to a Korean rubber company in the form of privately titled land. In the other case, recent settlers inside a wildlife sanctuary who had been totally by-passed by the campaign nonetheless worked through a documented history of requests for tenure recognition, along with highly visible protest activities, to gain a 750ha social land concession. In both cases, the government responded to the communities' highly visible protest activities that spanned multiple scales and successful navigation of legal frameworks by excising land held by concessionaires and formally returning it to communities. Through these cases, this paper demonstrates how the land titling campaign has shifted what makes a land claim legitimate to state actors and how it has reinforced the effect of state sovereignty in new ways. In particular, Order 01 and the land titling campaign made clear the potential for the state to selectively discipline concessionaires and its potential power to re-claim land back from land deals, thereby reinforcing both state power and claims to land based in legal title as opposed to other possibilities for the recognition of people's land rights.

Introduction

Control over land is highly contested in Cambodia where market forces and the state combine to drive populations, often violently, from the land to grow plantation crops on Economic Land Concessions (ELCs). As land conflicts were peaking in 2012, the Prime Minister announced Order 01, a moratorium on concessions and a review of existing concessions, followed by a national campaign to rapidly measure and title land that specifically targeted areas with large land deals for agri-industrial plantations, forestry, as well as state forests and state land. The goal of this campaign was to legally transfer 1.8 million hectares (ha) of land from both the state and concessionaires to the Cambodian smallholders who farm and use it. However, in spite of promises to continue land surveys and titling after the 2013 elections, there have been no new surveying activities and households and many communities have been either partially or entirely excluded from receiving legal title. Since land surveys and titling has not resumed, what will happen to households and communities that did not access the campaign is entirely unclear.

In the context of this one-time flurry of activities to grant legal land rights to families near concessions, this paper explores how communities have since successfully negotiated the processes of making legal claims to land after being either excluded from the titling activities entirely or affected by the suspension of the campaign. In the broader context of tenure uncertainty and large-scale land dispossession, this paper considers what 'success' looks like in Cambodia in terms of asserting rights to land.

I detail two cases situated in the Cambodia-Vietnam borderlands of Kratie province, a site of intense investment in rubber plantations by more than thirty concessionaires that takes place against a backdrop of massive logging. Snuol district, Kratie, the site of the two cases has been frontier land since the French colonial period and has been made and re-made with booms and busts shifting around logging and cash crop investments in rubber and cassava, cycles which have drawn in both investors and the hopeful landless poor from neighbouring provinces. From May to September 2014, two high profile cases emerged from Snuol, Kratie that grabbed onto the loose ends of the Order 01 land titling campaign to win back land from rubber concessions held by Vietnamese and Korean companies. In both cases, their mobilizing brought what were considered 'successful' outcomes to at least six years of on-going struggles for land with concessionaires. The two communities are a mix of older indigenous Stieng families who have lived in the region for generations and rapidly growing numbers of relatively newer Khmer settlers who have arrived over the last 15 years, mostly to farm cassava. Krasaing village, in Snuol commune, was the site of long-standing struggles with a Korean company that had been granted a 9,996ha land concession in 2008. The Order 01 campaign had come to their community and surveyed some land, only for them to later be denied title. This community successfully advocated for these promised titles such that 1,560 ha of land was excised from the concession and titled. Tro Paing Chouk village, in Khseum commune, faced encroachment from the Vietnamese Binh Phuoc II rubber company which culminated in violent evictions and the razing and burning of hundreds of homes in March 2013 and then again in April and May 2014. This community of recent settlers living and farming inside a wildlife sanctuary had been totally by-passed by the titling campaign. Nonetheless, they worked through a documented history of requests for tenure recognition, along with highly visible protest activities, to gain a 750ha Social Land Concession (SLC). In both cases, the government responded to the communities' highly visible protest activities that spanned multiple scales and successful navigation of legal frameworks by excising land held by concessionaires and formally returning it to communities.

Through these cases, this paper demonstrates how the land titling campaign has shifted what makes a land claim legitimate to state actors and how it has reinforced the effect of state sovereignty in new ways. In particular, Order 01 and the land titling campaign made clear the potential for the state to

selectively discipline concessionaires and its potential power to re-claim land back from land deals, thereby reinforcing both state power and claims to land based in legal title as opposed to other possibilities for the recognition of people's land rights. I also consider De Konink's (1996) argument that peasant communities, through forms of land pioneering, contribute to territorial formation and consolidation of states, and revisit this argument in the context of the land grab, in which large international investors are also working to transform territory at the frontier.

This paper first describes Order 01, its effects on land governance and assesses its outcomes given the incompleteness of the campaign. The second section then considers land control and opportunities for smallholders to gain recognition in the post-Order 01 landscape and draws upon concepts of sovereignty and property-making to highlight what is at stake with these struggles. The third section grounds the paper in the frontier by first situation these case studies within frontier dynamics of boom crops, migration and weak tenure security, and then details the two cases. The paper concludes with a short discussion and ideas to develop this working paper further.

Order 01 and Land Titling in the Uplands

In 2012, as land conflicts were peaking, the terrain shifted rather unexpectedly with the announcement of Order 01 by Prime Minister Hun Sen, initiating a moratorium on granting concessions and mechanisms to convert some concessions back to state land. Months later, an important amendment to Order 01 launched a national campaign to measure as much as 1.8 million hectares of land – nearly equivalent to that given as land concessions – and to award title to 470,000 families living on what is officially designated as state public land in areas of forest concessions, economic land concessions (ELCs) and land areas managed by the Ministry of Environment, such as protected areas and wildlife sanctuaries. The geographic focus of this titling effort was markedly different than the systematic land registration program that had been in place ten years prior to Order 01 (Dwyer 2015; Biddulph 2010). The campaign also differed in its concentration on alleged 'non-legal occupation' of state land such that government speeches and documents related to the campaign speak in terms of 'donating' land.

The focus on land titling around large land deals has lead some donors in the land sector to label it as one of the only programmes of its kind in the world (Zsombor and Kuch 2013). Order 01, and its targeting of smallholder land within and nearby ELCs, forest concessions and state land, appears to fit neatly within calls for property rights formalization as a means to counter the problem of land grabbing (UN FAO 2009; FAO et al. 2010; World Bank 2010; Dwyer 2015). Between the start of the campaign in June 2012 and December 2014, approximately 610,000 titles have been issued and a total of 1.2 million hectares of land that was previously regarded as state land by the government was reclassified through the Order, about one-third of which was within ELCs¹ (MLMUPC 2014). This is significant when compared to government reports of 1.3 to 1.5 million hectares granted to ELCs (MAFF 2014; Thach 2013) or NGO reports of 2 to 2.5 million hectares (Subedi 2012; ADHOC 2013; LICADHO 2014).

Land surveying activities under Order 01 ran for one year, ending prior to national elections in June 2013. In spite of the PM insisting that the campaign would resume after the elections, especially if the ruling party won, no major new surveying activity has occurred since the election. In some cases this meant that the teams were simply withdrawn in the middle of surveying land within a village and never returned (Grimsditch and Schoenberger 2015). This is significant since it means that surveying efforts were neither systematic nor complete and therefore unable to deliver tenure security intended by the titling literature (Biddulph 2014; Grimsditch and Schoenberger 2015). Indeed what made some

¹ As of mid-December 2014, the government reported reclassifying 380,000ha from 134 ELC companies to award as title (MLMUPC 2014).

communities and plots of land eligible for survey and not others, are difficult to pin down. Research conducted both during and after the campaign's implementation has found no pattern or trend indicative of a systematic approach in terms of how the campaign treated disputed areas or landholders in conflict with ELCs (Focus on the Global South 2013; Rabe 2013; Grimsditch and Schoenberger 2015). The NGO Forum on Cambodia conducted research on the implementation of Order 01 in 36 villages that overlapped with ELCs across six provinces and found "the approach [of Order 01 survey teams] was varied right down to the local level, and in the same district the research team met households in dispute with one ELC who had their land surveyed and households in dispute with another ELC who were not" (Grimsditch and Schoenberger 2015: 279). These findings underscore Dwyer's (2015: 4) argument that in the context of Cambodian land governance and large concessions that formalization of land tenure "cannot be seen as merely putting an official stamp on rights which already unambiguously exist. Rather it part and parcel of highly contested processes which continue to sort out and give official sanction to competing rights and claims".

In the wake of this massive campaign, how competing claims at the scale of individual plots, households or communities will be treated by future land titling and state management efforts is entirely unclear. By taking up the cases of two villages, one where Order 01 land surveys were done but titles not awarded, and another bypassed by the survey teams entirely, this paper seeks to contribute towards considering what future possibilities there may be for communities seeking land security in the wake of Order 01. In doing so, I also follow Jennifer Franco's (2008, 996) assertion that we need to look at how the peasants use the law to advance their land rights, in particular how rural poor claimants mobilize to

fine tune (for example, 'tighten' or 'loosen', 'bend' or 'stretch') correct or fix the resulting constitutional-judicial rights in practice when technical-legal gaps, built-in legal loopholes or outright attempts to violate or manipulate the law in favour of the status quo are revealed during implementation.

The two cases detailed in this paper speak to community mobilization to help fill in technical-legal gaps, loopholes and fragmented implementation by contesting the state within its own arena of the legal framework around land and seeking to produce their legibility as landholding citizens in an effort to counteract (possibly purposeful) blind spots. These cases may prove instructive as although Order 01 likely played a significant role in reducing land disputes during its 2012-13 implementation, local rights group LICADHO reported that in 2014 it reported a 'surge' in new disputes: double the amount recorded in 2012 and triple the amount recorded in 2013 (LICADHO 2015). And even though land surveying activities have not resumed, Order 01 and the instruction to review and cancel non-compliant ELCs is still active, which suggests that there may be further opportunities for communities to continue to grab the ends of this campaign.

Methodology

Two cases inform this paper. The first, Krasaing village, where land conflicts began in 2008 when the Ministry of Agriculture Forestry and Fisheries (MAFF) granted a 9,996 ha concession to a Korean Company. Order 01 teams surveyed land in this village, including land in dispute with the company, but it was only through extensive organizing and protesting efforts that the community received title to 1,562 ha of land that had formerly been inside the concession area. The second case, in Khseum commune, consists of land disputed within the Snuol Wildlife Sanctuary, under the jurisdiction of the Ministry of Environment (MoE), which in 2008 granted a large concession to the Vietnamese rubber

company Binh Phuoc II. This community was by-passed by Order 01 teams entirely, but after the burning and destruction of 266 homes in March and April 2014 by state forces, they mobilized based on past documented requests for a Social Land Concession (SLC). The government eventually excised 750 ha from the company's area to grant as an SLC, but there had been little government involvement to determine which families could participate in the SLC, the demarcation of individual plots, or any progress towards the lottery that will assign plot ownership. As a key pillar and tool of land distribution in the Cambodian legal framework, an SLC is a land concession that responds to a social purpose and is intended for the landless and landpoor (RGC 2001; RGC 2003). SLCs can also be granted to "facilitate economic development and facilitating economic land concession by providing land to workers of large plantations" (RGC 2003, Article 16). With plots likely to be less than 2 ha per family, the long-term viability of farming livelihoods within an SLC flanked on all sides by the company's land will likely be strained.

In 2010, I first went to Snuol district, Kratie province, as part of a research project affiliated with the International Development Research Centre focusing on land concessions and food security. In Krasaing village, the first case considered in this paper, I held informal group discussions during which we conducted participatory mapping activities, did ranking exercises, and drew time lines of key trends and events in the community since the 1950s. I also conducted 20 household interviews with Stieng and Khmer settlers concerning their land claims and livelihood activities. In 2013, I returned to the area as a PhD student and met with the community to understand how their struggles for land had proceeded in the intervening years and after the Order 01 campaign. Following that, I met community leaders and members in August and September 2014 as they advocated for private land titles. Research for the second case in Khseum commune was conducted over July and August 2014 and consisted of several large group discussions, participatory mapping exercises, and 28 household interviews. Both cases also draw from an extensive review of multiple written exchanges, requests, and petitions between the community and commune, district, provincial and national government, as well as background documents provided by NGOs and published in the media.

Land Control and Opportunities in a post-Order 01 Landscape

What drew my attention to these two cases was an effort to answer the question of 'now what?' that is often left hanging around discussions of Order 01 and the titling campaign, whether those are discussions with NGOs and policy-oriented organizations in Phnom Penh or with villagers wondering if the survey teams will ever come back as promised. I detail these two cases, ones that are high profile and regarded as successful, to start to answer questions of how communities can negotiate the post-Order 01 landscape to secure their land tenure vis-à-vis ELCs. In particular, my analysis shows how communities used the policy opening offered by Order 01, particularly as it created new possibilities for concession lands to be revoked, to mobilize for recognition as legitimate landholders and have their rights guaranteed via land titles and a social land concession.

Within the legal framework of the Cambodian Constitution and the 2001 Land Law, full land title certificate is the only indisputable proof of land ownership. The Law does offer possibilities for landholders to claim possession rights, but recognizes occupation only prior to August 2001 for the purpose of converting possession rights to full legal rights. In both communities a large number of households have settled in the area since the mid-2000s and were unable to seek possession rights under the 2001 Law. In 2010, in Krasaing village no one held a land title or document of any kind to assert land ownership and my discussions in the village and those nearby were marked by the absence of talk of land titles or advocating to secure a title. Instead, villagers sought to simply maintain their access and use of land they had cleared and farmed. Similarly no households in Khseum held any formal documentation to support their claims at the time of their eviction. Throughout Snuol district it

was only after Order 01's implementation that talk had shifted towards title and formal recognition of land claims as the desirable 'solution' as opposed to maintaining or regaining access to land.

Both Order 01 and the two 'solutions' found by the studied villages fit Christian Lund's (2011) arguments that property making and state sovereignty are intimately tied. Indeed the adjudication of land claims reproduces state sovereignty vis-à-vis both international investors and citizens (*ibid.*). And Order 01, by granting land rights to people for land already in their possession, transformed land into property, namely that which is "a claim sanctioned by some form of political authority" and which is institutionally controlled by government (Lund 2011, 122). It also reinforces "an abiding belief that state land exists even prior to its formal demarcation", especially in the countryside, although state land remains largely un-mapped since Cambodia has not had a full cadastral survey (Dwyer 2015, 17).

Community members from the two case study sites also worked to seek a state authority that would act to formalized their rights, and their attempts highlight that property is "not a static or pre-given, but depends on continual, active 'doing'" (Blomley 2003, 122). To turn the tables, as Lund suggests, what was at stake for state actors was not just the redistribution and formalization of rights, instead sovereignty itself was at stake as shown by the ability of different state actors to adjudicate and recognize land claims by community members or concessionaires. As such, the campaign reinforced Order 01 can be seen as one step towards shifting land control from local to national levels, and away from various relevant Ministries such as the Ministry of Agriculture Forestry and Fisheries (MAFF) and the Ministry of Environment (MoE) to be more under the direct purview of the Prime Minister who issued the Order, oversaw and largely funded the land titling campaign (Müller and Zülsdorf 2013; Milne 2013; Grimsditch and Schoenberger 2015)

Throughout their struggles, community members were seeking an institutional actor whose authority would extend to their case, as opposed to facing claims that it was either the concerns of higher levels of government from local officials; the responsibility of provincial officials according to relevant ministries; or at other times being told that it had become part of international affairs once Ambassadors were involved. The strategic implications of these deflections meant that community members engaged with what they considered to be relevant institutions at all levels of Cambodian government, along with international embassies and the Cambodian Red Cross, which is headed by the Prime Minister's wife and so considered by community leaders to be a potential fast-track to get the Prime Minister's ear. Villagers explained their conundrum to local newspapers covering their case, "we would not want to come to the Prime Minister if those relevant local authorities were able to solve the problem for us" (Vong and Ponniah 2014). As I describe below, the perceived need to reach the Prime Minister in order to reach an outcome works to reinforce national level sovereignty over land management vis-à-vis local authorities that prior to Order 01 largely managed land claims according to their own discretion (Diepart and Sem *in prep.*).

When the Prime Minister used the ongoing conflicts in Kraite to lash out at the Provincial Governor and the Minister of Land during a public speech, the ensuing shifting of blame among the different institutional actors further underscore Lund's (2011, 888) reminder that "struggles over property relations and political subjectivity are as much about the scope and constitution of authority as about access to membership and resources". In August 2014, Hun Sen expressed his frustration with these state authorities, exclaiming, as quoted in local papers,

[I] heard that the youth have measured the land, but the titles are not approved. Is it true? Did anyone report to me? For these problems, did all Kratie provincial authorities die already? (Pheap and Hul 2014)

The Prime Minister continued his warning that if ministers and governors do not find resolutions, they should leave their posts:

Please, this is enough. But if you say ‘I can’t fulfill this duty because it is a big burden’ you can resign. It’s no problem if you don’t work to find a solution because we don’t lack people who want to be governors (*ibid*).

These statements were a big shake-up to the status quo and local government offices in across the province reacted rapidly. Yet, the Provincial Deputy Governor was quick to defend provincial officers, asserting “we reported to the Interior Ministry and the Land Management Ministry. So this is not the fault of the provincial level; this is a fault of the national level” (Pheap and Hul 2014). Yet, the Prime Minister’s rebuke appears to have spurred the much-needed action around the case and within two weeks the Ministry of Land Management and the Provincial Governor both announced the resolution of the case and awarded titles to the Krasaing villagers. For villagers, this was a moment of relief after six years of struggle and reaching out to the government for an intervention to assure or secure their land tenure.

Situating the struggle: frontiers, boom crops and migration

Kratie, one of the four north-eastern provinces of Cambodia was historically among Cambodia’s most heavily forested regions and has been a key target province for ELCs. The province accounts for nearly one-quarter of the 118 concessions granted by the Ministry of Agriculture Forestry and Fisheries (MAFF) nationwide, and this is without considering the less-publicized concessions granted by the Ministry of Environment (MoE). As the head of a rights-based NGO explained to the local paper, the *Daily* in 2011, “we have observed that Kratie is the province that suffers the most from land concessions, and authorities have no solution for villagers who lost their land” (Khoun 2011).

Within Kratie, Snuol district is the site of many of these concessions and in 2011 was singled out for having the highest number of land concessions of any one district in the country (*ibid*).² Not surprisingly, that year the district also had the highest number of reported land conflicts, which subsided somewhat during the Order 01 land titling campaign. But the struggles have resumed in 2014 and the two cases considered in this paper were two of the highest profile land conflicts in Cambodia that year. Turning to the commune level, a review of the Open Development Cambodia (ODC) website in July 2014 showed as many as 13 ELCs mapped in Khseum commune, with an average size of nearly 7,000ha, while only two were granted in Snuol commune.

At the same time as land was extensively granted as concessions, Snuol district was the site of intensive migration from neighbouring provinces, accelerating the competition for land and bringing more families into conflict with concession claims that are often vaguely understood on the ground. The last national census in 2008 estimated there to be more than 1.63 million inter-provincial migrants in the country and that rural-to-rural migration is nearly two times more prevalent than rural-to-urban migration (Diepart, Pilgrim, and Dulioust 2014). In particular, more than half of internal migrants are flocking to sparsely populated areas, like the Northeast, where population growth is higher than 10 per cent (compared to a national average of 1.54 per cent) – with the majority going to live informally and “illegally” on state land (Muller 2012).

These migrations are driven by both smallholder boom crops, such as cassava, along with growing landlessness and the fragmentation of landholdings. There are no official statistics in Cambodia published on the number of landless households, but several studies³ suggest that over 20

² Ecologically, Snuol is within a band of volcanic red lands ideal for growing rubber and was where French colonial companies concentrated their rubber growing efforts in Cambodia, and which now draws regional and national investors to the land rush (Slocomb 2007).

³ The 2004 Cambodian Socio-Economic Survey data indicated that landlessness in rural households rose from

per cent of Cambodians may be landless, in addition to another 25 per cent who are “land poor” and own less than half a hectare of land (Grimsditch 2014). Most recently, the German development organization GTZ (2010), suggested that the number of land-poor households has risen to 40% of the population.

The efforts of Khmer peasants to settle and claim land on the frontier in the borderlands of Cambodia are drawing more and more people into conflict with large land acquisitions. Indeed, frontiers, insecure property relations, migration and boom crops, in the form of cassava for smallholders and rubber for large investors, are tightly interconnected (Hall 2011). The two cases I describe in this paper also indirectly question whether peasants as the “territorial spearhead of the state” still contribute to territorial foundation and security, as argued by Rudolphe De Koninck in the late 1990s, or whether this compromise between the state and peasants has been upset by new forms of agricultural investments characteristic of the land grab. In particular, De Koninck (1996) argues that key to the state gaining territorial legitimacy is the dynamic compromise between the builder-administrators of the state and peasants around the production, integration and control of territory. And yet as these cases demonstrate, oftentimes the state appears unwilling to engage in any compromise, particularly at the local level, once a concessionaire is on the scene. These two communities struggled to draw upon the state to administer the land they farm, suggesting that the state no longer finds “a reason to be present in the field, in fact a real *raison d’être*” (De Koninck 1996, 254) within frontiers being made and remade through both peasant migration and large scale private investments.

Krasaing Village: Grabbing onto Order 01

Krasaing village is stretched along a bumpy dirt road that splits from the National Highway that runs to the provincial capital. Historically a forested area and inhabited by mostly indigenous Stieng families, this changed in the 1990s with the granting of a massive timber concession to the Malaysian owned Samling company, which catalyzed efforts to log the forest by local military and entrepreneurial elites. In the early 2000s, Khmer families began migrating from nearby Kampong Cham province and began to clear their own land or purchase it from Stieng families or local officials. These settlers, along with Stieng in the village, argue that their claims to the land were acknowledged by both village and commune authorities, who gave them permission to live on and farm the land (Interviews Aug 2010; Pheap 2014).

A large 9,996 ha rubber concession was granted by MAFF in 2008 to grow rubber, teak and acacia in a plantation that completely surrounds and overlaps with Krasaing. The company began operating in the area by clearing more than 1,500 ha of fields farmed by Krasaing community members and then was sold to another Korean company, Horizon Agriculture development, which went on to clear and plant rubber on 3,700 ha as of August 2014.

In collaboration with the local rights-based NGO, Adhoc, the community started to speak out to district and provincial level officials using the 2001 Land Law as the basis of their claims. When there was no response at the local level, they turned to the parliamentary representatives for Kratie province. Community leaders explained to me that as a result, two representatives came to the village and brought a written statement from the village to the National Assembly in late 2010 (Interviews Dec 2013). As a result of scaling their claims up to the national level, an inter-ministerial team of officials from MAFF and the Ministry of Land Management (MLMUPC) came to their village in August 2011 and conducted a survey of the disputed land. This 2011 state initiative offered each landholding household in Krasaing three hectares of land, irrespective of the size of their landholdings at the time,

15.8% in 1997 to 20% in 2004, an increase of 4% in just seven years after the end of conflict with the Khmer Rouge.

while landless households could stand to gain half a hectare according to this proposal. Overall, the processes surrounding the survey and the resulting offer were unclear to community members, who did not understand the imposition of area limits after the surveying activities, but suspected that it was negotiated between district officials, the inter-ministerial team and the company. In the end, no titles were awarded because villagers were not satisfied with the limits on landholdings.

By June of the following year, Order 01 had been announced and teams of youth volunteers dispatched throughout the country to survey land, arriving to Krasaing one month later, where they would stay for six-months in an effort to survey marked by numerous interruptions and delays. Once it became apparent that contested land may be excluded from the survey activity, the community organized to block the National Road and to draw attention to their case, particularly that of higher levels of government, which they hoped could discipline district authorities from directing the survey teams according to the concessionaire's interests. Community leaders explained to me that Horizon Agriculture Development attempted to prevent the Order 01 teams from surveying land around the boundaries of the concession, yet the survey teams insisted that the Order instructed them to measure land both outside and within the concession area (Interviews Dec 2013). In the end, the survey teams measured land for Krasaing villagers within the concession area, so long as it was not already planted with rubber, such that 391 plots were measured for 329 families, excluding about 30 families whose land the company had already planted. In spite of the process proceeding to the public display of the survey results in May 2013, the last step before titles are given, 18 months passed between when the survey teams left the village and the titles were awarded in September 2014, during which the community was actively seeking answers and outcomes.

The Korean Embassy filed formal complaints with the Ministry of Land Management on behalf of Horizon Agriculture development in March 2014, after which district authorities said they could do nothing more about the case "because this was an issue between Cambodia and Korea", and although there had been plans to issue titles they could no longer proceed (Aun and Wright 2014a). Shortly after this complaint the community was informed that the Order 01 land surveys in their area were now invalid and no longer considered eligible under Order 01. This raises the important question of what is seen or made 'visible' (Scott 1998) through land surveying activities of smallholders in the frontier if the results can then be erased or temporarily set aside.

The village then stole headlines in national media for two months when nearly 200 community members, representing 329 families, took their demands for title to Phnom Penh. The group made four attempts to march through the city and deliver a petition to the Prime Minister, and during one such attempt they were swarmed by military police wielding electric batons, causing injuries to several villagers. Throughout these protests, villagers showed copies of the Order 01 land surveying receipts, stamped by Order 01 survey leaders and local officials, to legitimate their claims.

Pressure to resolve the case mounted after the Prime Minister's speech, mentioned above, during which he rhetorically asked, "did all Kratie provincial authorities die already?" (Pheap and Hul 2014). Within two weeks of these remarks the Minister of Land informed the villagers that they would give titles to 312 families for the contested 1,562 ha tract of land since the company had not sufficiently developed the area. In particular, the deputy Provincial Governor explained to the *Daily* by telephone that "the company received an economic land concession, but they did not use the land for development" as the reason they chose to title the land for villagers (Aun and Wright 2014b). Such rationale aligns the excision of this tract of land from the company with Order 01, which instructs officials to

...seize ELCs where companies/concessionaires that have already been given agreements from the RGC have not complied with the existing legal procedure or with the contract, in particular by having cut trees for sale but not having done the

concession developments... (RGC 2012)

although the Order was not explicitly mentioned by state representatives when discussing the decision.

Khseum: Placing a foothold in the frontier

Tro Paing Cheuk community is a series of clustered settlements in Khseum commune, within the Snuol Wildlife Sanctuary,⁴ established in 1994 along the Cambodia-Vietnam border and managed by the MoE. Starting in 2008, MoE began ceding the Sanctuary to investors in the form of ELCs, a shift from ambient exclusions driven by environmentalist agendas towards those driven by regulation and market forces. Within just five years more than 70 per cent of the protected area (55,135 ha of a total 75,089 ha) was carved out to grant to eight companies (Boyle and May 2013). Imagery from NASA's Landsat satellites taken between 2009 and 2013 confirm that these companies actively logged about 60 per cent of the evergreen forest in the Sanctuary around the time of this intense reorganization of land (*ibid.*).

Contributing to the granting of ELCs and the rates of deforestation was the upgrading of a former logging road that cuts through the Wildlife Sanctuary to an all-season National Road in 2008, which further facilitated the expansion of both company activities and the in-roads made by migrating smallholder farmers. At the same time, 2008 saw the land re-classification from state public land to state private land, and the subsequent granting of large concessions for agri-industrial plantations. These processes were accompanied by a land rush from neighbouring lowland provinces, starting in 2008. Before 2008 the area was considered remote and was mostly swidden farming land for indigenous Stieng people in the area, highlighting just how drastic the scale of change for landscape and settlement. Expansive tracts of land have been cleared within the Sanctuary for planting rubber and cassava. This has mostly been carried out by the companies, but more recent work by villagers to claim the land they farm or plan to farm, has pushed villagers to clear land and quickly plant cash crops, like cassava, to make their claims legible.

In 2012, and possibly earlier, the Vietnamese-owned Binh Phuoc II rubber company⁵ was expanding their plantation by encroaching on the villagers' land in Tro Paing Chouk. The company's encroachment culminated in violent evictions which saw hundreds of houses razed and burned in March 2013 and then again in April 2014, with both the company and the villagers making claims to the land.⁶ At the time of the eviction, none of the families were holding a land title. The closest any came to doing so was in 2012 when 186 families applied to commune authorities requesting that the Order 01 youth volunteers come to measure their land. The youth volunteers never came.

In response to the burning and destruction of 266 homes by private and public security forces under the direction of multiple authorities at sub-national level, the villagers worked at multiple scales to draw attention to their plight from blocking national roads in their home district of Snuol, to

⁴ The Snuol Wildlife Sanctuary is contiguous with the much larger MAFF managed Seima Protected Forest (305,647ha, characterized by conservation NGOs as "Yosemite-sized") which spans Snuol district, Kratie and Keo Seima district, Monduliri (WCS no date).

⁵ The Binh Phuoc Company holds an adjacent concession of 10,000 hectares inside the Seima protected forest (Boyle and May 2013),

⁶ The district governor, Kong Kimny said that the Vietnamese firm Binh Phuoc 2 was given a 4,000 ha ELC nearby in 2008. However, he explained that it did not overlap with the land the 100 families were farming (Aun 2014a). However, the deputy district governor explained to the *Daily*, "the land of the Vietnamese company is not affecting people's land" since the concession did not overlap the land the 405 families occupy (Khy 2014). Yet villagers were adamant the company was infringing on their land and we certainly observed this while in the community.

petitioning embassies and the Cambodian Red Cross in Phnom Penh. Ultimately, they had some of their land rights and land access restored in the form of a Social Land Concession (SLC).

In an attempt to have their claims to the land legally recognized, beginning in 2013, more than 400 families began to advocate for a Social Land Concession (SLC) of 2,025 ha – gaining approval from their Commune Chief, the request was then accepted by the District Governor’s office, with promises to forward to the Provincial Governor. Community leaders successfully leveraged this documented history of SLC requests and the attendant initial support from local authorities, to negotiate the legal framework following the destruction of their homes. Since Order 01 teams had not even come to the village, community members decided not to pursue private titles but instead to work from documentation that was in place prior to their eviction.

Like Krasaing village, this community set up in a temple in the city, Wat Samakki Raingsey, and strategically targeted what they considered to be key institutions. At the Wat they were sheltered, received guidance and advice from engaged monks, and donations of food and tarpaulins to rebuild their homes from overseas Cambodians, channelled by the opposition party. Attention was further drawn to their case when the opposition party leader, Sam Rainsy, called the community “internal refugees” and advocated that the Cambodian Red Cross treat them as such by providing tent materials, bedding, and food for them to temporarily settle with until they found a resolution (Sek and Kuch 2014).

Initially, the provincial government tried to offer an SLC in another, yet unspecified district. The villagers responded with a seven-point list of demands including that they be resettled on the same land, a request that paused efforts by municipal security forces to remove them from the Wat. The following day, the Kratie Governor allotted a 750 ha SLC to simply “the protesters that stay in Wat Samakki Raingsey”. A number of farmers initially did not agree to the deal, which offered about 1.85 ha per family and was far less than the 3-6 ha many families were farming, the group eventually accepted the deal, along with specifications that the land will be divided equally among claimants.

Community members were resoundingly positive about the outcome, as captured by the comments of one farmer at a community meeting, “We are happy we won and we got the land back, and are living on that land. We won this case by protesting for only one month, yet other communities in Cambodia spend several years protesting and still may get nothing!” And yet, the awarded land is much smaller than their initial request and with plots under two hectares for each family, livelihoods built on farming will likely be strained. Further complicating the picture, at the time of our research (August 2014),⁷ the residents of Tro Paing Chouk village were managing both how to address the issue that this is not an adequate allocation of land for more than 400 families, as well as trying to negotiate attempts made by nearby residents to join the SLC, many of whom had been similarly evicted but were less successful in advocating for their own claims. The state has so far shied away from administering and governing the SLC after initial attempts to gather names of eligible participants had the list balloon to nearly 800 families. Although Kratie is targeted by donor-led land management programmes to enhance the granting of SLCs, at the district level, Snuol falls outside this programme and consequently both the district and commune levels of government have not received material support or training in how to administer this form of land. Within this vacuum, community leaders are undertaking their own census to ascertain community membership, family size, length of residency and the legitimacy of each family’s claim to a plot within the SLC and collecting an extensive documentation of land records of any kind along with communications with various levels of government. Although we see authority being remade as community leaders take over state roles, for families to re-settle and resume farming the individual plots will have to be demarcated and the lottery

⁷ Field research for this case was undertaken in collaboration with Vanessa Lamb as part of an Oxfam research study on landless and landpoor livelihoods in the Greater Mekong Sub-region.

held, and there was little interest in that proceeding without government support at the time of my field work.

Discussion

What is noticeable from both cases is that ‘solutions’ in Cambodia often proceed in an ad-hoc and discretionary fashion and consequently are divorced from ongoing and sustained efforts by development organizations and donors to support the land sector or rural livelihoods. And yet both communities advocated and struggled in similar ways, focusing on efforts to be legible to both the state and concessionaires by working to get on the map – part of which was to be recognized in the form of a legal claim to land via private property or social land concession. Much is at stake in these efforts to be mapped, counted, visible and formalized, as evidenced from the quote given by the Horizon Agriculture Development company representative to local media following the land titling ceremony, “if people really lived there, then it means thousands of people lived there and must be almost the biggest town in that area, which is nonsense” (Aun and Wright 2014c).

As two cases of ‘success’ in terms of farmers winning some form of legal recognition to at least part of their landholdings that are challenged by concessions, I suggest future work (including future iterations of this paper) consider what is a ‘win’ in the context of the global land grab. Field research for this paper was conducted hot on the heels of announcements of legal recognition and so community members and leaders tended to be positive, relieved and proud. But questions linger, particularly for Khseum where families may have to make due with very small landholdings, within a poorly administered SLC that does not have similar levels of donor support as other ‘model’ SLCs, which even still face numerous challenges (Interviews Aug 2014).

Order 01 was a major intervention to bring private land titles into the uplands and the frontier, both around ELCs and within state forests and state public land, what opportunities may be available to communities that wish to formalize their rights via titling in a post-Order 01 landscape remain to be seen, but as of yet what may be possible is in need of further exploration. Surveys and titling may be on hold, but with the Order still in effect, there may still be openings to advocate for reviews of concessions, or for communities to push for the completion of land surveys.

This paper demonstrated how the land titling campaign has shifted what makes a land claim legitimate to state actors and how it has reinforced the effect of state sovereignty in new ways, particularly as peasants negotiate multiple scales of government and state institutions seeking one with the authority to intervene in their case, as opposed to simply deflect their claims. In particular, Order 01 and the land titling campaign made clear the potential for the state to selectively discipline concessionaires and its potential power to re-claim land back from land deals, thereby reinforcing both state power and claims to land based in legal title as opposed to other possibilities for the recognition of people’s land rights.

Returning to De Koninck’s (1996) conception of ‘peasants as the territorial spearhead of the state’, these cases suggest that peasants and pioneers may still be used as pawns⁸ by the state in the context of the global land grab, but these cases also point to the potential of collaborative relationships that can produce new configurations that change the arena of conflict (Tsing 2005) in a broader and more hopeful sense.

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⁸ See De Koninck (1996, 233) for a discussion of the shared etymology of pioneers, peasants and pawns.

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