

Conflict Relating to Community Forestry in Cambodia: A Case from Kbal Damrei Commune, Kratie Province

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Introduction

Community Forestry has been developing gradually in Cambodia since the early 1990s, initially in small degraded forest areas close to villages, while most productive forests were being exploited through industrial timber concessions. However, it was not until the 2002 Forestry Law that Community Forestry was recognized as a valid management modality. Nevertheless, it took another 5 years for a complete legal framework for Community Forestry to be put in place with the passing of the Sub-decree on Community Forestry in 2003 and the Guidelines for Community Forestry (*prakas*) at the end of 2006. To date there are more than 300 Community Forests (CFs) under development, although only 37 sites, covering 18,122ha of forest in Siem Reap province have been officially recognized as ‘potential CF areas’ by the Ministry of Agriculture, Forestry and Fisheries (MAFF), of which only 18 have signed formal ‘CF Agreements’ with the local Forestry Administration (FA) Cantonment Chief¹.

More recently a number of other FA Cantonments have submitted potential CF areas to MAFF for approval. 5 of these have now passed through various offices in the FA and through a series of committee meetings inside MAFF. *Prakas* approving these 84 potential CF areas (123,279ha) are expected this week². A further 4 FA Cantonments, supported by RECOFTC, have also submitted a further 95 potential CF areas covering a total of 84,442ha³, most of which are still in the verification process within the FA. Identification of potential CF areas is also underway in a number of other provinces.

Conflict relating CF

There have been, and remain, many conflicts relating to CF development in Cambodia. These can be classified according to what the conflict is about, who the conflicting parties are, the level of the conflict (national, regional, local, etc.) and the intensity. Conflicts can also be classified according to their state in terms of initiating, ongoing, sporadic, active, dormant, stale-mate, partly resolved, etc.

At the highest level there are conflicts relating to forestry and land use policies; principally in relation to how much forest should be allocated for CF and where. As government policy is not clearly defined or articulated, legislation inadequate,

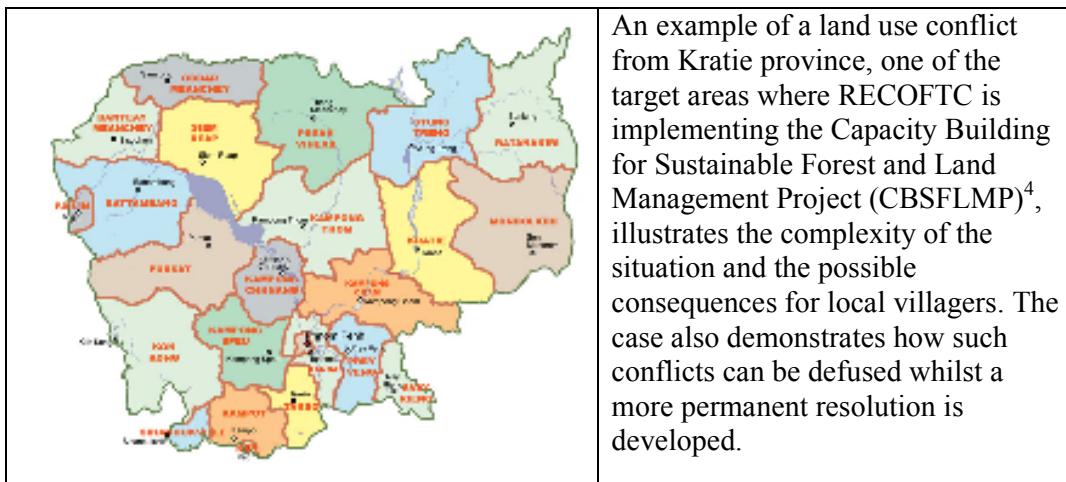
¹ The FA was established in 2004 to replace the Department of Forestry and Wildlife Protection, but remains under MAFF. It has staff and offices throughout the country in a 4-tiered structure: 4 Inspectorates, 17 Cantonments, 55 Divisions and 170 Triages (FA, 2007b). Cantonment Chiefs have the authority to sign CF Agreements and approve CF Management Plans.

² Kampong Thom – 48 (40,866ha), Banteay Meanchey – 9 (4,970ha), Oddar Meanchey – 11 (60,477ha), Kampong Chhnang (1 Division) – 5 (5,511ha) and Koh Kong – 11 (11,455ha).

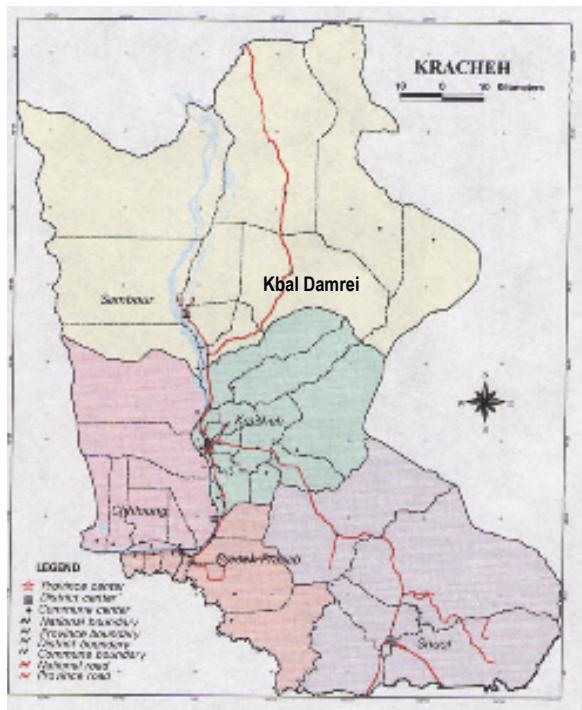
³ Pursat – 38 (2,784ha), Kampot – 11 (6,102ha), Ratanakiri – 31 (41,887ha) and Kratie – 15 (33,670ha).

contradictory or simply not adhered to, and appropriate planning processes that involve public participation absent, such conflict transfers itself to regional and local levels where different parties conflict over the ownership or use rights of particular areas of land, and power relations usually mean that poor rural communities lose out to richer and better connected private interests.

The case of Kbal Damrei



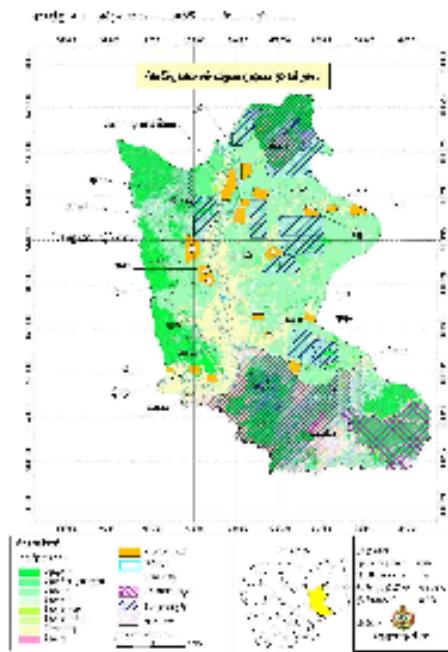
On September 1-2, 2008 approximately 200 indigenous Phnorng villagers from 3 villages (Sre Treng, O Po and Chang Horb) started protesting against the Sun Kuy Ty company, which began clearing land in Sre Treng Village of Kbal Damrei Commune, Sambo District, Kratie Province. Villagers were concerned the clearing would affect farmland, forest burial ground, and their proposed CF of 4,750 hectares for the 2 villages of O Po and Sre Treng for which the establishment process had already started: a Community Forestry Management Committee is formed, and establishment request letters submitted to the Kratie FA cantonment and through village and commune chiefs and the Sambo deputy district governor.



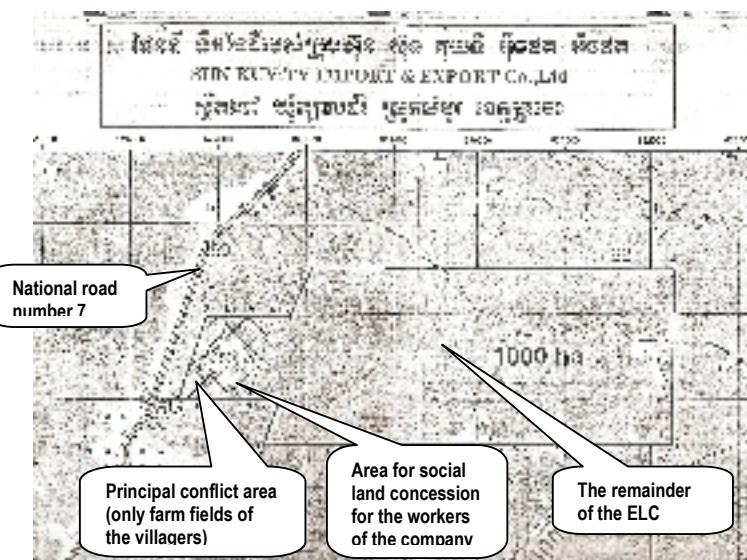
⁴ The CBSFLMP is building capacity of CF development partners in 5 Cantonments (Ratanakiri, Kratie, Kampong Thom, Pursat and Kampot – Kampot Cantonment includes Kampot and Takeo provinces, and Kep municipality) through training, staff working in Cantonment offices and sub-grants for activities related to the legalization of CFs. In Kratie, the CBSFLMP also has a sub-component piloting Participatory Forest and Land Monitoring.

The proposed CF area in Kbal Damrei is one of 19 potential CF areas earlier identified by the FA Cantonment with support from RECOFTC and submitted to MAFF on 18th August. However, it was not until the FA GIS office looked over the map that it came to light that 5 of the proposed potential CF areas overlapped with Economic Land Concessions (ELCs) granted to private companies by the Royal Government of Cambodia (RGC). Of these ELCs, 2 had been granted by the MAFF (as they exceeded 1,000ha) and were known to the FA, whereas another 2 had been granted by the Provincial Governor (as they covered <1,000ha). The ELC in Kbal Damrei fell in this latter category, and its location was unknown to the FA. Therefore, the Director General of the FA recommended that the 2 proposed CFs in Thmei & Kbal Damrei communes should be removed from the first submission in order make the approval process faster for the remainder.

To add to the confusion, the information received by CBSFLMP staff regarding the ELCs in Thmei and Kbal Damrei communes were for the CIV coltc and Hai Yong companies, not as later was discovered, for the Sun Kuy Ty company.



Green areas relate to forest cover; spotted areas are Forest Concessions; purple cross-hatched area is a protected conservation area; blue diagonally hatched areas are ELCs known to the FA Cantonment in August 2008; yellow areas are proposed potential CF areas – those with white dots had to be cut due to new ELCs.



It was not until September, after the aforementioned protest by villagers in Kbal Damrei that it became common knowledge that the private company Sun Kuyty was granted a 999 hectare ELC by the Provincial Governor of Kratie Province on May 27, 2008 for investment in the development of a rubber plantation in Kbal Damrei

During the protest, the villagers refused to return to their homes and demanded a definitive resolution from the local authorities.

Meanwhile, policemen from Kbal Damrei Police Post took control of an old weapon (CK) with 6 rounds that was found near the company's staff cottage by the protesters.



Only after long discussions and mediation between villagers and Commune Councilors, the CBSFLMP Local Facilitator, and especially the Commune Chief of Kbal Damrei (in the middle of the photo – left) and a promise to resolve the conflict given by the Commune Chief, did the protesters agree to return home.

As follow up, a meeting was held at the Sambo district hall on September 6, 2008 with the participation of the Governor and Deputy District Governor of Sambo district, the military, military police and police Chiefs of Sambo, 2 Kbal Damrei Commune Councilors, 5 villager representatives, 2 village Chiefs, and 3 CBSFLMP staff.



The result of the meeting was that the District Governor agreed to stop the clearing activities of the company temporarily whilst investigations with the relevant authorities were undertaken, and the villager representatives also agreed to stop protesting until a proper resolution was reached.



Village protesters at Sambo district hall, during the meeting inside

A further meeting was held at the Kratie provincial hall on September 11 to discuss the conflict further under the chairmanship of the Deputy Provincial Governor, and participated by officers of the provincial Office of Land Management, Urban Planning, Construction and Cadastre (LMUPCC), Chief of Kratie Forest Administration (FA) Cantonment, Kbal Damrei Commune Council, 3 villager representatives, 2 village chiefs, staff from the local NGO Community Economic Development (CED) and CBSFLMP staff. The result of this meeting was that the Deputy Provincial Governor nominated a working group involving staff from the FA Cantonment (working group secretary), Office of LMUPCC⁵, Local Authorities, and Community Forest Management Committee (CFMC) members, and relevant NGOs to check the boundary of the community forest in the conflict area.

Since this meeting, the conflict diminished as the company halted activities, and thus villagers halted their protests. However, as the working group has yet to undertake the work assigned to it (because the Provincial Governor has not actually issued a *Deika* officialising the working group and its activities, and it is difficult to get disparate government agencies operating under different Line Ministries to work together), there is scope for the conflict to flare up again, as the final outcome has still to be determined officially.

However, there have now been a further five meetings at the community level conducted by the Commune Council, and facilitated by the Commune Chief, with villagers, CFMC members, village chiefs, the CBSFLMP Local Facilitator and representatives of the company. During the meetings the villagers were able to explain their interest to keep the land or forest land for 3 km



from the national road 7, after which the company may operate. The company agreed to the villagers' request. After both parties agreed, the company was able to resume its activities, accompanied by a few community representatives to verify whether the company operates following the agreement or not.

Nevertheless, what the fate of the CF will be is not clear – it doesn't appear to have been on the agenda of the most recent meetings. Perhaps the villagers are settling for their minimum interest – that the 6 families from Sre Treng village directly affected by the ELC retain enough land to farm.

Why conflict?

Why did this conflict arise in the first place? A combination of factors can be attributed as causes. Firstly, it is important to understand the history of the CF in the area. Kbal Damrei CF was initiated in May 2006 with support from CED and Oxfam GB. Villagers from 4 villages together with local authorities and FA demarcated

⁵ Responsible for land registration either as 'State' land or 'private' land.

2,725ha for CF. Request letters have been sent to the relevant authorities and a *deika* was issued by the Commune Council recognizing the elections to the CFMC.

Although not all the steps of CF development have been completed (CFMC by-laws and CF regulations still need to be completed), local authorities and the FA have been aware of development of the CF since 2006. It is not clear what has happened to the original request that was sent to the Commune Council, being passed onto the District and Provincial authorities – no response has been received.

Secondly, although the legal framework for the granting of ELCs clearly states that Social and Environmental Impact Assessments (SEIAs) will be made⁶, that public consultation with local people should take place³ and that adverse social impacts should be minimised⁷, the spirit, and letter, of the law appears not to be being followed by those with the authority to grant ELCs – in this case, the Provincial Government of Kratie province. The Forest Law (2003) also states that SEIAs should be completed for any activity that “may cause significant adverse social and environmental impact”, made public, and recommendations taken into consideration⁸.

The law is weak because, although the provisions mentioned above are mentioned in the early articles, the procedures for them being carried out stated later in article 35 are inadequate given the current state of democracy in Cambodia⁹ – truly participatory

⁶ 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.

⁷ Sub-decree 146, Article 5: Evaluating Economic Land Concession proposals shall be based on the following criteria: * Increase in agricultural and industrial-agricultural production by using modern technology; * Creation of increasing employment; * Promotion of living standards of the people; * Perpetual environmental protection and natural resources management; * Avoidance or minimizing of adverse social impacts; * Any linkages and mutual support between social land concessions and economic land concessions; * Processing of raw agricultural materials, to be specified in the concession contract.

⁸ Forestry Law, Article 4: A. This law shall be implemented to ensure full public participation in all government decisions that have the potential for significant impact on concerned communities, livelihoods of local communities and forest resources of the Kingdom of Cambodia. B. Consistent with the Environmental Protection and Natural Resources Law, a social and Environmental Impact Assessment (SEIA) shall be prepared for any major forest ecosystem related activity that may cause significant adverse social and environmental impact. A copy of the SEIA shall be made available for public comment. C. All final decisions by the Royal Government of Cambodia (RGC) on major ecosystem related activities must consider the recommendations of the final SEIA and may notify the public any final decision by the RGC referred to in this article.

⁹ 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 of the detailed unsolicited proposal. The Contracting Authority shall consider the comments of the affected

public consultation with local residents is rarely carried out, and information is not made available to those likely to be affected by the proposed ELC. There are no provisions for the posting of public notices or the publication of information submitted by the ELC proposer or details of deliberations by the contracting authority, except to the Commune/Sangkat authorities. The lack of formal transparency and information sharing adds to the lack of trust between conflicting parties, and weakens the power of villagers to negotiate on an equal basis.

Furthermore, although “the prioritized method for granting economic land concessions is through competitive solicited proposals”¹⁰, in this and almost all cases, ELCs are granted as a result of unsolicited proposals, despite most not fulfilling the requirement that “the proposer promises to provide exceptional advantages to achieving the purposes of economic land concessions in situations such as: the introduction of new technology; exceptional linkages between social land concessions and economic land concessions; exceptional access to processing or export markets”⁵. In most cases, the requirement of the land being registered first as Private State Land³ has also not been fulfilled – in this case in Kbal Damrei such a registration is certainly not public knowledge if it has happened, which is doubtful.

In the case presented above, many Kbal Damrei villagers were not aware of the proposed ELC before the conflict started: who the company is, where the ELC would be, what it is for, how it would be developed, whether they would offer employment, etc. Likewise, it appears that the company and its workers are completely unaware of the villagers’ status, current land use practices, the aspirations of the villagers, etc. – either this, or they are deliberately refusing to take them into consideration. If an initial SEIA has been done properly, then it could not fail to discover that villagers have agricultural land, burial grounds and a CF under development in the area proposed for the ELC. If a SEIA has been done, villagers have not seen it.

Unfortunately, villagers also didn’t have much information regarding their proposed CF. They had not received a response from the local government authorities concerning their request, and only the CFMC elections have been formally recognized. The rest of the process, including the initial recognition and approval by MAFF of the area as a potential CF area, is not complete. In fact, although the prior identification and approval of potential CF areas is required, most CFs under development in Cambodia were initiated before the legal framework for CF was completed. This has led to a situation whereby the authorities are in effect ‘retro-fitting’ the new legal framework to existing CFs rather than seriously undertaking land use planning and zoning potential CF areas more systematically for future development if villagers are interested.

Although the villagers’ protest has brought their concerns to the attention of the relevant authorities, and the intervention of the local authorities and NGOs defused the immediate tension and conflict between the villagers and the company’s workers, the underlying issues have yet to be addressed. Until both parties in the conflict have

commune council(s). If comments of the affected commune council(s) are rejected, specific reasons shall be given.

¹⁰ Sub-decree 146, Article 18.

the relevant information about the other parties claims, an understanding of each other's true interests, rather than only each other's positions, is impossible.

How much information the Kbal Damrei Commune Council had about the proposed ELC, prior to it being granted, is not known. Either the CC received all the documents as stipulated in the Sub-decree on ELCs, and failed to share this adequately with villagers, or the CC did not receive all the documents as stipulated in the Sub-decree on ELCs and the law was not adhered to. Regardless of this, as mentioned above, they were clearly aware of the existence of the CF under development, as they had previously supported its establishment.

From the above discussion it is clear that the procedures for granting the ELC have not been followed properly, although at the same time the villagers are striving to complete all the requirements for establishing and obtaining legal recognition for their CF according to the law but clearly without sufficient support from the authorities that should be supporting them.

At this point, it is worth explaining the situation of public officials in Cambodia. The typical salary is in the region of only a desultory \$50 / month. Since the last days of the civil war it has been common knowledge that civil servants are expected to supplement their salaries through other means – the Government does not have sufficient budget for more – and although there are many dedicated, honest and hard working public servants, there are also many that are corrupt. The Royal Government of Cambodia has, for years, delayed the promulgation of an anti-corruption law to deal with the problem despite annual warnings from donors, and corruption continues to be a driving force behind the scenes, affecting the livelihoods of people without the means to 'play the game'. Clearly, in such a situation, public officials are generally unwilling to provide support to communities that cannot pay them, even if they are fortunate enough to have the resources to cover the actual costs of community activities, and in many cases find offers to work on behalf concession companies much more rewarding.

Conflict Resolution

Regarding the conflict resolution process so far; we have learnt that the villagers have changed from their position to interest, because at the beginning the villagers did not want the company to operate in this area at all, and moreover, they wanted all the land and forest for their people. So far, after many meetings to resolve this problem, villagers stated that they really only want the land 3 kilometers in from the national road, and beyond this, they accept that the company can operate and implement its investment plan.

Sadder but Similar Story

CF activist Murdered in Stung Treng

Mr. Seng Sarorn was the driving force behind mobilising villagers to establish a community forestry in Sre Kor Commune in Se San District of Stung Treng, and had been elected in February to be the leader of the CFMC. Mr. Sarorn was murdered on July 4 2007

Mr. Seng Sarorn was reported as shot dead by unknown persons with an AK weapon while he was sitting with his wife in their home in Sre Kor I village. Mr. Seng Sarorn was a

community activist and human rights defender who was actively encouraging people in his community to protect the local forestry and fisheries, and protest on land-grabbing issues.

Recently, Mr. Sarorn had also been involved in protests demanding that a company named Sal Sophea Pheanich gives the State's forestry land back to the poor people of the community. In doing this, Mr. Sarorn had collected thumb prints from the people in the community who supported this claim, just 15 days before he was shot dead. In March 2007, land used by the people had been occupied by four companies (Sopheak Nika Investment Agro-Industrial Co. Ltd, Sal Sophea Peanich Co. Ltd, Siv Guick Co. Ltd, and Phou Mardy Co. Ltd) which had been given government concessions to plant trees in the area. One of the reasons behind the dispute had been caused by unclear demarcation of the boundaries of these concessions.

Source: Information bulletin (ref# KHM 004 / 0707 / OBS 075) from the Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), dated Paris-Geneva July 9 2007.