

# Discussion Note

March 2016

## Challenges in Managing State Land in Cambodia: Addressing Competing Interests for Lands inside Protected Areas (PAs)

### Introduction

Protected areas (PAs) in Cambodia were established primarily for conservation of forests, biodiversity, landscapes, or watersheds. However, rural communities including indigenous people (IPs) have long lived in areas that are now under PA management. Existing evidence suggests that failure to address livelihood needs of local communities may lead to deterioration of natural resources. Moreover, a recent trend of migration from the lowland provinces to the uplands areas as well as expansion of Economic Land Concessions (ELCs) add another layer of challenge in managing PAs in a sustainable manner. Thus, it is imperative to acknowledge and then deliberate competing interests for resources in order to achieve sustainable management of PAs. These challenges require appropriate multi-stakeholder interventions for sustainable PA management.

This discussion note therefore examines these competing interests for lands inside Cambodian Protected Areas and makes suggestions for policy considerations.

### Background and Status of PAs

PAs in Cambodia were established by a 1993 Royal Decree, which mandates the Ministry of Environment (MoE), in cooperation with other institutions, to manage National Parks, Wildlife Sanctuaries, Protected Scenic View Areas, and Multi-Purpose Areas (Royal Government of Cambodia, 1993). The Royal Decree includes 23 PAs, which originally comprised 3,289,000 hectares (18 percent of the country's territory). MoE plans to establish heritage sites and marine parks, which will be identified by sub-national authorities as additional PAs (Srun, 2015).



In addition to PAs under MoE's jurisdiction, the Ministry of Agriculture, Forestry and Fisheries (MAFF) also preserves protection forests, which cover an additional area of 1,531,357 hectares.

PAs are governed by a 2008 Law on Protected Areas, as areas of physical and biological importance which require appropriate management to protect and maintain biological, natural and cultural resources (Royal Government of Cambodia, 2008). The law classifies a PA into four zones: a core; conservation; sustainable use and a community zone. The sustainable use zone is an area of high economic value dedicated to national economic development or conservation, whereas the community zone is an area for socio-economic development of local communities and indigenous ethnic minorities.

### The Research-Policy Partnership

This discussion note emerged from a Policy dialogue co-organized by the Prek Leap National College of Agriculture, the Ministry of Environment, and the Mekong Region Land Governance Project on 21st December 2015 in Phnom Penh to foster common understanding on the challenges of managing state land in protected areas and stimulate discussion on appropriate tools to address these challenges.

Land titling is allowed in community zones in accordance with the 2001 Land Law, but requires prior agreement from MoE.

Local and IP communities are forbidden to conduct swidden farming in core and conservation zones, but are permitted in sustainable use and community zones. The Law on Protected Areas allows for the traditional and religious use of natural resources by these communities in conservation and sustainable use zones (Article 22) as well as for the creation of Community Protected Areas (CPAs) in sustainable use zones (Article 25). CPAs are a form of co-management governed under an agreement signed between the local communities and MoE's General Department of Administration for Nature Conservation and Protection (GDANCP). CPAs are prohibited from clearing of forest land, conversion of forest into agricultural land or transferring of the land to other people or institutions through sale, lease, mortgage, etc.

### Challenges in managing PAs

Protected area management is threatened by weak articulation between the goals for conservation, national development and local livelihoods.

#### *Competing interests for PAs*

There are a number of competing interests for lands inside PAs. In 1993, when 23 PAs were created, many PAs covered already existing villages and farming lands. MoE was aware of this fact but their strategy was to establish PAs first and to solve problems related to their land use afterwards. This problem was reinforced by subsequent lowland-upland migrations of smallholder farmers including inside PAs (Diepart, 2015).

In 2008, MoE started to grant economic land concessions (ELCs) inside PAs based on a premise that there was not much quality land for concessions elsewhere (Diepart, 2015). MoE has issued a total of 113 ELCs inside protected areas (Kuch, 2016) covering a total area size of approximate half million hectares based on our database.

The overlap between these smallholder farmers' agricultural and residential lands and ELCs not only has created problems for PA management, but also has triggered conflicts between communities and ELCs, a problem that is exacerbated when ELCs clear forests for plantations.

#### *Lack of internal zoning and proper EIAs*

Although PAs are mandated as state land only one PA has been zoned (Kim, 2015), and very few parcels of PA land are registered in the cadastral system. The absence of clear and enforceable zoning has resulted in the increase of illegal logging, even in core areas, by ELCs, locals and migrants. Also, there is a poor record of proper environmental impact assessments (EIAs) that are mandatory prior to allocating ELCs in PAs. This exacerbates illegal logging and mismanagement of PAs, including encroachment on communities' residential and farm lands.

#### *Limited livelihood benefits for communities*

The benefits from PAs are not equitably shared among the State, the companies and the local population. For instance, while CPAs are granted for 15 years with reviews every five years, ELCs are permitted for 50-70 years. Initial ELCs were even granted for a period of 90 years. This contrasts with the chief objective of PAs, which is to protect the natural environment and to secure long-term livelihoods for vulnerable communities (Kim, 2015). The access of local communities residing in PAs to non-timber forest products (NTFPs) has been threatened by timber logging activities involving a variety of state and non-state actors. For instance, expansion of ELC activities has resulted in considerable reduction in availability of resin trees, which are a major resource for their livelihoods.

The expansion of ELCs has also particularly affected IPs who do traditional swidden farming inside PAs. Further, some local and IP communities had lost sections of forests earmarked for CPAs to illegal encroachers before they were officially demarcated. Local authorities, such as communes and districts, were not made fully accountable for protecting the demarcated forests within their boundaries.

Only eleven communities have been issued communal land titles (CLTs), some of which are located inside a PA. The CLT registration process is too complicated and lengthy. Yet 166 communities are currently in the process of applying for a CLT.

Finally there is inadequate level of awareness and understanding about laws coupled with ineffective law enforcement. This is aggravated by insufficient prosecution of law offenders. More awareness raising and education measures are needed.

### Solutions for Tackling Competing Interests

In response to the challenges, the government has put forth some measures to tackle the competing interests for lands inside PAs. At legal and policy levels, the RGC has developed the 2008 Law on Protected Areas, the draft National Environmental Strategy and Action Plan (NESAP) for 2016-2023, and has been drafting a new Environmental Code. However, as afore-mentioned, law comprehension and enforcement remains weak among both institutions and people.

To address equity, the RGC has established CPAs on the ground that if well managed, they can be effective measures for safeguarding common forests and refining livelihoods such as through sustainable management of NTFPs. There are 130 CPAs in 235 villages, which encompass 30,000 households and over 180,000 ha of forest areas (Khin, 2015). According to MoE, key achievements of CPAs include the improvement in natural resources in CPAs, the increase in organizational capacity of CPAs through training, study visits and hands-on practice, the receipt of funding from NGOs for community development as well as refinement of livelihoods through eco-tourism businesses.

Successful CPAs are mostly confined to cases incorporating eco-tourism; and most CPAs do not have a management plan and depend on unsustainable external financing.

MoE conducted a recent review and assessment of all 113 ELCs located inside PAs. As a result, MoE has cancelled 23 ELCs because the companies did not respect the procedures laid out by the government. Another four (4) ELCs have been reduced in terms of size due to lack of investment capacity and some parcels of land being occupied by people. Twenty (20) ELCs have been given an additional investment time of 6-12 months before a re-assessment will be undertaken. Fifty seven (57) ELCs have been reduced from 70-90 years of investment to that of 50 years due to yielding cycles of crops (e.g., rubber has two yielding cycles of 25 years each) (Srun, 2015). However, the question on how the cancelled ELCs will be re-allocated remains unclear. The recent pledge by the Prime Minister to re-allocate one million hectares of land from the cancelled ELCs to the poor is an important commitment, but the question on how this will happen remains unclear.

MoE is engaged in ongoing efforts to demarcate PAs and CPAs along with state land registration, preparation of management plans, studies on livelihood improvement in eco-tourism CPAs, adoption of guidelines and procedures for CPA establishment, and dissemination of laws and policies on PA management (Srun, 2015; Khin, 2015).

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## Suggestions for Policy Considerations

### **Equitable and participatory zoning of PAs**

Accelerate the completion of PA zonation through both scientific and participatory approaches that emphasizes local knowledge. In the sustainable use zones, it is crucial to implement participatory mapping and demarcation of CPAs in order to fulfill community needs based on customary resource tenure systems.

### **Reallocation of cancelled ELCs**

In the new policy context that follows the recent announcement of the government to re-allocate land from cancelled ELCs land, land redistribution should target smallholder farmers and conservation purposes. Population that was evicted by ELCs operations in the first place should be given top and foremost priority.

### **Coordination between the relevant authorities and local populations**

Develop better institutional cooperation between ministries and local authorities to ensure all PA laws are recognized and enforced. Achieving community (local) recognition and facilitating their participation in enforcement and development is key to halting illegal logging and to reducing encroachment by migrants.

*This discussion note series aims to synthesize and disseminate policy relevant messages and suggestions that have emerged from research based multi-stakeholders dialogues on issues concerning smallholder farmers land security in the Mekong Region. It is produced by the Mekong Region Land Governance Project, operating in Cambodia, Laos, Myanmar and Viet Nam since April 2014, with the support of SDC and the German cooperation. For more information on MRLG, please visit [www.mrlg.org](http://www.mrlg.org)*

## For further information

Diepart, J-C. (2016). "Land tenure situation and the future of smallholder farmers in Cambodia". Vientiane: Mekong Region Land Governance Project.

Khin, M. (2015). "Legal provision and policy related to land tenure for smallholder farmers inside the protected areas". Presentation at Seminar on "Challenges in Managing State Land: Managing Competing Interests for Lands inside Protected Areas (PAs)", 21 December 2015, Imperial Garden Villa and Hotel, Phnom Penh, Cambodia.

Kim, N. (2015). "Challenges and Strategic Plan of MOE for managing the protected areas". Presentation at Seminar on "Challenges in Managing State Land: Managing Competing Interests for Lands inside Protected Areas (PAs)", 21 December 2015, Imperial Garden Villa and Hotel, Phnom Penh, Cambodia.

Kuch, N. (2016, 26 February). "PM Pledges 1 Million Hectares of ELC Land to Poor". *The Cambodia Daily*. Available at <https://www.cambodiadaily.com/news/pm-pledges-1m-hectares-of-elc-land-to-poor-109007/>.

Royal Government of Cambodia (1993). Royal Decree on the Protection of Natural Areas. Phnom Penh: Royal Government of Cambodia.

Royal Government of Cambodia (2008). Law on Protected Areas. Phnom Penh: Royal Government of Cambodia.

Srun, D. (2015). "Keynote address" at Seminar on "Challenges in Managing State Land: Managing Competing Interests for Lands inside Protected Areas (PAs)", 21 December 2015, Imperial Garden Villa and Hotel, Phnom Penh, Cambodia.

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This discussion note is produced in cooperation with



Ministry of Environment



General Department of Administration for Nature Conservation and Protection

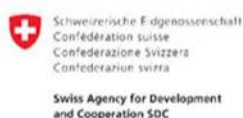


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