

Cambodia: The Bitter Taste of Sugar Displacement and Dispossession in Oddar Meanchey Province



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Abbreviations

ADHOC	Cambodian Human Rights and Development Association
CF	Community Forest
CFMC	Community Forest Management Committee
COM	Council of Ministers
CPP	Cambodian People's Party
CRSA	Climate Resilient Sustainable Agriculture
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
DRC	Dispute Resolution Committee
EBA	Everything But Arms
EC	Equitable Cambodia
ESIA	Environment Impact Assessment/Social Impact Assessment
ELC	Economic Land Concession
EU	European Union
FA	Forestry Administration
FAO	Food and Agricultural Organisation of the United Nations
FDCL	Center for Research and Documentation Chile-Latin America
FGD	Focus Group Discussion
FIAN	FoodFirst Information and Action Network International
FPIC	Free, Prior and Informed Consent
GRAIN	Genetic Resources Action International
GPS	Global Positioning Systems
ICCPR	International Covenant on Civil and Political Rights
ICT	Information Communication Technology
IDI	Inclusive Development International
ILC	International Land Coalition
IP	Indigenous People
KI	Key Informant
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
MAFF	Ministry of Agriculture, Forestry and Fisheries
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MOE	Ministry of Environment
MOI	Ministry of Interior
NGO	Non-Governmental Organisation
NGOF	The NGO Forum on Cambodia
NSDP	National Strategic Development Plan
NTFP	Non-Timber Forest Product
ODC	Open Development Cambodia
RCAF	Royal Cambodian Armed Forces
TNI	Transnational Institute
UN	United Nations

Executive Summary

Land has been the single most contentious issue in Cambodia with Economic Land Concessions or ELCs the biggest conduit for land grabs in the last two decades. As of December 2012, approximately 2.6 million hectares of land, equivalent to roughly 14.3 percent of Cambodia's total land mass, had been granted by the Royal Government of Cambodia to private companies in the form of ELCs for various agro-industrial purposes, notably the establishment of monoculture plantations such as rubber, sugar, cassava and palm oil. The objective of ELCs among others is to *'develop intensive agricultural and industrial-agricultural activities and increase employment in rural areas within a framework of intensification and diversification of livelihood opportunities and within a framework of natural resource management based on appropriate ecological system'*. Contrary to the stated goals, ELCs have been documented by the civil society, in particular human rights groups and academics, as leading to the dispossession of private and common land; displacement of small-holder farmers and indigenous communities; loss of housing, land and property; deterioration of livelihood and loss of income; increased food insecurity and impoverishment among others. Over 700,000 people have been reported to have been dispossessed through ELCs nationwide since 2000.

Of these, the sugar industry has been identified as one of the worst offenders in Cambodia's land grabbing epidemic. Since 2000, the Royal Government of Cambodia has granted over 114,000 hectares of land through 19 sugar concessions. The most high profile of these has been the sugar concessions in Koh Kong, Kampong Speu and Oddar Meanchey Provinces which has been directly linked to the European Union's 'Everything But Arms' (EBA) preferential trade scheme for least developed countries where Thai and/or Taiwanese sugar companies in partnership with well-connected Cambodian businessmen have developed seven industrial sugarcane plantations through ELC leases to produce raw sugar for export to Europe.

This research study focused exclusively on the sugar concessions in Oddar Meanchey Province. In January 2008, the Ministry of Agriculture, Forestry and Fisheries (MAFF) granted three ELCs totaling 19,736 hectares in Samraong and Chong Kal districts of Oddar Meanchey Province to three companies - Angkor Sugar Company, Cambodia Cane and Sugar Valley Company and Tonle Sugar Cane Company- for the establishment of sugarcane plantations and sugar processing plants for the duration of 70 years. The study has found that the granting of these three sugar concessions in Oddar Meanchey Province has:

- Affected over **2,073 families** in **26 villages** in Samraong, Koun Kriel, Ponggro and Chong Kal communes;
- Led to the land grab and dispossession of over **9,430 hectares** of agricultural, chamkar and residential land in the 26 affected villages;
- Led to the land grab of over **7,944 hectares of community forestland** proposed and allocated to the Ratanak Ruka Community Forest in Samraong and Koun Kriel Commune;
- **Destruction of one village** and the forced eviction and **displacement of 214 families** in O'Bat Moan/Boss Village in Koun Kriel commune;
- **Forced land swap** of **3,588 hectares** of low quality insufficient replacement land under duress to families in the affected villages;
- **Loss of housing structure, property, personal possession** and crops leading to loss of income, livelihood and increased food insecurity and impoverishment leading to increased migration to Thailand for non-land based livelihood;

- The concessionaires signed a **logging contract** with an unknown company to harvest timber and set up a timber processing plant in Angkor Sugar concession land. The company till November 2014 had cleared almost **3,190 hectares of forestland** in the concession, processing the timber into train sleepers for export to Thailand. No sugar processing plant was ever built, **only 219 hectares of 1.1 percent** of the total concession land were planted with sugarcane saplings, which was later cut, burnt and replaced with cassava.
- **Breaches of a number of national and international law and standards** including the Land Law 2012, Sub-Decree on Economic Land Concession Land Concessions (2005), Law on Environmental Protection and Natural Resource Management 1996, Forestry Law 2002. Breaches of the legal and procedural requirements for ensuring respect of human rights prior to, during and after evictions as spelled out in UN Basic Principles and Guidelines on Development-based Evictions and Displacement 2012. These procedural requirements uphold the rights to security of person and home, which is protected by the International Covenant on Civil and Political Rights, which Cambodia is obligated to.
- Violations of human rights of the families.

The affected villagers seek the following remedies from the Royal Government of Cambodia in particular, the Ad Hoc Inter-Ministerial Committee, the three sugar concessionaires via the parent company Mitr Phol and the EU:

1. The immediate and **formal cancellation** of the **three sugar concessions**.
2. A comprehensive and transparent **assessment of the housing, land, property, livelihood and income loss claims** of the villagers affected by the three sugar concessions. Those affected families who have not been included in this study should also be consulted and their housing, land, property, livelihood and income loss claims be assessed. Followed by the preparation and implementation of a time-bound and verifiable **Remedial Action Plan** based on the List 1 and List 2: Land Swap which includes the following:
 - I. The setting of a **comprehensive and transparent restitution claim mechanism** whereby the **legitimate tenure rights** to **9,430 hectares** of grabbed agricultural, chamkar and residential land can be adjudicated and full ownership in the form of land titles to legal possessors of residential, agricultural land and chamkar land be restored; and usufruct rights to chamkar land be restored to the claimants, through the Systematic Land Registration (SLR) process since the province is currently undergoing the SLR process. The affected villagers were explicit in their demand for their land back; they do not want cash compensation.
 - II. A comprehensive, independent and transparent **review of the 3,588 hectares of replacement land received** by the villagers under duress during the land swap process so that each families either receives a) full replacement land commensurate to the quality, size and value of the land lost and/or b) their old land back depending on their wishes.
 - III. Formulation of a strategy for the **rehabilitation of the 7,944 hectares of community forestland** grabbed by the concessionaires and a mechanism to return it back to the Ratanak Ruka Community Forest members for management and use.
 - IV. **Fair and just cash compensation** for the **loss of housing structure, property, personal possession**

and crops lost and destroyed in the fire by the 214 families in O'Bat Moan/Bos village in Koun Kriel commune.

V. A comprehensive, transparent and independent **review of the livelihood and income lost due** to the loss of the villager's land, crops, blocked access to the community forest, resin trees and NTFP and the formulation of a cash compensation mechanism and an Enhanced Livelihood and Income Restoration programme.

VI. **Development assistance** in the affected villages, these include:

- a. Better irrigation systems as many of the affected villagers depend on the weather and harvest once a year during rainy season and not in the summer;
- b. Improved local transport and infrastructure including access roads so the villagers can transport rice and others crops from their agricultural and chamkar land and access the markets;
- c. Knowledge and application of techniques to improve diversity and yield of agricultural crops;
- d. Access to competitive markets and power to negotiate prices with buyers and lenders, sharing capital equipments among farmers etc.
- e. Opportunity to participate further up the supply chain.

In addition to the restitutions and direct reparations to the villagers for breaches of human rights, the Royal Government of Cambodia should consider developing and promoting alternative models for agricultural investments.

3. Developing and promoting alternative models for agricultural investments

There is underlying assumption underpinning ELCs that large-scale corporatised production of agricultural produce is the most suitable solution for Cambodia. This is not the case. The Laotian and Vietnamese experience has shown that smallholder rice production can be highly efficient and internationally competitive. Second, and perhaps more importantly, such a strategy is not likely to improve food security in Cambodia where the central piece of the food security problem is affordability of and access to food and food production related materials, particularly a variety of crops seeds and fertilizers, by poor and largely rural farmers rather than production quantity per se. This suggest an alternative strategy for the Royal Government of Cambodia and the companies to invest not in the land itself but more in the people currently farming this land and their local food production practices, who will be able to deliver the productivity if given the rights tools and knowledge including Climate Resilient Sustainable Agriculture practices.

The Royal Government of Cambodia has shown its commitment to redress the breaches of human rights under the national and international law through the granting of ELCs by taking steps to review and cancel many ELCs since 2012, instituting the Order 01 mechanism, specifically the establishment of the Ad Hoc Inter-Ministerial Committee in January 2014 to address the issues arising from the sugar concessions in collaboration with the EU.

The concrete steps taken by the Cambodian Government, the three concessionaires via its parent company Mitr Phol and the EU to address the three main and six sub recommendations presented in this report would represent an important step towards accountability for breaches of human rights, Corporate Social Responsibility and provide justice for the families in Samraong and Chong Kal Districts in Oddar Meanchey Province who have suffered human rights violations due to the land grab for sugar concessions.

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Chapter 1: Introduction

1.1 Introduction to the Research

Land has been the single most contentious issue in Cambodia with Economic Land Concessions the biggest conduit for land grabs in the last two decades.¹ Land grab in simple terms is *the acquisition - via lease, concession or outright purchase - by corporations or state of large tracts of arable and forested land (usually over 10,000 hectares) on a long terms basis (usually 30 to 99 years) for the production of basic food and agricultural products which will then be exported.*² As of December 2012, approximately 2.6 million hectares³ of land equivalent to roughly 14.3 percent⁴ of Cambodia's total land mass, had been granted by the Royal Government of Cambodia to private companies in the form of Economic Land Concession for various agro-industrial purposes, notably the establishment of monoculture plantations such as rubber, sugar, cassava and palm oil.⁵

An Economic Land Concession or ELC is a lease contract between the Royal Government of Cambodia and another state or private actor that gives the state/private actor specific rights to control an area of state private land (not exceeding 10,000 hectares⁶) for a fixed period of time (not exceeding 99 years⁷) for the conduct of specific agricultural and industrial-agricultural exploitation in that area⁸. The state/private actor that is granted an ELC is known as a concessionaire. A concessionaire may be granted

exclusive rights to manage, cultivate and harvest the land but are not granted full ownership rights as the land remains the property of the State.⁹ The legal framework relating to ELC is explored in detail in Chapter 2.

ELCs have been granted in Cambodia since 1996 before the Land Law 2001 and the Sub-Decree No 146 on Economic Land Concessions 2005 was passed. The objective of ELCs among others is to *'develop intensive agricultural and industrial-agricultural activities and increase employment in rural areas within a framework of intensification and diversification of livelihood opportunities and within a framework of natural resource management based on appropriate ecological system'*.¹⁰ Contrary to the stated goals, ELCs have been documented by the civil society, in particular human rights groups¹¹ and academics¹², as leading to the dispossession of private and common land; displacement of small-holder farmers and indigenous communities; loss of housing, land and property; deterioration of livelihood and loss of income; increased food insecurity and impoverishment among others. Over 700,000 people have been reported to have been dispossessed through ELCs nationwide since 2000.¹³ The UN Special Rapporteur on the Situation of Human Rights in Cambodia Surya Subedi, in his 2012 report to the Human Rights Council, has stated that *'the human cost of many concessions has been*

¹For historical perspective see *The Great Cambodian Giveaway: Visualizing Land Concessions over Time* by LICADHO on http://www.licadho-cambodia.org/concession_timelapse/

²Based on the definition used by GRAIN/Via Campesina in *Land grabbing and the Global Food Crisis*, 2011 <http://www.viacampesina.org/downloads/pdf/en/landgrabGRAIN-dec2011.pdf>

³ADHOC, *A Turning Point? Land, Housing and Natural Resources Rights in Cambodia*, 2012, p1. <http://www.adhoc-cambodia.org/wp-content/uploads/2013/02/ADHOC-A-Turning-Point-Land-Housing-and-Natural-Resources-Rights-in-2012.pdf>

⁴Author's calculation based on Cambodia's landmass of 181,035 km² or 18.1 million hectares.

⁵See Open Development Cambodia (ODC) Website: <http://www.opendevdevelopmentcambodia.net/briefing/economic-land-concessions-elcs/>

⁶Kingdom of Cambodia, Land Law, 2001, Article 58.

⁷Ibid, Article 61.

⁸Kingdom of Cambodia, Sub-Decree No 146 on Economic Land Concessions, 2005, Article 2.

⁹Land Law, op cit. Article 57.

¹⁰Kingdom of Cambodia, Sub-Decree No 146 on Economic Land Concessions, op cit. Article 3.

¹¹See ADHOC, op cit; LICADHO, *Briefing Paper: Harmful Effects of Economic Land Concessions on Poor Cambodians* November 2005; Ngo S & Chan S, *Economic Land Concessions and Local Communities*, Cambodia Economic Association and NGO, December 2010.

¹²See Neef A, Touch S & Chiengthong J, *The Politics and Ethics of Land Concessions in Rural Cambodia*, Journal of Agricultural and Environmental Ethics, Volume 26, Issue 6, December 2013, p1085-1103.

¹³Vrieze P & Naren K, *Carving Up Cambodia: One Concession at a Time* (A Joint LICADHO and CAMBODIA Daily Study) Cambodia Daily, 10-12 March 2012, p7. http://www.camnet.com.kh/cambodia.daily/selected_features/Carving%20Up%20Cambodia.pdf (Accessed 7 November 2014)

*high, and human rights should be at the heart of the approach to the granting and management of land concessions in order for them to have a positive impact. There are well documented serious and widespread human rights violations associated with land concessions that need to be addressed and remedied.*¹⁴

Of these, the sugar industry has been identified as one of the worst offenders in Cambodia's land grabbing epidemic.¹⁵ Since 2000, the Royal Government of Cambodia has granted over 114,000 hectares¹⁶ of land through 19¹⁷ sugar concessions: five in Preah Vihear, four in Kampong Speu, three in Oddar Meanchey, two each in Koh Kong and Kratie and one each in Battambang, Svay Rieng and Kampong Cham respectively - with a high concentration of the concessions along the northwestern belt of Cambodia close to the Thai border, the main sugar market. The most high profile of these has been the sugar concessions in Koh Kong, Kampong Speu and Oddar Meanchey Provinces which has been directly linked to the European Union's 'Everything But Arms' (EBA) preferential trade scheme for least developed countries where Thai and/or Taiwanese sugar companies in partnership with well-connected Cambodian businessmen have developed seven industrial sugarcane plantations through ELC leases to produce raw sugar for export to Europe.¹⁸

The EBA initiative provides duty-free access to the European market and a guaranteed minimum price for sugar that has been on average three times the world price.¹⁹ However, the assessment carried out by Equitable Cambodia (EC) and Inclusive Development International (IDI) in the

Bittersweet Harvest report have found that the EBA scheme and the subsequent development of industrial sugarcane plantations has led to serious and systematic human rights violations and calls for the assessment and reform of the EBA trade scheme.

The sugar concessions in Oddar Meanchey Province, which is the focus of this study, has been the target of three studies to date led primarily by local NGO LICADHO in 2009, which focused mainly on the forced eviction of O'Bat Moan/Bos village in Koun Kriel commune carried out in 2008 and 2009²⁰; Bittersweet Harvest study by EC and IDI in 2013²¹ which has been built on by the Hands off Our Land Alliance in 2014 which is comprised of FIAN International, IGO Poland, TNI and FDCL.²² The later two studies concentrated exclusively on five affected villages in Koun Kriel commune in Oddar Meanchey Province.

The three sugar concessions: Angkor Sugar Company, Cambodia Cane and Sugar Valley Company and Tonle Sugar Cane Company, which extend over a large swath of land across four communes in Oddar Meanchey Province, have been acknowledged to affect a large number of villages and families. However, the full statistics on the size of the land grabbed and the number of villages and families affected is scarce. This lack of accurate and full data on the number of villages/families affected and the size and type of land dispossessed by the three concessions has meant that a large number of families affected by the sugar concessions might not be accounted for during the Joint EU-Cambodia process to identify, assess and redress legitimate claims of displacement impacts and losses

¹⁴Subedi S, *Report of the Special Rapporteur on the situation of human rights in Cambodia: Addendum, A human rights analysis of economic and other land concessions*, A/HRC/21/63/Add.1, 24 September 2012, para 199.

¹⁵Equitable Cambodia (EC) & Inclusive Development International (IDI), *Bittersweet Harvest: A Human Rights Impact Assessment of the European Union's Everything But Arms Initiative in Cambodia*, 2013, p1. http://www.inclusivedevelopment.net/wp-content/uploads/2013/10/Bittersweet_Harvest_web-version.pdf

¹⁶Author's calculation based on the sugar concession map on the ODC website <http://www.opendevdevelopmentcambodia.net/company-profiles/economic-land-concessions/> (accessed on 11 February 2015).

¹⁷Ibid.

¹⁸EC and IDI, op cit. p 1.

¹⁹Ibid, p1.

²⁰LICADHO, *Briefing Paper: Bos/O'Bat Moan Village in KonKriel Commune, Samraong District, Oddur Meanchey Province*, 12 October 2009.

²¹EC and IDI, op cit.

²²FIAN, IGO, TNI, FDOL, *Case Dossier: Cambodia Sugar cane plantations, human rights violations and EU's "Everything But Arms" initiative*, Hands Off the Land Alliance, 2014.

resulting from the development of sugarcane plantations in Cambodia. The objective of the assessment as agreed by the Ad Hoc Inter-Ministerial Committee is to *'ensure redress for... compensation deficits'* and *'the restoration of pre-project living standards and income levels'* for affected people.²³ The process commenced from February 2015 with technical assistance provided by the EU to the Royal Government of Cambodia towards the drafting of the inception report.

This report seeks to fill in that information gap to ensure all the affected families are able to access the redress mechanism and seek justice and remedy for housing, land, property and livelihood lost.

1.2 Objectives of the Research

The aim of this research is to build on the earlier studies and investigate in more detail the extent and impacts of the land grab in Samraong and Chong Kal districts in Oddar Meanchey Province by the three concessionaires: Angkor Sugar Company, Cambodia Cane and Sugar Valley Company and Tonle Sugar Cane Company for sugarcane plantation and construction of a sugar processing factory. The study in particular seeks to address the following six objectives:

1. To analyse the legal status of the land occupied by the communities in Samraong and Chong Kal districts.
2. To identify the process of consultation and assess whether the principles of Free, Prior and Informed Consent (FPIC) were respected during the granting of the concessions.
3. To investigate the number of families affected and extent of the land grab (hectares) by the concessionaires in the two districts and

to document the 'compensation packages' delivered to the affected communities, collect their grievances and their demands.

4. To investigate how the land is being used in the concessions, including to what extent sugarcane has been grown and processed, to what extent the sugar has been sold locally or exported to international markets and whom it is sold to.
5. Based on the findings of the study, to identify constructive approaches and strategies to a) address the impact of sugarcane plantation in Cambodia and b) engage with the Ad Hoc Inter-Ministerial Committee, related Technical Working Group and Cambodian and international investment companies.
6. Lastly, identify a mechanism through which communities, authorities and investors can have direct dialogue to address socioeconomic impacts on the livelihood of the affected communities and identify tools to mitigate negative impacts and foster their living conditions.

1.3 Research Methodology

This research employed mainly qualitative research methods. The author initially planned to carry a mixed-method study using both qualitative and quantitative research. However due to the continued intimidation and harassment of communities affected by the sugar concessions and NGOs²⁴ working with them, low-key qualitative research methods such as Focus Group Discussions (FGD), Key Informant (KI) Interviews and participatory mapping exercises for data collection were used rather than large-scale household survey and GPS mapping of the grabbed land originally planned to gather quantitative data. The research was carried out in three phases:

²³Pye D, *EU to probe Sugar Disputes*, *Phnom Penh Post*, 9 December 2014. <http://www.phnompenhpost.com/national/eu-probe-sugar-disputes> and Hodal K, *European Union agrees to investigate Cambodia Sugar Industry*, *The Guardian*, 10 December 2014, <http://www.theguardian.com/world/2014/dec/10/european-union-cambodia-sugar-industry-human-rights>

²⁴The author and CSO colleagues were followed and questioned by the local commune police and the communities interrogated during an initial field-visit (prior to the fieldwork) to the affected villages in October 2014. Two researchers from local NGO Equitable Cambodia were detained and another beaten while carrying field research in the same villages in September and October 2014. See the articles in the Cambodia Daily <https://www.cambodiadaily.com/news/researchers-detained-after-visit-to-resettlement-community-67842/> and Statements by CSOs <http://www.licadho-cambodia.org/flashnews.php?perm=84> and <http://www.licadho-cambodia.org/pressrelease.php?perm=358> for more details.

Table 1.1: Phases of the Research Study

Activities	Date
Phase 1: Research Design	16-31 October 2014
Phase 2: Field Work	13 November- 13 December 2014 (30 days)
Phase 3: Analysis and report writing	18 December-28 February 2015
2 x Consultative Meeting in Oddar Meanchey Province and Phnom Penh and report writing	March 2015

Phase One: Research Design

The first phase of the study was carried in October 2014 and involved the review of publicly available documents (reports, maps, videos) concerning land grabbing, ELC and sugarcane plantations in Cambodia; informal interviews with key stakeholders from civil society, development partners and academics/practitioners; design of field research tools including the identification of affected villages – a total of 26 villages were identified, a qualitative sampling strategy, an

eight-paged KI Interview questionnaire and an FGD and Participatory Mapping guide.

Phase Two: Field Work

The second phase of the research was carried out between November and December 2014 in 14 of the 26 affected villages within Samraong, Koun Kriel, Ponggro and Chong Kal Communes, they are listed in the Table 1.2 below. The identification of the 26 affected villages is elaborated in detail in Chapter 3.

Table 1.2: Villages Researched during Fieldwork

Angkor Sugar Company, and Cambodia Cane and Sugar Valley Company		
No	Affected Villages in Samraong Commune	Affected Villages in Koun Kriel Commune
1	Doun Kaen	O’Bat Moan
2	Pul	Khtum
3	Chhouk	Trapeang Veng
4	Ou Krasaeng	Ta Man
5	Bak Nuem	Bos
Total	5	5

Tonle Sugar Company		
No	Affected Villages in Chong Kal Commune	Affected Villages in Ponggro Commune
1	Kor	Ta Pean
2		Kandaol Dom
3		Banteay Choar
Total	1	3

The researchers (comprised of the author and a research assistant) interviewed over 91 people during the research through 40 in-depth KI Interviews and four FGDs and Participatory Mapping exercises. The researchers met with affected villagers, the village and deputy village chiefs, commune councilors in the 14 villages for the bulk of the data collection (see Table 1.3 below). The researchers intended to carry out two FGDs in each affected village, however there were difficulties in gathering the villagers in groups as most of the villagers were occupied with harvesting rice and cassava in their rice fields and chamkar lands (the fieldwork took place during the monsoon rice harvesting

season which is between November and December). The researchers therefore opted to carryout additional KI Interviews to triangulate the data collected. Verbal consent was sought for all the interviews, which were recorded and transcribed. The interviews carried out during the desk review phase were not recorded or transcribed: only notes were taken.

The interviews and discussions focused on understanding how the communities' land came to be targeted and subsequently granted for the sugar concessions, the dispossession and impact narratives of the communities and the specific demands for justice.

Table 1.3: List of Interviews

Interviewees	Number of Interviews
Provincial Authority	1
Municipal Authority	1
Department of Agriculture, MAFF	1
Cadastral Commission, MLMUPC	2
Members of the Ratanak Ruka Community Forest	2
Commune Councilors	4
Village Chiefs/Deputy Chiefs	11
Affected Villagers	8 [4 KI Interviews and 4 FGO -total of 55 villagers in 4 FGOs]
CSO	6
Individuals (Academics/Practitioners)	4
Total	40 Interviews; Total Interviewees: 91

It should be noted that at no point in time did the researchers experience harassment or intimidations by the local authorities or general public. The researchers were afforded full respect and space to carryout the fieldwork in the affected villages.

Phase Three: Analysis and Report Writing

The results of the desk review and fieldwork were processed and analysed over January and February 2015 and the final report prepared following validation meetings on the findings with stakeholders in Oddar Meanchey and

Phnom Penh, which included representatives from the affected villages, local authorities and civil society, the Sugar Justice Network, in March and April 2015.

1.4 Limitations of the Research

The principle limitation of the study was the lack of official information relating to the sugar concessions and to ELCs in general in the Oddar Meanchey Province. The author relied heavily on unofficial data collected by civil society, Open Development Cambodia (ODC) and LICADHO being the most reliable source for open data

on ELCs in Cambodia. Official, and importantly, reliable data on the number of affected families and number and size of residential, agricultural and chamkar land grabbed by the sugar concessions were in short supply. Most of these documents were either lost or irretrievable.

Another significant contributing factor was that almost eight years had elapsed since the granting of the concessions, which meant that some of the interviewee's recollection of the process and specific details of the events were limited.

In practical terms, the researchers experienced difficulties in accessing all of the 24 villages identified to be affected by the sugar concessions - only 18 villages were accessible. A few villages were omitted as a lot of the affected families had either moved to Thailand and other provinces or the size of the villages with only 2-5 affected families was low. Some of the villagers were located deep in the forest inaccessible by road. Another practical issue as mentioned earlier was that the fieldwork fell at the time of the monsoon rice harvesting season so the majority of the villagers were busy harvesting rice and cassava in their rice and chamkar lands and the researchers had difficulty making time for interviews and testimonies could only be collected from 4 FGD and 4 KI Interviews.

There were a lot of information gaps in the narrative due to the challenging environment. These gaps were filled by triangulating testimonies from KI and FGD with interviews with civil society organisations, academics and practitioners; and tracking and collecting documents from village to village which were eventually 'pieced together'. It is the hope that the qualitative information gathered in this report will contribute towards securing the housing, land and property rights of the affected communities.

1.5 Report Outline

This report is divided into seven chapters. Following on from this introductory section, Chapter 2 looks at the land grabbing phenomenon in Cambodia, providing a brief overview of the current situation before tracing the legal framework which led to the establishment of the ELC regime and recent initiatives to address the issue. Chapter 3 then considers the growth of ELCs in Oddar Meanchey Province and provides a backdrop on the granting of the three sugar concessions in the province. Chapter 4 draws on the field research and provides a narrative of dispossession and displacement of the communities. Chapter 5 examines the impact of land grabbing looking at the loss of land and property, land tenure, deterioration of livelihood and loss of income. Chapter 6 provides a summary on the current status of the concession area and the breaches of national and international law and standards. The report concludes in Chapter 7 with an overview of the key findings and recommendations to the Royal Cambodia Government, particularly to the Ad Hoc Inter-Ministerial Committee, the concessionaires and the EU, on remedial actions to be taken for the restitution and return of housing, land and properties lost and the reparation of livelihood and income lost.

Chapter 2: Background to Land grabbing in Cambodia

The land grab phenomenon has reached such epic proportions that civil society and media have resorted to using superlatives like *'the Great Cambodian Giveaway'*²⁵, *'the Wholesale Sell Off'*²⁶ and *'Cambodia for Sale'*²⁷ to describe the current situation. The following section of the report begins with the definition of land grabbing, followed by an exploration of the land grab phenomenon in Cambodia, moving on to provide the legal framework leading to the establishment of the ELC regime and the recent initiatives to address the issue in Cambodia.

2.1 What is Land grabbing?

The land grab phenomenon grew significantly following the world food and financial crises of 2007-2008. Global prices of important cereal crops such as wheat and rice rose significantly, driven by a combination of increased competition for land between food, biofuel and animal feed crops, fluctuating harvest due to climate change²⁸, rising oil prices and trade shocks in the food market. This triggered a scramble for cross-border land grabs by foreign governments, sovereign wealth funds, private equity funds, agribusiness firms, and other key players²⁹ leading to the conversion of land from smallholder production to large scale corporatized production. Today land grabbing involves millions of hectares and continues to spread relentlessly³⁰.

The most widely accepted definition post 2011 is

that arising from the 'Tirana Declaration'³¹ which defines land grabs as acquisitions or concessions that do one or more of the following:

1. *Violate human rights, particularly the equal rights of women;*
2. *Flout the principles of free, prior and informed consent of the affected land-users;*
3. *Are not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered;*
4. *Avoid transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and;*
5. *Eschew effective democratic planning, independent oversight and meaningful participation.*³²

This is the definition used by ActionAid Federations³³ and Oxfam affiliates³⁴ which is being used in this research study.

2.2. The Growth of ELCs and Land grabbing Phenomenon in Cambodia

The granting of ELCs in Cambodia started in 1996. Cambodia's National Strategic Development Plan (NSDP) for 2009-2013³⁵ identified the agriculture sector as an important engine towards poverty alleviation and economic growth, with the sectoral agricultural goal to 'ensure food security, increase incomes, create employment and improve nutrition status for all people

²⁵Pilorge N, *The Great Cambodian Giveaway*, Thomas Reuters Foundation, 21 September 2011 <http://www.trust.org/item/?map=the-great-cambodian-giveaway/>

²⁶Pye D & Pech S, NGO data shows wholesale sell-off, Phnom Penh Post, 31 March 2015.

<http://www.phnompenhpost.com/national/ngo-data-shows-wholesale-sell> (Accessed 12 April 2015).

²⁷O'Shea D, *Cambodia for Sale*, SBS One (Video), 1 March 2009, <http://www.sbs.com.au/news/dateline/story/cambodia-sale>

²⁸Oram J, *The Great Land Heist: How the world is paving the way for Corporate Land grabs*, ActionAid International, May 2014, p12.

²⁹Arezki R, Deininger K & Selod H, *The Global Land Rush: Foreign Investors are Buying up Farmland in Developing Countries*, Finance and Development, 46-49, March 2012, p46. <http://www.imf.org/external/pubs/ft/fandd/2012/03/pdf/arezki.pdf>

³⁰See the Land Matrix at <http://www.landmatrix.org/en/> and Land Portal at <http://landportal.info/> for more details.

³¹The Tirana Declaration was agreed on by 150 representatives of civil society organisations, social movements, grassroots organisations, international agencies, and governments - including the members of the International Land Coalition (ILC) - from more than 45 countries in Africa, Latin America, North America, Asia and Europe at a major conference on land regulations and rights in Tirana, Albania in May 2011.

³²ILC, *The Tirana Declaration: Securing Land Access for the Poor in times of Intensified Natural Resource Competition*, May 2011 http://www.landcoalition.org/sites/default/files/aom11/Tirana_Declaration_ILC_2011_ENG.pdf (accessed 28 October 2014)

³³Oram J, op cit. p9.

³⁴Oxfam, *Our Land, Our Lives: Time Out on the Global Land Rush*— Briefing Paper GROW Campaign, October 2012, p5.

³⁵The new National Strategic Development Plan for 2014 -2018 has identified the private sector as the engine for poverty alleviation and economic growth.

by improving productivity and diversification, and commercialisation of agriculture with environmentally sound protection and food security'³⁶. However, the NSDP did not allocate significant budget for agriculture to achieve these goals. ELCs were then seen as a key tool for achieving these goals with the focus on large-scale agriculture, rather than on small-holder farmers.

There is lack of transparency on the details of ELCs granted by the Royal Government of Cambodia. The only publicly available official data on ELCs are posted on the MAFF-ELC website³⁷ with the sub-decrees related to the granting of the ELCs published in the Council of Minister's Royal Gazette. The ELC logbook³⁸ on the MAFF website however, has not been updated since June 2012, the last uploaded table listed 1.2 million hectares of land had been granted as ELCs to 118 companies between 1996 and June 2012³⁹.

Many groups such as ODC, ADHOC, NGOF, LICADHO have been monitoring ELCs and they came up with a different number for the same period between 1996 and 2012.⁴⁰

- As of June 2012, the ODC website listed a total of 320 ELCs in 21 provinces including Phnom Penh were granted to foreign and local companies.⁴¹
- While LICADHO listed 2.1 million hectares had been granted in ELCs as of Feb 2012.⁴²

This is a discrepancy of almost 800,000 hectares, an area the size of Kampong Speu Province, and too big to ignore. Human rights groups including the UN Special Rapporteur on the Situation of Human Rights in Cambodia have repeatedly

called on the Royal Government of Cambodia that the data contained in the MAFF-ELC website *'does not include a considerable number of agricultural concessions that are known to exist, in some cases for several years'*⁴³. One possible reason for this could be that the ELC data on the MAFF website only includes concessions granted by MAFF, those concessions granted in protected areas by the Ministry of Environment (MOE) are not included in the website and MOE does not have a dedicated website or an official policy to share the MOE-ELC datasets. The procedure for the granting of the ELCs and Ministry's involved will be addressed in the next section.

While the efforts by MAFF to make at least some data on ELCs available are laudable, one of the chief complaints is that the datasets are solely in English and available only online, this is antithetical to the needs of say an average small-holder farmer in Preah Vihear who has limited understanding of English and lacks internet connection and other ICT services but is desperately seeking information regarding a concessionaire grabbing land in their village.

The statistic presented earlier about 2.6 million hectares of arable land⁴⁴ being granted as ELC is probably the closest to the true figure, this statistic was based on data collected unofficially by the NGOs.

The statistics from MAFF illustrated in the Chart 1 below indicate a steady rise in the number of concession contracts granted from 1996 to 2003, followed by a steep rise from 2004 onwards, with the number of contracts peaking at 24 in the 2011, this number then began to nosedive from 2012 onwards possibly due to the suspension

³⁶Kingdom of Cambodia, *National Strategic Development Plan Update 2009-2013*, 30 June 2010, para 97. http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_145085.pdf

³⁷See the Ministry of Agriculture, Forestry and Fisheries (MAFF) ELC website on <http://www.elc.maff.gov.kh/>

³⁸The law requires details of all ELCs be listed in the ELC Logbook. Kingdom of Cambodia, Sub-Decree No.146 on Economic Land Concessions 2005, Article 36.

³⁹See MAFF-ELC website in the Overview section <http://www.elc.maff.gov.kh/>

⁴⁰See LICADHO, ADHOC, ODC maps ELCs in Cambodia using information from government and company websites and other publicly available sources.

⁴¹ODC website, op cit.

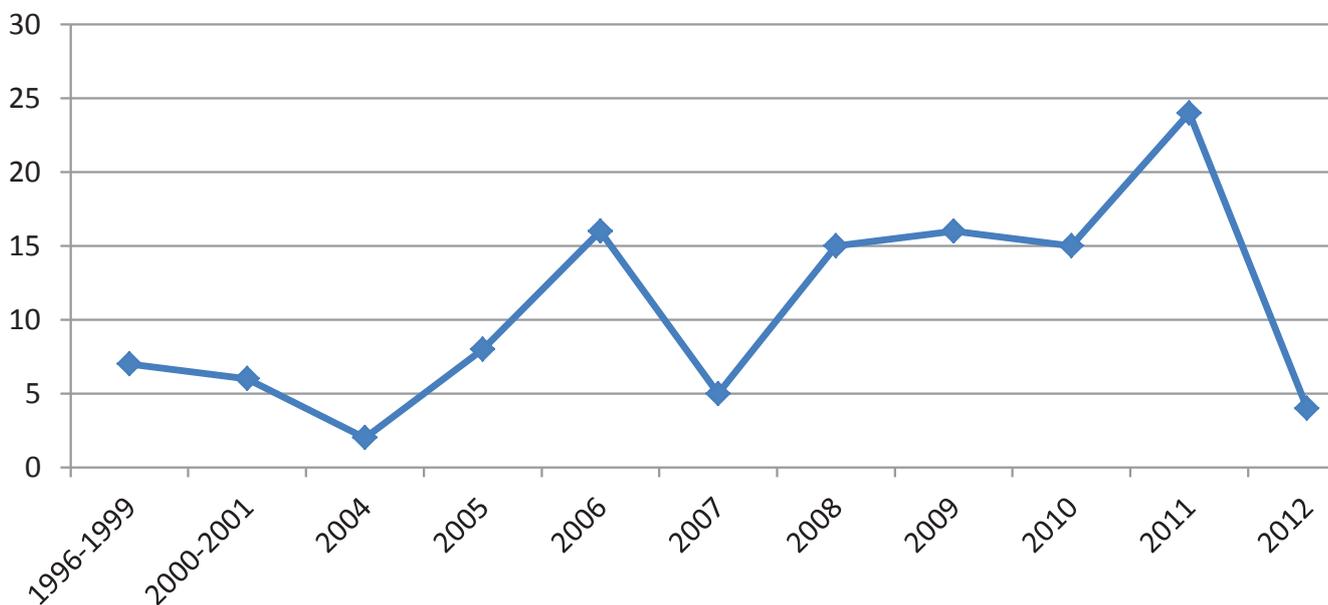
⁴²EC, *A Community Guide to Economic Land Concession: Facilitators Manual*, 2013, p15.

⁴³Subedi S, op cit. para 83.

⁴⁴ADHOC, op cit. p1.

of the granting of new ELCs and beginning of Order 01⁴⁵. However in 2012, the Royal Government of Cambodia issued 66 sub-decrees reserving 381,121 hectares of land (including 108,524 hectares transferred from state public property to state private property) for ELCs, despite the announcement of a moratorium on the granting of ELCs.⁴⁶

Chart 1: ELC Lease Contracts granted from 1996-2012



Source: MAFF Website

ELCs have been granted in 16 provinces in Cambodia though it has heavily concentrated in the north-eastern provinces of Kratie (27 ELCs), Mondulkiri (15 ELCs), Ratanakiri (14 ELCs) and Stung Treng (13 ELCs) respectively.⁴⁷ ELC allocation also appears to have been deliberately concentrated in protected areas, with over 70% of the concessions given out in 2012 situated inside national parks, wildlife sanctuaries and protected forests⁴⁸. As of March 2012, 346,000 hectares of ELCs had been granted inside conservation areas administered by the MOE⁴⁹. The key legal frameworks related to ELCs are expanded further in the section below.

2.3 The Legal Framework relating to ELCs

The main legal framework for ELCs is set out in the 2001 Land Law⁵⁰ and the Sub-Decree No 146 on Economic Land Concessions.

Under the 2001 Land Law, state land is divided into State Public and State Private land. State Public land is any land of natural origin such as rivers, lakes or forests that provide for general public use as well as archaeological and cultural heritage sites. State Private land is any state land that does not provide a public service or come under any of the other categories of state public land⁵¹.

According to the 2001 Land Law and the Sub-Decree on Economic Land Concessions, ELCs can only be legally granted on land that is registered as State Private land according to the law⁵² and only for specific development projects that:

- Develop intensive agricultural and industrial-agricultural activities requiring a high rate of initial capital investment;

⁴⁵Prime Minister Hun Sen announced a moratorium on new ELCs and May 2012 the Government of Cambodia issued Order 01 on Measures for Strengthening and Increasing the Effectiveness of the Management of Economic Land Concession also know as Order 01.

⁴⁶Ibid, p 6.

⁴⁷MAFF, Economic Land Concession: Overview <http://www.elc.maff.gov.kh/index.php/overview> (accessed

⁴⁸ADHOC, op cit. p10.

⁴⁹Vrieze P & Naren K, op, cit. P 8-9

⁵⁰Land Law, op cit. Article 48-62.

⁵¹Ibid, Article 15-16.

- Reach agreements with investors for developing land in an appropriate and long-term manner based on land use plan for the area;
- Increase employment in rural areas within the framework of intensification and diversification of livelihood opportunities and natural resource management;
- Encourage small and large investments in ELC projects; and
- Generate state revenues through land use fees, taxation and related services charges.⁵³

The Sub-Decree on ELC further states that ELC may only be granted on land that meets the following five criteria's:

1. The land has been **registered** and **classified as state private land** under the legal process for land registration;
2. A **land use plan** for the land has been adopted by the Provincial State Land Management Committee;
3. **Environmental and Social Impact Assessments** must have been completed and approved according to the regulations set out in the environment law and associated regulations.
4. **Solutions for resettlement** have been established in accordance with existing law and procedures must, and the granting authority can ensure that there will be no involuntary resettlement of lawful landholders and access to private land respected; and
5. **Public consultations** have been conducted with local authorities and residents of the area, relating to ELC projects and proposals.⁵⁴

The Ministry of Agriculture, Forestry and Fisheries (MAFF) is the only body authorized to grant ELCs through a Technical Secretariat on ELC⁵⁵ established at the Ministry. Provincial-level authorities previously had the power to grant concessions less than 1000 hectares⁵⁶, but this authority was terminated in 2008.⁵⁷ The Technical Secretariat located at the MAFF has the mandate to support the authorities in reviewing existing ELCs including: contractual compliance, land use fees and other revenue from contracts; public consultation to solicit comments on concession activities within communes where concessions are located; request for land regularization; and request for the voluntary reduction of ELCs exceeding 10,000 hectares. The Technical Secretariat is legally required to establish an ELC logbook and make it publicly available.⁵⁸

Despite the fact that the Sub-Decree only mandates MAFF, ELCs have been increasingly granted by the **Ministry of Environment (MOE)**, which is responsible for the administration of Cambodia's protected areas, and in the context of ELCs, responsible for the review of EIAs, and monitoring of compliance of EIA's by the concessionaires. In practice, the granting of ELCs over 1,000 hectares has to be approved by the Office of the Council of Ministers (COM).⁵⁹ MOE has been able to circumvent the law by getting tacit approval from the COM to grant ELCs within or adjacent to 3 million hectares of protected area which is under its management authority.⁶⁰

ELCs can be initiated through **solicited proposals**, where the Royal Government of Cambodia proposes a project and seeks expressions of interest from potential private investors, or **unsolicited proposals**, where an investor proposes a project to the Royal Government

⁵²Ibid and Article 58 and Sub-Decree No 146 on Economic Land Concessions, op cit. Article 4(1).

⁵³Sub-Decree No 146 on Economic Land Concessions, op cit. Article 3.

⁵⁴Ibid, Article 4.

⁵⁵Ibid, Article 58.

⁵⁶Ibid, Article 29.

⁵⁷Kingdom of Cambodia, Sub-Decree No 131 on Modification on the Sub-decree on Economic Land Concessions, 2008, Article 1.

⁵⁸Sub-Decree No 146 on Economic Land Concessions, op cit. Article 36-37.

⁵⁹Ngo S & Chan S, *Economic Land Concessions and Local Communities*, Cambodia Economic Association and NGO, December 2010, p4.

⁶⁰See the ELC maps on the ODC website <http://www.opendevdevelopmentcambodia.net/maps/>

of Cambodia for approval.⁶¹ Both processes requires the private investor to carry out due diligence including meaningful consultations with the local authorities and communities living in the proposed area; an initial Environment and Social Impact Assessment (ESIA) and if the initial ESIA indicates a medium or high degree of adverse impact, arrangement for a full ESIA.

In reality however, unsolicited proposals initiated by private investors are the norm.⁶² The author is not aware of a single ELC which has been granted according to the law favouring solicited proposals. This is also the case with regards to the sugar concessions in Oddar Meanchey Province.

Key Regulations: Key regulations relating to the conduct of the ELCs are elaborated in the Land Law 2001 as such:

- ELCs cannot exceed 10,000 hectares⁶³ and the same person or legal entity cannot hold several concessions that total more than 10,000 hectares. This also applies to several legal entities controlled by the same person⁶⁴;
- ELCs can only be granted for a maximum of 99 years, 70 years being typical⁶⁵, and the concessionaires must begin operations within 12 months of concession being granted. If a concessionaire does not comply with the legal requirements, the concession can be cancelled.⁶⁶
- All ELCs require a contract between the concessionaire and MAFF setting out the purpose of the concession, its duration

and its area. ELCs are conditional and all concessionaires must follow the terms of this contract.⁶⁷

- All ELCs are revocable through governmental decision and can be cancelled by the courts when its legal requirements are not complied with.⁶⁸
- A concessionaire cannot sell or transfer the ELC to another company or person. The only way that the ELC can be transferred to another person is if the authorities create a new ELC contract.⁶⁹
- In addition to the laws specifically related to ELCs, a concessionaire must comply with environment law and environmental regulations.

Fees: One of the key stated objectives of ELCs is to generate state revenues through land use fees, taxation and related services charges.⁷⁰ The lease rate for concessionaires however are extremely low and lies between USD\$ 2-10 per hectares per year depending on the land quality. Land classified as 'degraded' are available with no lease fee at all.⁷¹ In comparison, the fees paid by an average small-holder farmer for land to grow rice and other crop range from USD\$ 100-250 per hectares per year.⁷² This means that the concession leases are more advantageous for investors as they can reap benefit from the natural resources (logging of trees) and the land without paying the purchase price and land registration fees.

This further exemplifies that rental fees for concessionaires are decoupled from the value of the land and illustrates a structural preferential

⁶¹Sub-Decree No 146 on Economic Land Concessions, op cit, Article 6.

⁶²Oldenburg, C & Neef A, *Reversing Land Grabs or Aggravating Tenure Insecurity? Competing Perspectives on Economic Land Concessions and Land Titling in Cambodia*, The Law and Development Review 2014, p59.

⁶³Land Law 2001, op cit, Article 58.

⁶⁴Ibid, Article 59.

⁶⁵Ibid, Article 61.

⁶⁶Ibid, Article 62.

⁶⁷Ibid, Article 54.

⁶⁸Ibid, Article 55.

⁶⁹Ibid, Article 57

⁷⁰Sub-Decree No 146 on Economic Land Concessions, op cit, Article 3.

⁷¹Kingdom of Cambodia, *The Fixation of Concession Land Rental Fee*, Office of the Council of Ministers No. 803, 31 May 2000. <http://www.elc.maff.gov.kh/index.php/laws/12-the-fixation-of-concession-land-rental-fee>

⁷²Ngo S & Chan S, *Agriculture Sector Financing and Services for Smallholder Farmers*, Cambodian Economic Association, NGO and ActionAid Cambodia Phnom Penh, 2010, p. 34

treatment of investors. One could argue that prices for land have to remain low to attract investment; however, state revenue could be much higher if this land would be leased to local small-holder farmers.⁷³

2.4 Government Initiatives and the Current Situation

Despite many calls for re-examination and reform, the Royal Government of Cambodia continued to grant economic and other land concessions at an alarming rate between 2007 and 2011. In the first half of 2012, the Prime Minister instigated a number of initiatives related to ELCs

On 7 May 2012, the Royal Government of Cambodia adopted *Order 01 on Measures for Strengthening and Increasing the Effectiveness of the Management of Economic Land Concessions (officially mistranslated as Directive 01)*; the order instituted the suspension on the granting of new ELCs and a review of compliance of the existing concessions. The Order 01 authorised the Royal Government of Cambodia to seize ELCs if the concessionaires failed to comply with their contract, this included cases where the concessionaire had conducted illegal logging but had failed to cultivate the land; encroached on land beyond concession boundaries and left parts of the concession vacant in order to sell to third parties etc. Any seized concession areas would be returned to the direct management of the state.

For the existing ELCs, the Order instructed the relevant ministries, institutions and authorities to follow the 'leopard skin' strategy that involved the practice of demarcating and cutting land already occupied out of the concession leaving the cultivated areas resembling the pattern of a leopard skin, thereby aiming to lessen the effects of ELCs on communal land and decrease interruptions to the livelihood of rural communities. However, this concept was already a component of the lease contract as per

the Sub-Decree on Economic Land Concessions.

Nonetheless, the Order allowed for the continuation of the granting of ELCs, which had been approved on 'principle' by the Royal Government of Cambodia prior to the issuing of the moratorium.

One month after the issue of Order 01, the Prime Minister announced a rapid land nationwide titling scheme to survey and issue land titles to people living on state land, including forestland, ELCs and forest concessions. The new titling scheme was carried out by over 2,000 official staff student volunteers in 20 provinces of Cambodia. The volunteers were ordered to only demarcate up to 5 hectares of land for private titles per farm household. Neither civil society groups nor development partners had been allowed to monitor the implementation.

As of November 2014, the Ministry of Land Management, Urban Planning and Construction (MLMUPC) has indicated that 357 communes were adjudicated and more than 710,000 parcels surveyed, of which 610,000 titles were delivered through the reclassification of over 1.2 million hectares of land. Of these, 380,000 hectares were cut from 134 ELCs; 270,000 hectares from 17 forest concessions and 530,000 hectares from state and forestland.⁷⁴

The next four chapters focuses on the process of the granting of the three sugar concessions and the subsequent dispossession and impact in the Oddar Meanchey Province, which will be analysed within the national legal framework and International human rights standards.

⁷³Oldenburg, C & Neef A, *Reversing Land Grabs or Aggravating Tenure Insecurity? Competing Perspectives on Economic Land Concessions and Land Titling in Cambodia*, The Law and Development Review 2014, p64.

⁷⁴MLMUPC Notification Letter of 17 December 2014, http://www.mlmupc.gov.kh/mlm/imgs/scan0003_Page_3.pdf

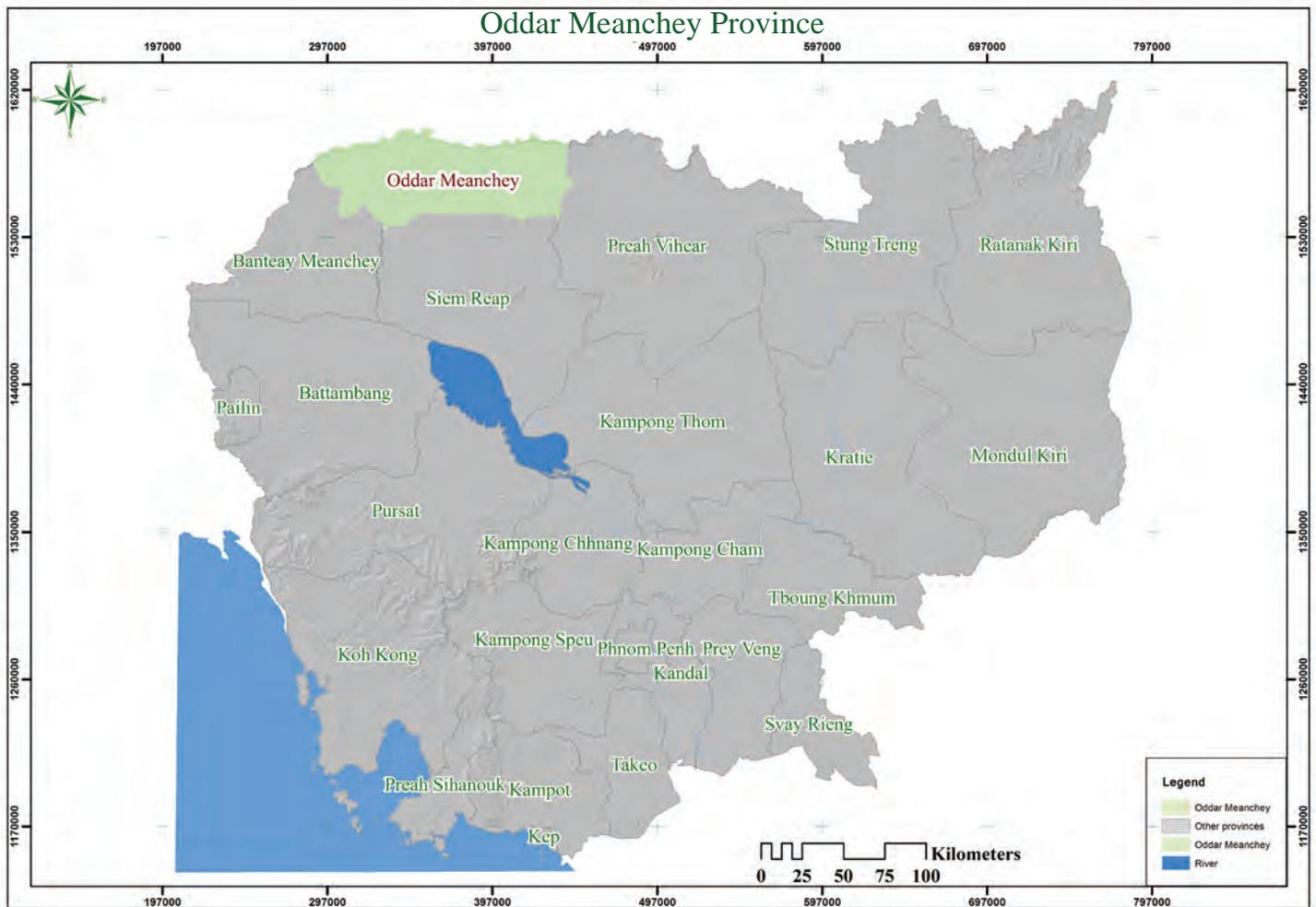
FINDINGS

Chapter 3: Land grabbing in Oddar Meanchey Province

The Oddar Meanchey Province is located in the northwestern frontier of the country bordering Thailand and is 469 km from the capital Phnom Penh. The province consists of 5 districts, 24 communes and 286 villages.⁷⁵ With a population

of 231,390⁷⁶ and population density of 38 persons per km² it is one of the least populated and developed provinces in the country.⁷⁷ Over 20.9 percent of the populations are living under the poverty line.⁷⁸

Map 1: Oddar Meanchey Province



Source: ODC 2015

⁷⁵Oddar Meanchey Province Statistics in the NCCD website <http://db.ncdd.gov.kh/gazetteer/view/index.castle> (accessed 2 Oct 2014)

⁷⁶National Institute of Statistics, *Cambodia Inter-Censal Population Survey 2013 Final Report*, November 2013, p 19. http://countryoffice.unfpa.org/cambodia/drive/CIPS_Report_English_Final.pdf (accessed 9 March 2015).

⁷⁷Ibid, p 21.

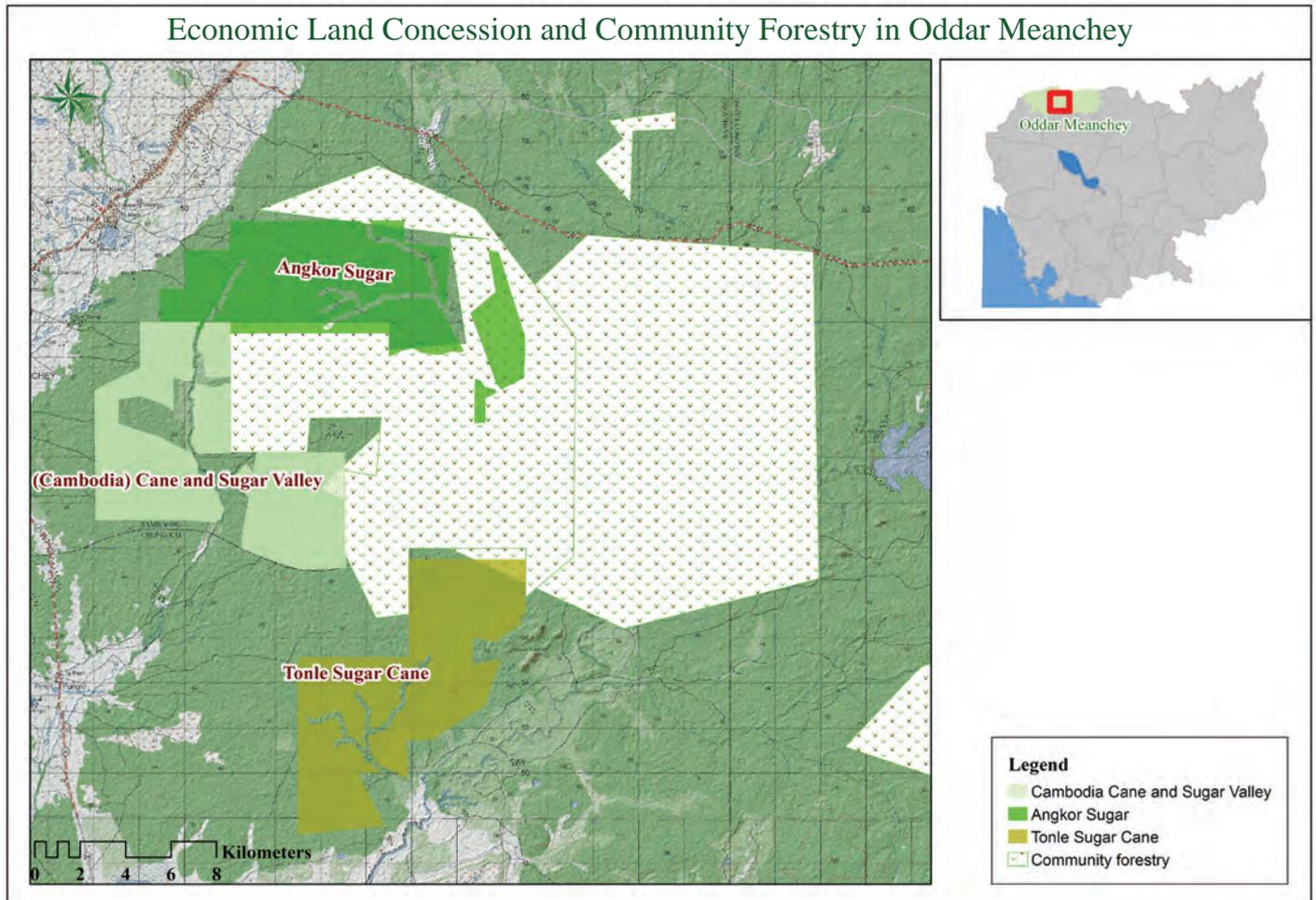
⁷⁸Kingdom of Cambodia, *ID Poor Statistic Report for Oddar Meanchey Province Meanchey 2012* http://www.idpoor.gov.kh/ReportFiles/Public/Rd06_Year2012/P22_Otdar_Meanchey_OMC_Eng/Rd06_P22_OMC_Report10_Eng.pdf (accessed 12 February 2015)

3.1 The Growth of ELCs and Land grabbing in Oddar Meanchey Province

A total of **17 ELCs** covering **108,019 hectares**⁷⁹ have been granted to private companies in Oddar Meanchey Province since 2006⁸⁰. Of these, nine were for the establishment of rubber

plantations, three for sugarcane plantations and processing plants, two for cassava plantations and the remaining for other (unidentified) agro-industrial crops.⁸¹ See Map 2 and Table 3.1 for more details.

Map 2: Sugar Concessions in Oddar Meanchey Province



Source: ODC 2015

⁷⁹Author's calculation based on ELC data on the ODC website, op cit.

⁸⁰There were in total 19 ELCs granted in OMC, the Council of Ministers issued a Circular No 1471 on 16 Oct 2014 to nullify 8 ELCs contracts located within the wildlife sanctuaries in 8 provinces. Consequently an ELC covering 8,200 hectares granted to Khun Shea Import and Export Company for rubber plantation in the Kulen-Promtep Wildlife Sanctuary in Oddar Meanchey Province was cancelled. The (unofficially translated) Circular was shared by the Secretariat of the TWG-Land (DP) on 25 October 2014.

⁸¹ODC website, op cit.

Table 3.1 List of ELCs in Oddar Meanchey Province

No	Concessionaire name	Concession size (hectares)	District(s)	Investment intention	Duration	Investor country
1	Angkor Sugar	6523	Samraong	Sugar can plantation and constructing processing factory	70 years	Thailand
2	Cambodia Cane and Sugar Valley	6595	Samraong	Sugar can plantation and constructing processing factory	70 years	Thailand
3	Tonle Sugar Cane	6618	Chong Kal	Sugar can plantation and constructing processing factory	70 years	Thailand
4	Hout Meang Rita Co.,Ltd.	1195	Not found	Rubber plantation and other Agro-industrial crops	70 years	Not found
5	Hout Meang Rita Co.,Ltd.	3000	Not found	Rubber plantation and other Agro-industrial crops	Not found	Not found
6	Nature Plantation (K.H) Co., Ltd.	7220	Trapeang Prasat	Rubber plantation and other Agro-industrial crops	70 years	Korea
7	Sok Samnang Development	1865	Not found	Rubber plantation and other Agro-industrial crops	70 years	Not found
8	Tay Ninh Siem Reap Aphivath Caoutchouch Co., Ltd.	7600	Not found	Rubber plantation and other Agro-industrial crops	Not found	Not found
9	Tomring Rubber (Cambodia) Co., Ltd.	7750	Trapaing Prasat, Anlongveng	Rubber plantation and other Agro-industrial crops	70 years	Cambodia
10	Best Royal (K) Co., Ltd.	6500	Not found	Rubber plantation and other Agro-industrial crops	70 years	Not found
11	Lon A Grid Thaek Investment Company	4095	Not found	Rubber plantation and other Agro-industrial crops	70 years	Not found
12	Samrong Rubber Industries Pte., Ltd.	9658	Anlong Veang, Varin	Rubber plantation and other Agro-industrial crops	70 years	Cambodia
13	Crystal Agro Company Limited	8000	Samraong	Cassava and agro-industry plantation	70 years	Thailand
14	Real Green Co., Ltd.	8000	Samraong	Cassava plantation, other agro-industrial crops and constructing processing factory	70 years	Thailand
15	Se Hong Plantation Company Limited	9700	Not found	Agro-industrial crops	Not found	Not found
16	Cheat Aphivat Co., Ltd	6000	Thmar Pouk, Banteay Ampil	Not found	Not found	Not found
17	Data Rubber (Cambodia) Co., Ltd.	7700	Not found	Agro-industrial crops	70 years	Cambodia

Source: ODC 201

Of the 17 ELCs, five concessions were granted by the MAFF and the rest by the MOE. Of the 12 granted by MOE, ten concessions overlap significantly with the Kulen-Promtep Wildlife Sanctuary, six with five different Community Forests (CFs)⁸² and one with the Banteay Chmar Landscape Protection Area.

3.2 Sugar Concessions in Oddar Meanchey Province

In January 2008, the MAFF granted three ELCs totaling 19,736 hectares in Samraong and Chong Kal districts of Oddar Meanchey Province to three companies for the establishment of sugarcane plantation and sugar processing plants for the duration of 70 years. The three sugar concessions are located across four communes – Samraong and Koun Kriel in Samraong District; and Chong Kal and Ponggro in Chong Kal district.

- Angkor Sugar Company (6,523 hectares) is located mainly in Koun Kriel commune;
- Cambodia Cane and Sugar Valley Company (6,595 hectares) is located in Samraong and Koun Kriel commune;
- Tonle Sugar Cane Company (6,618 hectares) is located in Chong Kal and Ponggro commune.

3.3 Affected Communities

The study has found that the three sugar concessions overlap with 26 villages in the four communes. The Angkor Sugar, and Cambodia Cane and Sugar Valley Companies are adjacent to each other and overlap with 11 villages in Samraong and five villages in Koun Kriel communes while the Tonle Sugar Company overlaps with six villages in Chong Kal and four villages in Ponggro communes respectively. Table 3.2 provides the details of affected villages by the three concessions.

Table 3.2: Affected Villages by the three Sugar Concessions

Angkor Sugar and Cambodia Cane and Sugar Valley Companies			
Samraong Commune		Koun Kriel Commune	
No	Affected Villages	No	Affected Villages
1	Doun Kaen	1	O' Bat Moan
2	Pul	2	Khtum

3	Chhouk	3	Trapeang Veng
4	Koun Damrei	4	Ta Man
5	Bak Nuem	5	Bos
6	Chhaeb		
7	Ou Kravan		
8	Ou Krasaeng		
9	Kouk Kor		
10	Ou Russey		
11	Kouk Chres		
Total	11	Total	5

Tonle Sugar Cane Company			
Chong Kal Commune		Ponggro Commune	
No	Affected Villages	No	Affected Villages
1	Kor	1	Ta Paen
2	Ah Tao	2	Kandaol Dom
3	Chhouk	3	Banteay Choar
4	Banteay Chas	4	Srah Kaev
5	Bak Nuem		
Total	6	Total	4

Of the 26 villages, 18 villages (in bold in the table above) were found to be severely affected where more than ten families were identified to be affected. The data collection for the fieldwork concentrated on these 18 villages, however the researchers were only able to access 14 villages, which is highlighted in blue due to the location of the villages deep in the forest and inaccessibility by road which was discussed in detail in chapter 1 in limitations of the research. The concessions also overlapped significantly with the common land – **Ratankak Ruka Community Forest**.

It should be noted that the administrative boundaries of some the villages have changed since the date the sugar concessions were granted, with many villages in all four communes consolidated and further divided in 2012 and many families having also moved residences, in many instances migrating to Thailand for work.

Affected villages and families are elaborated in detail in Chapter 4.

⁸²These include: 1) Ratanak Ruka CF (the largest CF), 2) Reusey Rossomros Brasat Thlong CF, 3) Orot Kikiri Prey Sabong CF, 4) Samaki Song Kros Prey Cheur CF and 5) Roulos Thom CF based on ODC website, op cit.

3.4 Profile of the Concessionaires

A cursory glance over the MAFF's ELC records reveals that the three companies are closely affiliated to each other as a) all three applied for concession on the same day 8 March 2007, b) received approval from MAFF/COM on the same day 18 December 2007, and c) signed the concession contracts on the same day 24

January 2008.⁸³ The companies had requested over 33,846 hectares⁸⁴ for concession but were granted only 19,736 hectares following assessments conducted by the Working Group of the Technical Secretariat for Economic Land Concession (MAFF) in June 2007⁸⁵. See Table 3.3 for details on each concession.

Table 3.3: Details of the Three Sugar Concessions

	Angkor Sugar	Cambodia Cane and Sugar Valley	Tonle Sugar
Date of Application	8 March 2007	8 March 2007	8 March 2007
Date of Approval by MAFF/COM	18 December 2007	18 December 2007	18 December 2007
Date of Contract	24 January 2008	24 January 2008	24 January 2008
Size of Concession (Hectares)	6523	6595	6618
Location of Concession	Koun Kriel commune in Samraong District	Koun Kriel and Samraong Commune in Samraong District	Ponggro and Chong Kal Commune in Chong Kal District
Affected Villages	16		10
Nationality of Company Owner / Director	Thai	Thai	Thai
Company Directors	Mr Tai Wannakornkul	Mr Krisda Monthiencichienchai	Mr Buntoeng Vongkusolkait
Purpose of the Concession	Sugarcane plantation and construction of processing factory	Sugarcane plantation and construction of processing factory	Sugarcane plantation and construction of processing factory
Duration of the Concession Contract	70 years	70 years	70 years

Source: ODC 2014

Research carried out by EC and IDI on the Directors of the three companies identified in the official company profiles in the MAFF's ELC website⁸⁶ revealed that all three directors were senior figures in the same parent company - the Thai sugar giant Mitr Phol Sugar Corporations (Mitr Phol).⁸⁷

- The Director of the Angkor Sugar Company, Mr Tat Wanakornkul⁸⁸, was identified as the

Group Managing Director of Mitr Phol at the time;

- The Director of the Cambodia Cane and Sugar Valley Company, Mr Krisda Monthienvichienchai⁸⁹, was the President and CEO of Mitr Phol; and
- The Director of the Tonle Sugar Cane Company, Mr Buntoeng Vongkusolkait⁹⁰, was a Director of Mitr Phol.

⁸³ODC website, op cit.

⁸⁴Author's calculation based on the Working Group of the Technical Secretariat for Economic Land Concession, *Report on the Assessment of the Proposed Economic Land Concessions of Angkor Sugar Company, Cambodia Cane and Sugar Valley Company and Tonle Sugar Cane Company in Oddar Meanchey Province*, 22 June 2007 (obtained unofficially by the author).

⁸⁵Working Group of the Technical Secretariat for Economic Land Concession, June 2007, op cit.

⁸⁶Company Profiles, previously available on the MAFF-ELC website at: <http://www.elc.maff.gov.kh/comprofiles/udmangksugar.html>

⁸⁷EC and IDI, op.cit, p29.

⁸⁸See profile of Mr Tat Wanakornkul in newspaper articles and Bloomberg Businessweek, he is currently the Managing Director of Khonburi Sugar Public Company Limited <http://www.newswit.com/.nrg/2009-01-27/815cc43d3b45b5f0c5f318961fed5c43/> and <http://investing.businessweek.com/research/stocks/people/person.asp?personId=58999866&ticker=KBS:TB> (Accessed on 8 November 2014)

⁸⁹See profile of Mr Krisda Monthienvichienchai in Bloomberg Businessweek <http://investing.businessweek.com/research/stocks/private/person.asp?personId=24424530&privcapId=5458340> (Accessed on 8 November 2014)

⁹⁰See profile of Mr Buntoeng Vongkusolkait in Bloomberg Businessweek <http://investing.businessweek.com/research/stocks/private/person.asp?personId=211158210&privcapId=26505712&previousCapId=4484092&previousTitle=MSF%20Sugar%20Limited> (Accessed on 8 November 2014)

Mitr Phol: Mitr Phol Sugar Corporation is Thailand's and Asia's biggest sugar and bioenergy (ethanol, biomass) producer. It is also the fifth largest producer of sugar in the world, producing over two million tonnes of sugar per year. Mitr Phol is a privately owned group of companies established in 1946 by the Vongkusolkrit family in Thailand, which opened its first sugar factory in 1956.⁹¹ A hundred percent of company's shares is collectively owned by the Vongkusolkrit family through Mid-Siam Sugar Co Ltd.⁹² Its chairman, Mr Isara Vongkusolkrit, appeared as number twenty on Forbes magazine's list of Thailand's 50 richest people in 2014, with a net worth of \$1.1 billion.⁹³ Mitr Phol owns five sugar mills in Thailand and has operations and investments in Australia, Cambodia, China, Lao PDR and Vietnam.

Within the Great Mekong Sub-region, in addition to the three sugar concessions in Cambodia, Mitr Phol owns another sugar concession covering 10,000 hectares in Savannakhet Lao PDR through its subsidiary Mitr Lao Sugar Company. The concession was granted in 2008 for 40 years by the Government of Laos PDR with the objective to produce and process sugarcane intended for export to the EU market under the EBA initiative.⁹⁴ In 2010, Mitr Phol revealed its plans to expand and acquire more concessions in Lao PDR.⁹⁵

Mitr Phol, in a statement in July 2012 in response to a letter from Business & Human Rights Resource which raised concerns about human rights abuses in its Cambodian operation, confirmed that *'Mitr Phol owns one company and is partnering with two other companies not owned by Mitr Phol'*. It however maintained that

there has been *'no Cambodian shareholding in any of these companies'*. It further stated that *'Mitr Phol does not support encroachment on private land or forced eviction, or the destruction of private property. In Cambodia, we initially sought out sparsely populated areas and have followed a land concession process prescribed by law. This process has been led by the local and national government officials and its principles are also reflected in project agreements with government authorities.'*⁹⁶

In early 2014, Mitr Phol was revealed by the Coca Cola Company as one of its top three global 'direct cane sugar' suppliers as part of its zero tolerance to land grab initiatives⁹⁷ in response to pressure from NGOs to clean up its supply chain. The Coca Cola Company, as part of its investigation into the allegations of land grabbing and forced evictions by its supplier firms around the world, hired third-party auditors to carry out initial 'social, environmental and human rights assessments' of Cambodian sugar suppliers⁹⁸ which included field visits to the three sugar concessions in Oddar Meanchey Province in February 2014⁹⁹. The Coca Cola Company had committed to make public the initial assessment findings by December 2014 followed by a facilitated stakeholder dialogue, the output of which would be made public via the company's Journey website.¹⁰⁰ However in February 2015, the Coca Cola Company revealed to the media that it will not be publishing the findings of the assessment as it was not a *'social compliance audit but a process to gather facts and perspectives'*.¹⁰¹

Connection to Senator Ly Yong Phat and the LYP Group: There is also some reported affiliations

⁹¹Mitr Phol website, About Us; at: http://www.mitrphol.com/index.php/en/about_us/index.html (Accessed on 8 November 2014)

⁹²TRI Rating (2014) *Tri Rating Credit Update Mitr Phol Sugar Corporation* (17 September 2014) <http://www.trisrating.com/en/mitr-phol-sugar-corporation-limited-list/3348-mpsc-new-issue-rating-assigned-at-qastableq101013.html> (Accessed 8 November 2014)

⁹³Forbes (2014) *Thailand's 50 Richest, #20 Isara Vongkusolkrit & family*, June 2014, <http://www.forbes.com/profile/isara-vongkusolkrit/> (Accessed on 8 November 2014)

⁹⁴Chalida Ekvitthayavechnukul, *Mitr Phol increases capacity in Laos*, The Nation, 17 November 2009, http://www.nationmultimedia.com/2009/11/17/business/business_30116746.php

⁹⁵Bangkok Post, *Sweet Success Ahead*, 8 February 2010 <http://www.bdo-thaitax.com/bdo/in-the-news/49>

⁹⁶Business and Human Rights, *Mitr Phol Group response to alleged human rights abuses and seizure of land by sugar companies in Cambodia*, 24 July 2012. Available at: http://www.business-humanrights.org/media/documents/company_responses/mitr-phol-cambodia-response-24-jul-2012.doc

⁹⁷See *The Coca Cola Company Commitment: Land Rights and Sugar* <http://assets.coca-colacompany.com/6b/65/7f0d386040fcb4872fa136f05c5c/proposal-to-oxfam-on-land-tenure-and-sugar.pdf> (Accessed on 8 November 2014)

⁹⁸Zsombor P, *Coca-Cola confirms Audit of Cambodian Suppliers*, Cambodia Daily, 28 February 2014 <https://www.cambodiadaily.com/archives/coca-cola-company-confirms-audit-of-cambodian-suppliers-53328/>

⁹⁹Aun P, *NGO declare Coca Cola's visit Compromised by Police*, Cambodia Daily, 3 March 2014 <http://www.cambodiadaily.com/news/ngo-declares-coca-colas-visit-compromised-by-police-53395/>

¹⁰⁰The Coca Cola Company op cit, p1.

¹⁰¹Zsombor P & Aun P, *No Relief for Evictees One Year on From Coca-Cola Visit*, Cambodia Daily, 14 February 2015

between the three companies with CPP Senator Ly Yong Phat and his company LYP Group:

- a) According to the Ministry of Commerce website at the time of the establishment, the head offices of the three companies shared an office with the LYP Group¹⁰²
- b) In 2007, villagers in the O’Bat Moan/Bos village in Samroang District were told by the local authorities and staff of the companies that if they wanted to file complaints against any of the three companies, they should address it to H.E. Ly Yong Phat, “since he is in charge of all of them”¹⁰³
- c) In April 2008, Angkor Sugar company staff wearing T-shirts with “Donated by H.E. Ly Yong Path” printed across demolished 154 houses in O’Bat Moan/Bos village to make way for the concession¹⁰⁴
- d) In October 2009, houses belonging to further 100 families in the O’Bat Moan/Bos village were burned and bulldozed by a contingent approximately 150 police, military police, hired demolition workers, and RCAF troops from Brigade 42.¹⁰⁵ Brigade 42 is a military unit that is officially sponsored by Senator Ly Yong Phat’s O’Smach casino in OMC.¹⁰⁶ The RCAF troops were used to set up roadblocks and aided in the burning and bulldozing of the village
- e) In August 2014, Mr Um Sokhon, a Samroang Commune Councilor in an interview with Phnom Penh Post confirmed that the three concessionaires ‘are under the control of Yong Phat’.¹⁰⁷

3.5 Process of the Granting of the Sugar Concessions

Mitr Phol in a statement in July 2012 in response to a letter from Business & Human Rights Resource stated that,

‘Mitr Phol does not support encroachment on private land or forced eviction, or the destruction

of private property. In Cambodia, we initially sought out sparsely populated areas and have followed a land concession process prescribed by law. This process has been led by the local and national government officials and its principles are also reflected in project agreements with government authorities.

Our understanding of this process is that authorized officials undertook land surveys within a larger identified area to determine and identify 1) land privately owned by residents, and 2) land already set aside or reserved for natural conservation, i.e. national forests, national heritage sites, or other protected areas. Public consultation followed between officials and locals ensued to demarcate areas and agree on existing land ownership, to determine compensation offers for any private land identified that included financial payment and substitute land provided by officials. Mitr Phol was excluded from this process and was not a participant, but by agreement was responsible for the expenses incurred from this process. During this process, disputes arose leading to subsequent consultation, negotiations and proceedings. Clearly, there are differing reports characterizing events and the nature of some of the consultations and interaction between locals and authorized local officials, authorized committees of officials, and a court proceeding. Mitr Phol has been informed that this process has been according to the law and fully documented.’¹⁰⁸

This section will elaborate on the chronology of events related to the granting of the three sugar concessions in Oddar Meanchey Province, see Table 3.4 for chronological details.

¹⁰²LYP Group located at #205-209, Mao Tse Tung Boulevard, Phnom Penh, Tonle Sugar Company <http://www.moc.gov.kh/Company/Detail.aspx?MenuID=18&NoticeID=1&ID=12805>, Angkor Sugar Company <http://www.moc.gov.kh/Company/Detail.aspx?MenuID=18&NoticeID=1&ID=12803> and (Cambodia) Cane and Sugar Valley Company <http://www.moc.gov.kh/Company/Detail.aspx?MenuID=18&NoticeID=1&ID=12804>

¹⁰³LICADHO (2009) *Briefing Paper: Bos/O’Bat Moan Village in KonKriel Commune, Samraong District, Oddar Meanchey Province*, 12 October 2009, p2. <http://www.licadho-cambodia.org/reports/files/197LICADHOBrief-ForcedEvictionMitrPolSugar2009-English.pdf>

¹⁰⁴Ibid, p5

¹⁰⁵Ibid, p6

¹⁰⁶O’Toole J & Lim P, *Document shows ties among RCAF government and private sector*, Phnom Penh Post, 4 March 2010 <http://www.phnompenhpost.com/national/document-shows-ties-among-rcaf-government-and-private-sector>

¹⁰⁷Ponniah K, *Sugar giant in spotlight for abuse*, Phnom Penh Post, 14 August 2014

<http://www.phnompenhpost.com/national/sugar-giant-spotlight-abuse> (Accessed on 8 November 2014)

¹⁰⁸Business and Human Rights, Ibid.

Table 3.4 Process of the Granting of the three Sugar Concessions

Date	Events		
	Angkor Sugar	Cambodia Cane and Sugar Valley	Tonle Sugar
1979-2000	<ul style="list-style-type: none"> The majority of the families started returning to their land in Samraong and Chong Kal Districts after the fall of the Khmer Rouge Regime and started claiming back their residential land, they acquired agricultural land through the sub-division of the Krom Samaki land in 1989 and started to clear forestland for chamkar from 2000. 		
2002-2004	<ul style="list-style-type: none"> 16 communities in Samraong and Koun Kriel commune started work on establishing the Ratanak Ruka and Ratanak Sambat Community Forest (CF) in 26,036 hectares of forestland in close cooperation with the Provincial Authorities and the Forestry Administration (FA). 		
2006	<ul style="list-style-type: none"> The Community Forest Management Committee (CFMC) of Ratanak Ruka and Ratanak Sambat Community Forests completed 6 of the 8 steps towards the legal recognition of the community forest and submitted the draft agreement to the Provincial Authority for approval before submitting it to MAFF. 		
8 March 2007	<ul style="list-style-type: none"> Angkor Sugar Company, Cambodia Cane and Sugar Valley Company and Tonle Sugar Cane Company submitted an 'unsolicited' application for investment to the Technical Secretariat of ELC at MAFF requesting a total of 33,846 hectares land for investment for sugarcane plantation and the construction of a processing plant in Samraong and Chong Kal Districts. <ul style="list-style-type: none"> Angkor Sugar Company (10,754 hectares) requested mainly in Koun Kriel commune; Cambodia Cane and Sugar Valley Company (10,925 hectares) requested in Samraong and Koun Kriel commune; Tonle Sugar Cane Company (12,167 hectares) requested in Chong Kal and Pongro commune. It is unclear whether Environmental and Social Impact Assessments (ESIA) and consultations with local authorities and villagers required under the Sub-decree on Economic Land Concession were carried out by the companies prior to the submission of application. The reports are not publically available. 		
29 May-5 June 2007	<ul style="list-style-type: none"> The Working Group of the Technical Secretariat carried out assessment within the 33,846 hectares of the proposed concession area for ELC (MAFF) in collaboration with the Oddar Meanchey Provincial Working Group. The Working Group identified the geographical, geological and land/forest situation including the villages located within and adjacent to the proposed concession area. The Village and Commune Council Chiefs of each identified villages were instructed by the Provincial Governor to collect statistics on the number of families in each village including the size (hectares) of their residential, agricultural and chamkar land. The village chiefs duly submitted handwritten list, which were thumb-printed by all the families in the village to the Governor and the Oddar Meanchey Provincial Working Group. This list is crucial for the identification of claims and the setting up of the grievance redress mechanism and shall be known as PRIMARY LIST 1. 		
22 June 2007	<ul style="list-style-type: none"> Findings on the size and condition of land inside the proposed concession area were submitted by the Working Group of the Technical Secretariat for ELC to the Director of the Technical Secretariat for ELC at MAFF in a memo dated 22 June 2007 based on the assessment report. 		
6 August 2007	<ul style="list-style-type: none"> Letter No 1963 RP/KRS dated 6 August 2007 issued by the Chief of the Community Forest Department, Siem Reap FA Cantonment to the Chief of the Community Forest Department to carry out an assessment of the community forest situation. 		
7-9 August 2007	<ul style="list-style-type: none"> The Community Forest Management Committee (CFMC) of Ratanak Ruka and Ratanak Sambat CF carried out their own mini 'Environmental and Social Impact Assessment (ESIA)' from 7-9 August 2007 detailing the adverse impact of the granting of the concession would have on the housing and land of community and the flora and fauna in the proposed CF land. The report was submitted to the Siem Reap FA Cantonment on 16 August 2007. 		
August 2007	<ul style="list-style-type: none"> Letter No 73 KSP dated August 2007 submitted by the Chief of the Community Forest Department to the Chief of the Community Forest Department, Siem Reap FA Cantonment with the results of the meetings with the Ratanak Ruka Community Forest members and Commune FAs and NGOs recommending the Siem Reap FA Cantonment to a) refrain from granting concessions in evergreen forestlands (where the CF's are situated); b) if necessary to identify land other than CF land to grant for ELC and c) actively work towards conserving the forestland etc. 		
21 August 2007	<ul style="list-style-type: none"> Letter No 5268 KSK dated 21 August 2007 submitted by MAFF to the Prime Minister and the Council of Ministers (COM) recommending only sparse deciduous forest land area or 'degraded forestland' covering 19,736 hectares be considered for ELCs of the total 33,846 hectares requested by the companies: <ul style="list-style-type: none"> Sparse deciduous forest land area of 6,523 hectares from the proposed land by Angkor Sugar Company; Sparse deciduous forest land area of 6,596 hectares from the proposed land by Cambodia Cane and Sugar Valley Company; Sparse deciduous forest land area of 6,618 hectares from the proposed land by Tonle Sugar Cane Company. And excision of 14,110 hectares of semi-evergreen, green deciduous, forest along the stream and land with human settlements from inside of the proposed concession area. 		

Date	Events		
	Angkor Sugar	Cambodia Cane and Sugar Valley	Tonle Sugar
21 September 2007	<ul style="list-style-type: none"> Letter No 5268 KSK dated 21 September 2007 from MAFF to the Prime Minister and the Council of Ministers (COM) requesting for the decision on application made by the 3 companies. 		
5 October 2007	<ul style="list-style-type: none"> Letter No. 1475 SCN dated 05 October 2007 was issued by the COM to MAFF instructing MAFF to a) remove all the semi-evergreen, green deciduous, forest along the stream and land with human settlements from the proposed concession area and b) approve in principle concessions over of the remaining 19,736 hectares to the 3 companies comprised of 6,523 hectares (Angkor Sugar Company; 6,595 hectares (Cambodia Cane and Sugar Valley Company) and 6,618 hectares (Tonle Sugar Cane Company) in Samraong, Koun Kriel, Chong Kal and Ponggro Communes for sugar plantation and construction of processing plant. 		
October-November 2007	<ul style="list-style-type: none"> After getting approval from the COM to grant ELC over 19,736 hectares (while still in principle only) the Provincial Governor instructed the Oddar Meanchey Provincial Working Group and other relevant institutions including the District, Commune and Village authorities to demarcate the boundaries of the three concessions. 		
November 2007	<ul style="list-style-type: none"> The Oddar Meanchey Provincial Working Group subsequently started to measure 19,736 hectares land using GPS in the four communes and set up boundary poles. DISPUTE: This was first time villagers started to become aware of the concessions. Disputes started to erupt when the boundary poles were placed on the land where the villagers lived, over their agricultural and chamkar lands and not just over 'sparse deciduous degraded forest lands'; According to the data collated by the author and based on the available PRIMARY LIST 1 data over 2,073 families in 26 villagers within the four communes owning a total of 9,480 hectares of residential, agricultural and chamkar land were identified have fallen inside the proposed concession land boundaries. 		
18 December 2007	Letter No. 6962/594 KSK.NP.PK dated 18 December 2007 submitted by MAFF to the COM requesting for the full delegation of power to sign concession contract over 6,523 hectares of land.	Letter No. 6961/593 KSK.NP.PK dated 18 December 2007 submitted by MAFF to the COM requesting for the full delegation of power to sign concession contract over 6,595 hectares of land.	Letter No. 6960/592 KSK.NP.PK dated 18 December 2007 submitted by MAFF to the COM requesting for the full delegation of power to sign concession contract over 6,618 hectares of land.
28 December 2007	Letter No 129 dated 28 December 2007 issued by the Royal Government of Cambodia conferring the full delegation of power to MAFF to sign the concession contract with Angkor Sugar Company.	Letter 130 SBT dated 28 December 2007 issued by the Royal Government of Cambodia conferring the full delegation of power to MAFF to sign the concession contract with Cambodia Cane and Sugar Valley Company.	Letter No. 129 SBT dated 28 December 2007 issued by the Royal Government of Cambodia conferring the full delegation of power to MAFF to sign the concession contract with Tonle Sugar Cane Company.
24 January 2008	ELC contract signed between MAFF and Angkor Sugar Company on 24 January 2008 for 6,523 hectares of land.	ELC contract signed between MAFF and Cambodia Cane and Sugar Valley Company on 24 January 2008 for 6,595 hectares of land.	ELC contract signed between MAFF and Tonle Sugar Cane Company on 24 January 2008 for 6,618 hectares of land.
February 2008	<ul style="list-style-type: none"> The three companies started arriving in the concession area with excavators and began digging trenches, building earth mounds putting up additional boundary poles. Presence of military and private security guards. 		
February 2008	<ul style="list-style-type: none"> The military and private security guards started to stop the villagers from accessing their agricultural and chamkar land as the company started to clear the land and making dirt roads leading to the concession area which covered the steungs (streams) and blocked the flow of water into the irrigation canals and into their rice fields. This the time when majority of the villagers became aware of the ELC in their land. Villagers started complaining to their village chief and commune councilors. 		
2008	<ul style="list-style-type: none"> The Village Chiefs from the affected villages in Samraong and Koun Kriel commune in turn held many meetings with District Governor and Municipal Governor seeking clarification on the issue and demanding the removal of the boundary poles and withdrawal of concession contracts of the there companies. The Municipal Governor advised the villagers to go directly to the Company office and speak with them. 		
2008	<ul style="list-style-type: none"> PROTEST+ PETITIONS: Over 500 villagers from of Taman, Khtum and Trapeang Veng Village from Koun Kriel commune protested at the Angkor Sugar Company office inside the concession area demanding the withdrawal of the company. Other affected villages in Koun Kriel commune also took turns to protest on different days. 		
	<ul style="list-style-type: none"> The company representative told the villagers the company had legally leased the land and if they had any issues they should take it up with the Provincial Hall and relevant authorities, the villagers were dragged out by the military and private security guards. 		

Date	Events		
	Angkor Sugar	Cambodia Cane and Sugar Valley	Tonle Sugar
2008	<ul style="list-style-type: none"> Due to the lack of action from the District Municipal Governors the villagers started collecting thumb-printed petitions and protesting in front of the District and Municipal Offices. In response, the Provincial Governor organised a meeting together with the company representatives, Municipal and District Governors and other governmental officials. The Provincial Governor in meeting claimed that the three companies had been granted permission by the Royal Government of Cambodia to develop a sugarcane plantation and a sugar processing plant and that the concession had been granted on state land and not on the villagers residential, agricultural or chamkar land as claimed and that the contract lease was not reversible. 		
2008	<ul style="list-style-type: none"> Since there were no solutions from the Provincial Hall over 801 villagers from seven villages located within the CF area in Koun Kriel commune collected thumb printed petitions and submitted it to the Prime Minister's Cabinet, MOI and MAFF requesting intervention to get their grabbed land back. The Deputy Provincial Governor worried about the growing protest promised to address the dispute and help get their land back if they refrained from using violence and causing unrest in the province. 		
2008	<ul style="list-style-type: none"> Dispute Resolution Committee (DRC): The Provincial Governor established the Dispute Resolution Committee, the Committee was instructed by the Provincial Governor to assess the PRIMARY LIST 1 of residential, agricultural and chamkar lands prepared by the Village chiefs and verify the claims of overlap in each affected village. The committee accompanied by the commune and village chiefs of each affected village began surveying and demarcating the outer concession boundary vis-a-vis the contracted size. The company agreed to move back some concession boundary poles and walls. 		
2008	<ul style="list-style-type: none"> Preparation of a Second List of Agricultural and Chamkar Land by the DRC: The Committee then started assessing and measuring the villagers land inside the concession boundary and prepared a SECONDARY LIST 2. The Committee did not recognise the rights of the villagers over the chamkar land arguing that the villagers had illegally encroached on state public land and had no right over the forestland but considered and classified the agricultural land. However, the villagers were only entitled to claim agricultural land that had been cleared, ploughed and cultivated within the last two-three-years as evidenced by growing or left-over rice/crops stalks on the land. They lost all claims to land that had remained fallow and unused in past few years prior to the visit by the Committee. Majority of the overlapped land was agricultural and chamkar land with some residential land located within O'Bat Moan/Bos Village in Koun Kriel and Samraong. 		
April 2008	<ul style="list-style-type: none"> FORCED EVICTION: Angkor Sugar Company was the first company to commence work in the claimed concession area. Under the guidance of local authorities, Angkor Sugar Company staff wearing T-shirts with logos saying "Donated by H.E. Ly Yong Path" demolished 154 houses in O'Bat Moan village in April 2008. 		
2008-2009	<ul style="list-style-type: none"> Land Swap: The Provincial Governor subsequently agreed to give back only the 'cleared, claimed and cultivated' agricultural land and not the chamkar (former forestland) or 'other agricultural' land through the process of a land swap. The land swap process started in 2008 and ended by early 2009. Instead of a full 'leopard-skin' strategy, the Committee gave back only a few hectares of 'cleared, claimed and cultivated' agricultural land inside the concession area and some vacant 'state land' while the majority of rest of replacement were land 'contributed' by villagers who had agricultural land located outside the concession area. These villagers were forced to give up their land as contribution. The affected villagers only got 50% percent or half the size of their 'cleared, claimed and cultivated' agricultural land. The villagers' thumb-printed land swap contracts which stated they were giving their chamkar (former forestland) and 'other agricultural' land to the village chief and getting another land in its replacement. The contract was signed by the village chief and commune chief. According to the data collated by the author and based on the available SECONDARY LIST 1 over 3,588ha of replacement land was provided to the villagers living in the 26 affected villages through the land swap process. The total land overlapped was 9,480 hectares. 		
4 May 2009	<ul style="list-style-type: none"> The Community Forestry Agreement for the Ratanak Ruka Community Forest was signed on 4 May 2009 over an area of 12,872 hectares. 		
2009	<ul style="list-style-type: none"> Villagers were very unhappy with the land swap process and have continued to protest and demand for the return of their grabbed residential, agricultural and chamkar land and reparations for the loss of property and income since the granting of the concession. 		
9 October 2009	<ul style="list-style-type: none"> FORCED EVICTION: Over 150 police, military police, hired demolition workers and FA and RCA troops from battalion 42 blocked the entrance to O'Bat Moan/Bos village and bulldozed and burnt further 100 houses. 		

Date	Events		
	Angkor Sugar	Cambodia Cane and Sugar Valley	Tonle Sugar
19 November 2008	<ul style="list-style-type: none"> The Ratanak Ruka Community Forest was legally approved by the MAFF through the Sub-decree 487 on the Formation and Management of Community Forests in Oddar Meanchey Province together with 11 other CFs on 19 November 2008 		
23 August 2012	<p>Sub-Decree No 130 ANK/BK issued by the Royal Government of Cambodia reclassifying and transferring 6,328 hectares of State Public Land to State Private Land.</p> <ul style="list-style-type: none"> It is understood that the concession land was reduced by 192 hectares from the original 6,523 hectares to 6,328 hectares following the granting of some land within the concession area back to few villagers through the land swap process. But this number needs to be verified further on the ground. It is unclear if the contract lease was amended to reflect the reduction in the concession size. 	<p>Sub-Decree No 131 ANK/BK issued retroactively by the Royal Government of Cambodia reclassifying and transferring 5,908 of State Public Land to State Private Land.</p> <ul style="list-style-type: none"> It is understood that the concession land was reduced by 688 hectares from the original 6,596 hectares to 5,908 hectares following the granting of some land within the concession area back to few villagers through the land swap process. But this number needs to be verified further on the ground. It is unclear if the contract lease was amended to reflect the reduction in the concession size. 	<p>Sub-Decree No 132 ANK/BK issued retroactively by the Royal Government of Cambodia reclassifying and transferring 6,164 hectares of State Public Land to State Private Land.</p> <ul style="list-style-type: none"> It is understood that the concession land was reduced by 454 hectares from the original 6,618 hectares to 6,164 hectares following the granting of some land within the concession area back to few villagers through the land swap process. But this number needs to be verified further on the ground. It is unclear if the contract lease was amended to reflect the reduction in the concession size.

Application for Concession lodged by the Three Companies (March 2007)

Application for investment was lodged by the three companies to the Technical Secretariat on Economic Land Concession¹⁰⁹ at MAFF on 8 March 2007 as an unsolicited application. As mentioned in Chapter 2, ELCs can be initiated through solicited proposals, where the Royal Government of Cambodia proposes a project and seeks expressions of interest from potential private investors, or unsolicited proposals, where an investor proposes a project to the Royal Government of Cambodia for approval.¹¹⁰ However unsolicited proposal is the norm as is the case here. Both processes requires the private investor to carry out carry due diligence including meaningful consultations with the local authorities and communities living in the proposed area; initial Environment and Social Impact Assessment (ESIA) and if the initial ESIA indicates a medium or high degree of adverse impact, arrange for a full ESIA. There is no

publicly available evidence that the companies conducted an ESIA prior to the submission of the application. Most of the villagers the researchers spoke with said no information sessions or meaningful consultations were carried out with them by the companies prior to their application.

According to the 2007 'Assessment' Report¹¹¹ carried out by the Working Group of the Technical Secretariat on ELC obtained unofficially by the author, the three companies initially requested an area of 33,846 hectares (see the individual company requests in the Table 3.5 below) for the purposes of sugarcane plantation and construction of a sugar processing plant in the four communes.

¹⁰⁹The Technical Secretariat for Economic Land Concession was comprised of 11 members 1) the Deputy Chief of Forestry Administration, who is also the Chief of Technical Secretariat for Economic Land Concession, 2) reserved member of the Council of Jurist of the Council of Ministers, 3) Deputy Technical Director of Ministry of Environment (MOE), 4) Deputy Secretary-General of Ministry of Land Management, Urban Planning and Construction (MLMUPC), 5) Deputy Chief of National Commerce Department of Ministry of Commerce (MoC), 6) Deputy Chief of Planning and Statistic Department, 7) Deputy Chief of Agronomy and Agriculture Land Reform Department, 8) Chief of State Property Management Office of Ministry of Interior, 9) Deputy Chief of Agro-industry Department, 10) Deputy Chief of Forest Industry and Commerce Development Office of Forestry Administration and 11) the Forestry Administration official.

¹¹⁰Sub-Decree on ELC, op cit. Article 6.

¹¹¹Explained in detail in the next section

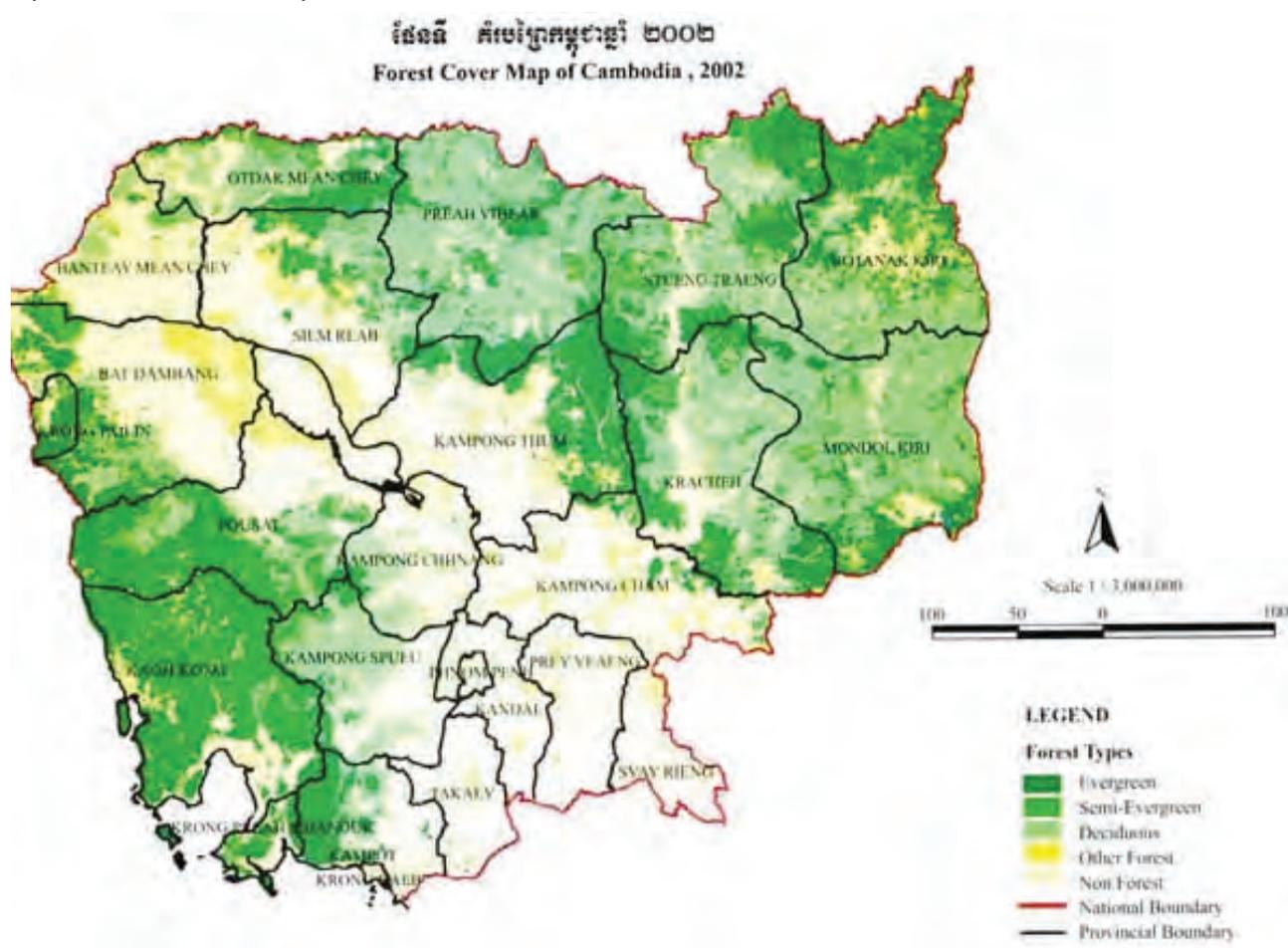
Table 3.5 Breakdown of the concession land requested by the three Sugar Companies

Company	Size of Land Requested (hectares)	Affected Communes
Angkor Sugar Company	10,754	Koun Kriel and Samraong
Cambodia Cane and Sugar Valley Company	10,925	Koun Kriel and Samraong
Tonle Sugar Company	12,167	Ponggro and Chong Kal
Total Land Requested on 8 March 2007	33,846	

Source: Assessment Report 2007

The companies might have chosen Oddar Meanchey province for investment for three reasons a) it is a border province—it shares a 224 km border with Thailand- which would provide ease of transport for raw materials, b) the province is sparsely populated and c) because there are large tracts of land in the province, the majority of which is considered to be Permanent Forest Estate which the company deemed it to be open for exploitation. A member of the Ratanak Ruka Community Forest in Samraong Commune¹¹² observed that the company based their request on the 2002 Forest Cover Map (see Map below), which he said was provided to the companies by the Siem Reap FA Cantonment.

Map 3: Forest Cover Map of Cambodia 2002



Source: Forestry Administration of Cambodia¹¹³

¹¹²KI Interview with a member of the Ratanak Ruka Community Forest, 11 December 2014

¹¹³Forestry Administration of Cambodia, Forest Cover Map of 2002 obtained from <http://www.forestry.gov.kh/AboutFA/ForestCoverMapK.html> (accessed 27 February 2015)

Instructions to carry out the Assessment (May 2007)

The Technical Secretariat on ELC upon receiving the application from the three companies instructed the Working Group of the Technical Secretariat on ELC and the Oddar Meanchey Provincial Working Group to carry out an assessment of the proposal and provide recommendations through a mission letter no. 2761 KSK issued on 28 May 2007.¹¹⁴

Assessment in (May-June 2007)

The Working Group of the Technical Secretariat on ELC in collaboration with the 22 members of the Oddar Meanchey Provincial Working Group¹¹⁵ herein known as the Assessment Team carried out an assessment of the three proposed concession areas

in Samraong, Koun Kriel, Chong Kal and Ponggro communes over eight days from 29 May to 5 June 2007.

The assessment was carried out in two steps; an aerial survey was first conducted using a helicopter to study the geo-spatial situation in the requested area followed by field survey on the geological, forest cover and land use situation in the area combined with gathering of statistics of villagers residential, agricultural and chamkar land within the proposed concession area. Table 3.6 lists the findings of the Assessment Team with the breakdown of the different types of forest and land zones within the proposed concession areas.

Table 3.6 Findings on the Land Situation in the Proposed Concession Areas

No	Forest/Land Zones in the proposed area	Hectares of the forest/land zones in the proposed concession areas		
		Angkor Sugar	Cambodia Cane and Sugar Valley	Tonle Sugar
1	Semi-Evergreen Forest	1,032		416
2	Green Deciduous Forest	1,664	2,886	2,154
3	Forest along the stream	498	212	528
4	Sparse Deciduous Forest	6,523	6,595	6,618
5	Other forest			45
6	Land with Human Settlements	857	1,232	2,451
7	Non-Forest Land (barren land)	146	90	1,450
	Total Land Size	10,720	11,015	13,662

The Assessment Team made two main recommendations in the 2007 Assessment Report:

1. That the semi-green and green deciduous forestland together with the forest along the stream should be reserved for conservation as it provides forest cover and habitat for wild flora and fauna; the three forestland together with the land with human settlements (highlighted in green in table above and totaling **13,930 hectares**) should be excluded from the proposed ELC area.
2. The sparse deciduous forest land (highlighted in blue totaling **19,736 hectares**) may be considered for the sugarcane plantation and sugar-processing plant as proposed by the three companies as sugarcane is a fast yielding crop and can be harvested for more returns compared to acacia and golden teak trees, the sugarcane can be used

to make (bio) fuel and sugar for local needs and export.

The Assessment Team submitted the report to the Chief of the Technical Secretariat on ELC at MAFF on 22 June 2007 for review and consideration of the assessment findings and recommendations.

Recommendation to Reduce the Size of the Concession Areas (August- October 2007)

MAFF in turn submitted the report to the Prime Minister and the Council of Ministers (COM) along with a Letter No 5268 KSK dated 21 August 2007 recommending that only the sparse deciduous forestland area be considered for concession, reducing the total concession size proposed by the three companies from the originally requested

¹¹⁴Mission letter no. 2761 KSK issued on 28 May 2007 by Ministry of Agriculture, Forestry and Fisheries.

¹¹⁵The Oddar Meanchey Working Group was comprised of 22 members 1) the Governor of Oddar Meanchey Province, 2) Deputy Governor of Oddar Meanchey Province, 3) Director of the Provincial Department of Land Management, Urban Planning and Construction, 4) Director of the Provincial Department of Agriculture, Forestry and Fisheries, 5) District Governor of Chong Kal, 6) District Governor of Samraong, 7) Director of Provincial Department of Environment, 8) Deputy Chief of Oddar Meanchey Municipal Inspection Team, 9) Deputy Chief of Oddar Meanchey Municipal Secretariat, 10) Deputy Chief of Siem Reap Forestry Administration Cantonment, 11) Area Chief of Samraong Forestry Administration, 12) Chief of Samraong-Chhong Kal Commune Forestry Administration, 13) Chief of Koun Kriel Commune Forestry Administration, 14) Commune Chief of Koun Kriel, 15) Commune Chief of Samraong, 16) Commune Chief of Chhong Kal, 17) Commune Chief of Ponggro, 18) Chief of Land Office of Samraong District, 19) Chief of Land Office of Chhong Kal District, 20) Samraong District Environment. 21) Deputy Chief of the Provincial Land Office of Oddar Meanchey province and 22) Area Chief of Investment of Oddar Meanchey Province.

size of **33,846 hectares** to **19,736 hectares** and excising **14,110 hectares** of semi-evergreen, green deciduous, forest along the stream and land with human settlements from inside of the proposed concession area.

A Letter No 5268 KSK dated 21 September 2007 was sent from MAFF to the Prime Minister and the COM requesting for the decision on the letter and report sent on 21 August 2007 regarding the application made by the 3 companies.

On 5 October 2007, the Deputy Prime Minister issued a Letter No 1475 SCN to MAFF instructing the Ministry to a) exclude all the semi-evergreen, green deciduous, forest along the stream and land with human settlements from the proposed concession area and b) approve in principle concessions over of the remaining **19,736 hectares** of sparse deciduous forestland areas to the 3 companies comprised of **6,523 hectares** (Angkor Sugar Company); **6,595 hectares** (Cambodia Cane and Sugar Valley Company) and **6,618 hectares** (Tonle Sugar Cane Company) in Samraong, Koun Kriel, Chong Kal and Ponggro Communes for sugar plantation and construction of processing plant.

Demarcation of Concession Boundaries (November 2007)

After getting approval from the COM to grant ELC over **19,736 hectares** (while still in principle only), the Provincial Governor instructed the Oddar Meanchey Provincial Working Group and other relevant institutions including the District, Commune and Village authorities to demarcate the boundaries of the three concessions. The Oddar Meanchey Provincial Working Group subsequently started to measure **19,736 hectares** land using GPS in the four communes and set up boundary poles.

DISPUTE: This was first time villagers started to become aware of the concessions. Disputes started to erupt when the boundary poles were placed on the land where the villagers lived, over their agricultural and chamkar lands and not just over 'sparse deciduous degraded forest lands'.

According to the data collated by the author and based on the available **PRIMARY LIST 1** data over **2,073 families** in **26 villagers** within the four communes owning a total of **9,430 hectares** of residential, agricultural and chamkar land were identified have fallen inside the proposed concession land boundaries.

Approval of the Concession Areas and granting of Concession Leases (December 2007-January 2008)

On 18 December 2007, MAFF sent a letter to the COM requesting the full power delegation for signing contract with the three companies:

- Letter No. 6962/594 KSK.NP.PK dated 18 December 2007 submitted by MAFF to the COM requesting for the full delegation of power to sign concession contract over **6,523** hectares of land for Angkor Sugar Company,
- Letter No. 6961/593 KSK.NP.PK dated 18 December 2007 submitted by MAFF to the COM requesting for the full delegation of power to sign concession contract over **6,595** hectares of land for Cambodia Cane and Sugar Valley Company,
- Letter No. 6960/592 KSK.NP.PK dated 18 December 2007 submitted by MAFF to the COM requesting for the full delegation of power to sign concession contract over **6,618** hectares of land for Tonle Sugar Cane Company.

On 28 December 2007, the COM approved the full power to MAFF to sign the contract with the companies:

- Letter No 129 dated 28 December 2007 issued by the Royal Government of Cambodia conferring the full delegation of power to MAFF to sign the concession contract with Angkor Sugar Company,
- Letter 130 SBT dated 28 December 2007 issued by the Royal Government of Cambodia conferring the full delegation of power to MAFF to sign the concession contract with Cambodia Cane and Sugar Valley Company,
- Letter No. 129 SBT dated 28 December 2007 issued by the Royal Government of Cambodia conferring the full delegation of power to MAFF to sign the concession contract with Tonle Sugar Cane Company.

MAFF consequently signed contracts with the three companies on 24 January 2008 for total of 19,736 hectares, which involved the reduction of the proposed size by 42% or 14,110 hectares.

- ELC lease contract signed between MAFF and Angkor Sugar Company on 24 January 2008 for 6,523 hectares of land.
- ELC lease contract signed between MAFF and Cambodia Cane and Sugar Valley Company on 24 January 2008 for 6,595 hectares of land.
- ELC lease contract signed between MAFF and Tonle Sugar Cane Company on 24 January 2008 for 6,618 hectares of land.



Chapter 4: Affected Villages, Process of Dispossession, Displacement and Land Swap

A key goal of this study was to assess whether in the process of dispossession and displacement, the principles of Free, Prior and Informed Consent (FPIC) were followed. The assessment below is based solely on the data gathered from the field research. Since the dispossession did not just limit to individual private land but also the commons (the community forest), Chapter 4 is divided into chapters on Dispossession of Villager's Land and Dispossession of the community forest respectively.

Free, Prior and Informed Consent (FPIC), initially developed with regards to defending the rights of indigenous peoples as laid out in the ILO Convention on Indigenous and Tribal Peoples in Independent Countries (1989)¹¹⁶ and the United Nations Declaration on the Rights of Indigenous Peoples (2007)¹¹⁷, is the principle that a community has the right to give or withhold its consent to proposed projects that may affect the lands they customarily own, occupy or otherwise use.

This means that those who wish to use customary lands belonging to local communities must enter into negotiations with them. It means providing accurate and relevant information in the local language to all affected people, with special attention paid to marginal groups and to women. It is the communities who have the right to decide whether they will agree to the project or not, once they have a full and accurate understanding of the implications of the project on them and their customary land. Specifically, this means:

Free – people are able to make decisions freely and without coercion, intimidation, punishment or manipulation.

Prior – people have sufficient time to engage in decision-making processes before key project

decisions are made and impacts occur.

Informed – people are given full information about the project and its potential impacts and benefits, and are able to access various perspectives regarding the project (both positive and negative).

Consent – there are effective processes for people to approve or withhold their consent, consistent with their customary decision-making processes, and that their decisions are respected and upheld.

The first section on Chapter 4.1 outlines the number of villages, families affected and the settlement history of the affected villages affected by the three concessions and the tenure status. This is followed by the chronological examination of the villagers' experience with the concession process and whether the principles of FPIC were followed. The chapter ends with the examination of the dispossession process of the community forestland.

4.1 Affected Families by the Sugar Concessions

The specific data on the total number of villages and families affected by the three concessions were very difficult to obtain. The researchers started by overlaying the Oddar Meanchey Province ELC map produced by ODC and LICADHO with the provincial dataset from the 2008 Census, the boundaries could be broken down to district and commune level, the difficulty was in ascertaining the exact village boundaries and the exact number and sizes of the overlaps. Based on the interviews, review and calculation of various unofficial documents collected at the commune and village level the researchers were able to come up with the following statistics. It should be noted that these numbers are not definitive.

¹¹⁶ILO, *Convention on Indigenous and Tribal Peoples in Independent Countries*, 1989, Article 6-9 and 9. <http://www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm>

¹¹⁷UN, *United Nations Declaration on the Rights of Indigenous Peoples*, 2007 adopted by the UN General Assembly Resolution A/RES/61/295 on Thursday, 13 September 2007, Article 10. http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

In the 26 villages, approximately **2,073 families** were found to be affected by the three sugar concessions, with the concessionaires grabbing approximately **9,430 hectares** of the villagers land. See Table 4.1 for details.

Table 4.1 Number of Affected Families, Overlapped Land and Replacement Land

No	Communes	Affected Families*	Overlapped Land (hectares)*	Replacement Land received through Land Swap (hectares)*
1	Samraong	1,212	5,773	2,977
2	Koun Kriel	524	2,518.15	55.37
3	Ponggro	159	388.11	181.86
4	Chong Kal	178	749	374.55
5	Total	2,073	9,428.26 hectares	3,588.77 hectares

* These are based on the data collected by the researchers during the fieldwork, unable to get data officially.

The majority of the land grab was over agricultural and chamkar (cleared and claimed forestland) land. In total, **9,407.26 hectares** of agricultural and chamkar land and **21 hectares** of residential land were grabbed. Of the 21 hectares of residential land grabbed, 2 hectares were in the O’Bat Moan/Boss Village in Koun Kriel commune where the houses and property of 214 households were burnt and destroyed; and 19 hectares were in the Samraong commune.

4.2 Settlement History and Tenure Status of the Affected Families

Based on the analysis of the settlement history, i.e. the length of occupation and means of acquisition, and the available tenure documentations, the majority of the affected families are legal possessors of their residential and agricultural land and potentially of their chamkar land. It should be stressed that the analysis is based on unofficial information provided by the villagers, village and commune chiefs and the cadastral commission. In order to make a definitive tenure assessment of each family, a more rigorous legal assessment needs to be conducted. The majority of the families were of Khmer ethnicity, there were none who identified as Indigenous People (IP) as the few interviewed claimed to be second and third generation IP and had adopted the Khmer language and culture and identified themselves as ‘Khmer’. The majority of the families had occupied their land well before the

Land Law 2001 was passed, almost all of them had a chain of possession going as far back as the Sangkum Reatr Niyum period, though most of their ownership and possession documents were destroyed when the Khmer Rouge swept into power in 1975 and private ownership was abolished.

The majority of the families acquired their residential land from 1979 onwards after the fall of the Khmer Rouge when they re-occupied their residential land, those families who were moved to the area by the Khmer Rouge cleared and claimed their residential land. The families on average owned 30 x 60m of residential land.

Many acquired their agricultural land from the year 1989 when the state made tentative efforts towards land reform and the citizens were given agricultural land through the sub-division of the krom samaki. Those families who migrated later acquired their agricultural land through purchase. The families on average owned 5-6 hectares of agricultural land.

Most families acquired their chamkar land by clearing and claiming the forestland before 2001. Families on average owned 2-3 hectares of chamkar land.

Many of families hold the slab moan (literally meaning chicken feather, it is a certificate of possession with a chicken feather mark

distributed through the previous land registration system from 1989) for their residential land and some for their agricultural land. The others hold the Certificate of Possessory Rights for both their residential and agricultural land, which were issued by the village and commune councils from 2000 onwards.

The legal framework related to land rights and land tenure is based on the principles set out in the Cambodian Constitution, developed in the 2001 Land Law and further supplemented by various sub-decrees, prakas, circulars and administrative documents.

4.3 Legal Framework on Land Rights and Land Tenure

The Constitution recognises that all persons, individually or collectively, have the right to private ownership and provides for protection against arbitrary expropriation, requiring that privately owned land can only be confiscated in the public interest and only on the condition of fair and just compensation.¹¹⁸ The 2001 Land Law extends the private ownership rights to residential and agricultural land.

Under the 2001 Land Law, any person who had enjoyed unambiguous, non-violent, notorious to the public, continuous and in good faith occupation of land excluding state public land prior to 30 August 2001, the date the law was adopted, is a legal possessor¹¹⁹ and has possession rights to stay on and use the land they have occupied.

Any legal possessor who has enjoyed peaceful, uncontested possession of land more than five years prior to the adoption of the law has the right to request for a land certificate issued by the

Ministry of Land Management, Urban Planning and Construction through the land registration process as a definitive title of ownership.¹²⁰ According to the law, any new occupation that starts after the passing of law is not legal and will be termed as an illegal occupant.¹²¹

The 2001 Land Law provides a right in rem to the possessor, i.e. similar rights and protections as those of an owner, while waiting for their possession to be converted into full ownership.¹²² This means that legal possessors, like private land owners, can enter, stay, use, transfer or exclude people from their land as they wish, as long as they do not break any laws.¹²³ Legal possessors are also entitled to a Certificate of Possessory Rights from the competent authorities, though the certificate in itself is not a definitive title of ownership and is not indisputable. In cases where there are competing land claims, the parties claiming the land must be able to prove that they are the legitimate possessor.¹²⁴

As mentioned earlier, privately owned and possessed land is protected against arbitrary expropriation requiring that land can only be confiscated in the public interest and only on the condition of fair and just compensation for eviction.¹²⁵ Confiscation of both privately owned and possessed land can only be carried out by competent state authorities following a court order. Under international human rights law, the competent state authorities are required to follow strict legal and procedural safeguards to ensure that confiscation and evictions take place without violating the human rights of those affected and respect principles of due process, including the provision of adequate housing and basic services in resettlement sites.¹²⁶ Some of these legal and procedural safeguards

¹¹⁸Kingdom of Cambodia, *Constitution of the Kingdom of Cambodia* (as amended 1999), Article 44 and and Law, op cit. Article 5

¹¹⁹Land Law op cit. Article 38.

¹²⁰Ibid, Article 30-31.

¹²¹Ibid, Article 34.

¹²²Ibid, Article 39.

¹²³Ibid, Article 85.

¹²⁴Ibid, Article 40.

¹²⁵Constitution of the Kingdom of Cambodia Article 44 and land Law, op cit. Article 5.

¹²⁶Committee on Economic, Social and Cultural Rights, General Comment No.7 on the right to adequate housing (Art. 11 (1) of the Covenant): Forced evictions, E/1998/22, annex IV [hereafter: CESCR General Comment 7].

were spelled out in the 2010 Expropriation Law¹²⁷. The law provides a framework for the conditions in which expropriation of privately owned and possessed land in the public interest is acceptable¹²⁸ and the procedures that ensure a fair and just process¹²⁹, this law however has proved to be very problematic.

Based on the assessment according to the Land Law 2001, the majority of the families therefore meet the five criteria of a legal possessor and have the right to enter, stay, use, transfer or exclude people from their land as they wish while waiting for their possession to be converted into full ownership.

4.4 Process of Dispossession

First Knowledge of the Sugar Concessions

The villagers unanimously stated that they had not been consulted or informed about the planned concession beforehand. The 2005 Sub-decree on ELCs requires companies seeking concession to complete an initial environmental and social impact assessment with respect to proposed investment plans and extensive consultations with local authorities and affected populations.¹³⁰

The villagers first became aware of the concession in November 2007 when the Provincial Authorities started erecting boundary poles in the villagers land following the 'in principle approval' of the concession by the Council of Ministers three months before the concession contracts were signed in January 2008.

The majority of the villagers became aware of the concession only after it was granted in 2008, during a FGD at Ta Paen village in Ponggro Commune, villagers said that *'one day when we went to harvest our rice, we discovered that someone had brought in excavators and had*

*begun to dig trenches and build earth mounds, they had put boundary poles in our rice field and chamkar land to make some sort of a boundary.... they had also begun building a dirt road....the next day we discovered that military and private security guards had been deployed to guard the area, they told us that our land now belonged to a company and that if we went inside we would be arrested.'*¹³¹

Villagers in Banteay Choar, Ponggro Commune similarly said that the company had built a dirt road over a canal and had blocked the flow of irrigation water into their rice fields, *'we were stopped from entering and working in our own fields.... they only allowed us in to collect mushrooms, other NTFPs or small firewood for a little while'*.¹³²

While all the village chiefs and commune councilors interviewed said they had become aware of the interest by outside people from late 2006 and early 2007 when a group of Khmer and Thai men started coming to their villages to measure and assess the land, a former Councilor from Samraong commune noted that the group did not consult anyone nor was he aware of any EIA or SIA being carried out, **'if they did, then they would have known many many families had been living and farming in the land since the Pol Pot regime.....and the concession would have affected their land and livelihood and stopped their application, we were not involved in any decision-making process'**.¹³³ When asked if they knew the details of the company then, a councilor noted that most of them did not know the exact names of the company but knew they were connected to Senator Ly Yong Phat as the group had stayed at the O'Smach casino and were seen to be 'wined and dined' by the Senator.

¹²⁷Kingdom of Cambodia, Law on Expropriation (2010).

¹²⁸Ibid, Article 7-11.

¹²⁹Ibid, Article 15-29.

¹³⁰Sub-Decree No 146 on Economic Land Concessions, op cit. Article 4 and 20.

¹³¹FGD Interview at Ta Paen Village, Ponggro Commune, 26 November 2014.

¹³²FGD Interview at Banteay Choar, Ponggro Commune, 26 November 2014.

¹³³KI Interview with the Former Councilor at Samraong Commune, 11 December 2014.

Involvement of Village and Commune Chiefs in the Assessment

The village chiefs and commune councilors further stated that they had all been involved in the assessment of the concession following the submission of the application. The Commune Chiefs were members of the Oddar Meanchey Provincial Working Group.

The village chief of Trapeng Veng in Koun Kriel recalled that he together with the commune councilors and village chiefs of all four affected communes were called for a meeting by the Provincial Governor where the Governor informed that three companies had submitted applications for concession in the four communes with the Technical Secretariat of ELC at MAFF in March 2007 and that an Oddar Meanchey Provincial Working Group had been set up to carry out an impact assessment in the proposed concession areas and provide recommendations to the Director of the Technical Secretariat. He had requested them to cooperate with the Working Group and instructed the Village Chiefs to collect statistics on the size of residential, cleared and claimed agricultural land and; cleared and claimed chamkar (formerly forest) land held by each family in their villages.¹³⁴

Preparation of List of Agricultural and Chamkar Land by the Village Chiefs

The Village Chief of Chhouk in Samraong confirmed that all the Village Chiefs of the four affected communes consulted with the villagers and prepared a list of residential, agricultural and chamkar land accordingly¹³⁵

List of Residential, Agricultural and Chamkar Land

វត្ត	សំនុំ	ផ្ទះ	ស្រែ	ចំការ
25	វត្ត បឹង	4	5000	2,500
26	វត្ត បឹង	3	2000	1,500
27	វត្ត បឹង	5	4000	500
28	វត្ត បឹង	5	6000	3000
29	វត្ត បឹង	5	5000	3000
30	វត្ត បឹង	4	5000	5000
31	វត្ត បឹង	0	5000	2000
32	វត្ត បឹង	5	5000	2000
33	វត្ត បឹង	4	3000	2000
34	វត្ត បឹង	7	2000	2000
35	វត្ត បឹង	3	2000	1000
36	វត្ត បឹង	6	5000	5000
37	វត្ត បឹង	4	4000	4000
38	វត្ត បឹង	6	5,500	5,500
39	វត្ត បឹង	5	4,500	6,500
40	វត្ត បឹង	4	4000	3000
41	វត្ត បឹង	8	7000	4000
42	វត្ត បឹង	3	5000	3000
43	វត្ត បឹង	5	5,500	3,500
44	វត្ត បឹង	5	4000	4000
45	វត្ត បឹង	3	2000	0
46	វត្ត បឹង	3	3000	3000
47	វត្ត បឹង	5	5000	4,500
48	វត្ត បឹង	4	3000	1,500
49	វត្ត បឹង	7	4000	4000
50	វត្ត បឹង	2	4000	4000
51	វត្ត បឹង	4	6000	0
52	វត្ត បឹង	2	2000	2000
53	វត្ត បឹង	4	5000	5000
54	វត្ត បឹង	3	5000	0

វត្ត	សំនុំ	ផ្ទះ	ស្រែ	ចំការ
1	វត្ត បឹង	3	4000	2,500
2	វត្ត បឹង	3	4000	4000
3	វត្ត បឹង	7	6000	5000
4	វត្ត បឹង	4	4000	2000
5	វត្ត បឹង	6	4000	4000
6	វត្ត បឹង	5	5000	5000
7	វត្ត បឹង	5	6,500	6,500
8	វត្ត បឹង	5	2,500	2,500
9	វត្ត បឹង	7	5000	3000
10	វត្ត បឹង	3	3000	0
11	វត្ត បឹង	3	3000	0
12	វត្ត បឹង	7	2,500	2000
13	វត្ត បឹង	8	4000	4000
14	វត្ត បឹង	7	4,500	4,500
15	វត្ត បឹង	3	3000	2000
16	វត្ត បឹង	3	3000	2000
17	វត្ត បឹង	4	4000	1000
18	វត្ត បឹង	6	4000	4000
19	វត្ត បឹង	6	3000	2000
20	វត្ត បឹង	5	2,500	1000
21	វត្ត បឹង	3	2,500	1,500
22	វត្ត បឹង	7	5000	3000
23	វត្ត បឹង	3	3000	2000
24	វត្ត បឹង	4	4000	2000

¹³⁴KI Interview with the Village Chief at Trapeng Veng Village, Koun Kriel Commune, 4 December 2014.
¹³⁵KI Interview with the Village Chief at Chhouk Village, Samraong Commune, 24 November 2014.
¹³⁶KI Interview with the Director of the Cadastral Commission in Chong Kal District, 6 December 2014.

The Director of the Chong Kal Cadastral Commission mentioned that the lists were primarily prepared by the Village Chiefs, *'my role was mainly to accompany the Village Chiefs and pull the line to measure the villagers land parcels, I measured the land but this was not done precisely or comprehensive like when we do systematic land registration, so I could not really guarantee the accuracy of it.'*¹³⁶ The handwritten list was thumb-printed by each household head and signed by the Village Chiefs and Commune Chiefs and submitted to the Provincial Governor and the Oddar Meanchey Working Group.

The list was then incorporated into the 2007 Assessment Report, their understanding was that the Technical Secretariat would excise the villager's residential, agricultural and chamkar land from the proposed concession area based on the list they had provided.

The list was then submitted to the Provincial Governor and the Oddar Meanchey Working Group after which they said they did not hear much until the provincial authorities came to clear the land and erect boundary poles in the villagers' rice fields from November 2007.

Protests and Petitions

The villagers were furious with what had happened to their land and said they went to their village chiefs and commune chief to seek more information and push them to help get their land back. The Village Chief from Chhouk village in Samraong commune confirmed that he along with the village chiefs from the other affected villages and the Samraong commune chief had gone to meet with the District Governor and Municipal Governor to seek clarification on the issue and demand the withdrawal of concession contracts of the three companies.¹³⁷

The Village Chief of Taman Village in Koun Kriel commune revealed that over 500 villagers from

his own village of Taman and from Khtum and Trapeang Veng had then gone to protest at the Angkor Sugar company office inside the concession area.¹³⁸ A villager from the Khtum village in the same commune explained that villagers from other affected villages in Koun Kriel commune similarly took turns to protest and expresses their concerns and demands in front of the company office on different days, he said the company representative told the villagers the company had legally leased the land and if they had any issues they should take it up with the Provincial Hall and relevant authorities, the villagers were then dragged out by the military and private security guards.¹³⁹

The villagers then started to protest in front of the Provincial Hall. In response, the Provincial Governor organised a meeting together with the company representatives, Municipal and District Governors and other governmental officials. The Provincial Governor maintained in the meeting that the three companies had been granted permission by the Royal Government of Cambodia to develop a sugarcane plantation and a sugar processing plant and that the concession had been granted on state land and not on the villagers residential, agricultural or chamkar land as claimed. The company representative further emphasized that the company had set up the concession on land legally granted by the Royal Government of Cambodia and that they should support the concession as it would help the development of the village as the company would build proper roads and infrastructure and the sugarcane plantation and processing plant would provide jobs to the villagers and reduce poverty in the province.¹⁴⁰

The villagers maintained that their land had been stolen from them and that they would go further into poverty if they did not have their land to cultivate rice and protested in front of the Provincial Hall. However, since there were no

¹³⁷KI Interview with the Village Chief at Chhouk Village, Samraong Commune, 24 November 2014.

¹³⁸KI Interview with the Village Chief at Taman Village, Koun Kriel Commune, 4 December 2014.

¹³⁹KI Interview with a Villager at Khtum Village, Koun Kriel Commune, 10 December 2014.

¹⁴⁰KI Interview with the Village Chief at Taman Village, Koun Kriel Commune, 4 December 2014.

solutions from the Provincial Hall, the villagers began submitting thumb printed petitions to the Prime Minister's Cabinet, MOI and MAFF requesting intervention to get their grabbed land back. The Deputy Provincial Governor worried about the growing protest, promised to address the dispute and help get their land back if they refrained from using violence and causing unrest in the province.¹⁴¹

Establishment of a Dispute Resolution Committee (DRC)

According to the Director of the Chong Kal Cadastral Commission, the Provincial Governor then set up a Dispute Resolution Committee comprised of a representative each from the Oddar Meanchey Working Group, Municipality, Cadastral Commission, FA, District Chief, law enforcement (police and military) and the District Governor in 2008. The Committee was instructed by the Provincial Governor to assess the list of agricultural and chamkar lands prepared by the Village chiefs and verify the claims of overlap in each affected village. The committee, accompanied by the commune and village chiefs of each affected village, began surveying and demarcating the outer concession boundary vis-a-vis the contracted size, he confirmed that they found significant overlap.¹⁴² The Village Chief from Trapeng Veng in Koun Kriel commune noted the same, he said after pressure from the villagers, the committee and the company agreed to move some of the boundary poles from the villages 500m to 2.5 km from his village land.¹⁴³

Preparation of a Second List of Agricultural and Chamkar Land by the DRC

Following this, the Committee started to survey and measure the land inside the concession boundary using GPS. The Village Chief from Taman in Koun Kriel Commune said that the Committee did not recognise the rights of the

villagers over the chamkar land arguing that the villagers had illegally encroached on state public land and had no right over the forestland but that they would consider and classify the agricultural land. The Committee used GPS to measure and classify the villagers' agricultural land into two categories based on the occupation and use of the land, i.e. the villagers were only entitled to claim those agricultural land that had been cleared, ploughed and cultivated within the last two-three-years as evidenced by growing or left-over rice/crops stalks on the land. They lost all claims to land that had remained fallow and unused in past few years prior to the visit by the Committee.¹⁴⁴

The Village Chief said the Committee did not fully consider any supporting documents like the Slab Moan or Certificates of Possessory Rights to prove possession rights over the agricultural land. The Committee prepared a second list on agricultural land overlapped by the concession and submitted it to the Provincial Governor together with the GPS coordinates of the land for review and approval.¹⁴⁵ Most of the village chiefs and commune councilors interviewed said that they had very little authority to influence the Committee; they were merely there to direct the Committee in their villages and assist them in their work.

Replacement Land and Land Swap

The Provincial Governor subsequently agreed to give back only the 'cleared, claimed and cultivated' agricultural land and not the chamkar (former forestland) or 'other' agricultural land through the process of a land swap. However, the Provincial Governor instructed the Village and Commune Chiefs to identify vacant land within their village boundaries, which he decided would be given to the affected villagers as an aggregated land swap rather than their own land inside the concession area.

¹⁴¹KI Interview with the Village Chief at Taman Village, Koun Kriel Commune, 9 December 2014.

¹⁴²KI Interview with the Director of Cadastral Commission in Chong Kal District, 6 December 2014.

¹⁴³KI Interview with the Village Chief at Trapeng Veng Village, Koun Kriel Commune, 4 December 2014.

¹⁴⁴KI Interview with the Village Chief at Taman Village, Koun Kriel Commune, 4 December 2014.

¹⁴⁵KI Interview with the Village Chief at Taman Village, Koun Kriel Commune, 4 December 2014.

According to the Deputy Director of the Samraong Cadastral Commission, the Provincial Hall initially planned to apply the leopard skin strategy to resolve the land claim dispute between the concessionaires and the villagers - the leopard skin strategy refers to the practise of demarcating existing residential and agricultural land within the concessions allowing the occupation of the land by the villagers side-by-side to the concession. However, only a few attempts were made to cut and return the agricultural land of villagers, mainly located along the concession boundary.¹⁴⁶

The land swap process started in 2008 and ended by early 2009. When asked about the process of vacant land identification, the Former Councilor from Samraong Commune said that this was carried in three steps:

- a) The Provincial Hall asked the village and commune chiefs to identify vacant (state) land within the villages. The Village Chiefs told the Provincial Hall that there were no more vacant land in the villages since most had already been granted to the concessionaires.
- b) The Provincial Hall then told the Village Chiefs they had to find it no matter what. In the end, they were instructed to identify the 'unused' agricultural and chamkar land belonging to villagers outside (not affected/overlapped by the) concession.
- c) The Provincial Hall then instructed the identified villagers to contribute a portion of their land to the affected families.¹⁴⁷

This was far from ideal. A villager from Daun Kaen Village in Samraong Commune who was forced to give up her land said she was forced by the Committee to give up two hectares of her five hectares agricultural land to a family who had lost their land inside the concession,

she complained that this was very unfair on her as she had worked very hard to plough and cultivate the land and she lost almost half her rice fields. She said that a few of the villagers she knew refused to give up their land and there was conflict between the villager, the Committee and the affected villagers, in the end she said the affected villagers did not get any agricultural land.¹⁴⁸

Almost all the villagers interviewed said they were forced to accept this land swap deal, one villager from Chhouk Village, Samraong Commune said the Committee had taken her to a vacant land, stuck a few boundary poles and told her *'this is your new land you have to accept it....if you do not accept this you will not get anything is that what you want.....do you want to see your children go hungry?'* she said she felt very helpless like she did not have any other choice.¹⁴⁹

The Former Councilor from Samraong Commune revealed that the families only got 50 percent of their land back in the land swap arrangement, he said that a family who lost four hectares of *'cleared, claimed and cultivated'* agricultural land only got two hectares of land in the land swap arrangement. He said *'this was very heartbreaking for me to see, I am like their father and mother but even I was affected, I lost a lot of land'*.¹⁵⁰

The villagers said the majority of the land swaps was carried out within the same village except for six villages in Samraong commune where land swaps were carried out in adjoining villages and Chong Kal commune due to the lack of vacant land in Samraong Commune. Two villages in Koun Kriel commune had land swap arrangements in adjoining villages.

¹⁴⁶ KI Interview with the Deputy Director of the Cadastral Commission in Samraong District, 13 December 2014.

¹⁴⁷ KI Interview with the Former Councilor at Samraong Commune, 11 December 2014.

¹⁴⁸ KI Interview with a Villager at Daun Kean Village, Samraong Commune, 25 November 2014.

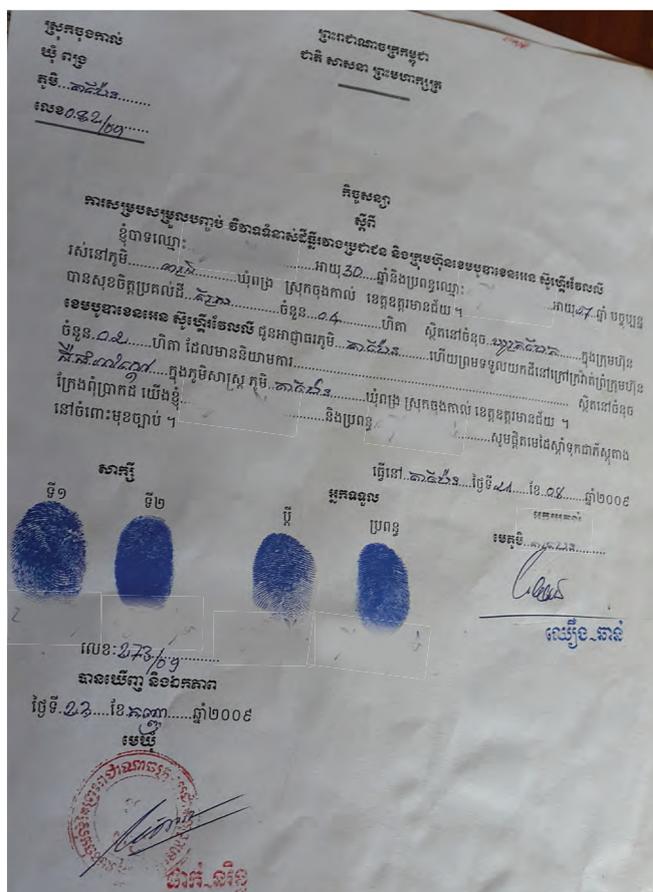
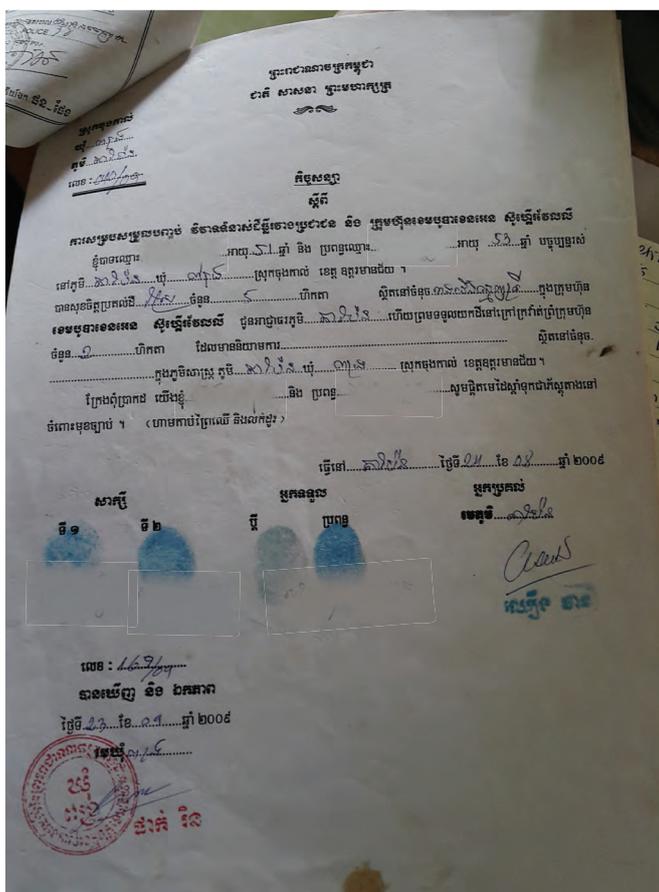
¹⁴⁹ KI Interview with a Villager at Chhouk Village, Samraong Commune, 24 November 2014.

¹⁵⁰ KI Interview with the Former Councilor at Samraong Commune, 11 December 2014.

The villagers were made to sign land swap contracts titled 'Resolution to end dispute between the people and the [said] company'. The contracts listed the villagers' details (husband, wife, residence) and stated the agreement to give certain hectares of their rice field land located in the [said] company land to the Village authority and accept certain hectares of land in certain locations which was thumb printed by the villagers, witnessed by the Village

Chief and signed and stamped by the Commune Chief. The agreement entitled the villager to use and manage the land but prohibited the logging and transfer/sale of the land. Many villagers, however, reported not having a copy of the contract. A minority of villagers refused to the land swap. In total 3,588.77 hectares of replacement land were found to have been swapped out of the 9,428.26 hectares lost.

Example of a contract agreement for land swap



Land Swapped Land not Used

A big issue reported during the interviews was that majority of the replacement land has not been used. The villagers during the FGDs complained that the replacement lands were in forested areas, which had huge trees and were rocky with stones and unsuitable soil for cultivation. They said that many could not afford to hire bull-dozers, excavators and other machinery to uproot the trees and flatten and plough the land to make it ready for farming and had left it unused. They also said that since

the dispossession of their land, a lot of their family members had migrated to Thailand and they had no labour force to work on clearing the replacement land.

A villager in Ta Pean Village in Ponggro Commune said that before the company came she had four hectares of agricultural land, which she lost inside the concession, 'the company did not carry out any consultation before the concession was granted, then after I complained with the other villagers... at a village meeting the dispute resolution committee told me I would get only

two hectares of land I had lost back... I was very unhappy with this...how was I supposed to feed my family on this?....I was shown my replacement land, which was almost 15km away from my old agricultural land, I was told to thumbprint the contract document... I was a bit worried as I was not sure who the land belonged to but thank god no-one has come to claim it from me so far...but you know I had to wait for six years before I could use the land....I had no money to hire the machinery to clear the land ...which is so expensive no it costs Thai Baht 20,000 (or USD \$600 per hectares). So I had to wait for six years to save that much of money from Thailand and I did it little by little, I also cleared it manually there were so many rocks and trees. Now I work with my husband to grow cassava on that land, we get little money from it.¹⁵²

Forced Eviction in O’Bat Moan/Bos Village

The Royal Government of Cambodia and the concessionaires were involved in the forced eviction of over 214 families in O’Bat Moan/Bos Village. A villager from O’Bat Moan/Bos Village relayed that her village went through two rounds of eviction, one in 2008 and another one in 2009. She said

‘In April 2008, the Angkor Sugar Company people along with local authorities came to my village without any notice and bull dozed over 50 houses claiming we had illegally claimed the land. We were so shocked and scared but we rebuilt our houses again as we had nowhere to go. We traveled to Phnom Penh to file complaints with the Council of Ministers and the National Assembly to stop the company from taking our land, we did this for a whole year but we had no result, they listened to us and would take our petitions but did not take any actions. Then in about October 2009, over 150 police, military people, private security guards together with the local authority came to our village, they put up a road block and sealed the village, then after a few days they bull-dozed, burnt and destroyed our

whole village down. No other people like NGOs were allowed to come in. We were so scared, we did not even have time to collect our belongings, we just collected our children and ran with what we had to the pagoda in the next village, others ran into the forest. Few of the people were hurt and beaten in the incident. Then the authorities again tried to force us out from the pagoda, we had to live in tarpaulin tents provided by LICADHO on the roadside, they also provided us with some food.’¹⁵³

She added that the authorities then forced the people to thumbprint documents saying they voluntarily burned their house and accepted the compensation of rice, cans of fish and replacement land. She said only 24 families accepted the replacement land in a relocation site in Boss Village called Kouk Sat Roveing. The relocation site was provided through the Social Land Concession process, the families were given got 30x50m of residential and one hectares of agricultural land. She said only 5-6 families have remained there as the land is not good for cultivation with no basic services and they have all migrated to work in Thailand and Malaysia looking for work.

4.5 Community Forest

In addition to agricultural, chamkar (formerly forest) and residential land, the concessionaires have also affected community forestland.

Two concessionaires, the Cambodian Cane and Sugar Valley, and Angkor Sugar companies, currently overlap with the Rattanak Ruka Community Forest comprised of Community Forest (CF) members in 12 villages covering 26,036 hectares of evergreen and semi-evergreen forestland the Samraong and Koun Kriel Communes, see Table 4.2 for the details on the CF members.

¹⁵²KI Interview with a villager in Ta Pean Village in Ponggro Commune, 5 March 2015.

¹⁵³KI Interview with a Villager from O’Bat Moan/Bos Village, Koun Kriel Commune, 4 December 2014.



Table 4.2 Ratanak Ruka Community Forest Members

No	Village	Population	No Families	No of CH member
Samraong Commune				
1	Doun Kaen	1,806	407	232
2	Pul	1,502	281	144
3	Chhouk	2,597	372	197
4	Kon Damrei	335	120	120
5	Bak Nuem	1,140	246	236
6	Chhaeb	871	163	141
7	Ou Krasaeng	686	144	140
8	Ou Russey	219	43	42
9	Kouk Chres	557	104	73
Koun Kriel				
10	Khtun	1,071	292	218
11	Ta Man	573	125	120
12	Bos	997	216	147
Total		2,513	12,354	1,810

Source: Ratanak Ruka Community Forest CFMC

Establishment of the Ratanak Ruka Community Forest

The Samraong and Koun Kriel villagers have been engaged in community forest initiatives since early 2000. According to the Deputy Chairperson of the Ratanak Ruka Community Forest,¹⁵⁴ Ratanak Ruka Community Forest initially started as two community forests Ratanak Ruka and Ratanak Sambath which was established in 2004 in Samraong and Koun Kriel commune respectively with the support of the EU and the Ockenden International organization and in close cooperation with the Provincial Authorities and the Forestry Administration. The two Community Forests (CF) members comprised of members from 16 villages, covered 26,036 hectares of evergreen and semi- evergreen forestland and had already completed 6 of the 8 steps towards the legal recognition of the community forest this included: the establishment of the Community Forest Management Committees (CFMC), the formulation of the CFMC Bylaws, and the CF Regulations, the demarcation of the CF boundaries, in addition the CF Agreements

drafted and approved by the FA Cantonment had been submitted to the Provincial Governor for approval in 2006 before being submitted to the MAFF.¹⁵⁵

Concession Application by Angkor Sugar and Cambodia Cane and Sugar Valley

In March 2007 the CFMCs found out that two companies Angkor Sugar and Cambodia Cane and Sugar Valley had applied for concession in Samraong and Koun Kriel commune requesting 21,499 hectares of land.¹⁵⁶

According to the 2007 Assessment Report, Angkor Sugar had requested 549 hectares of semi-evergreen forest, 9,879 hectares of green deciduous forest and 146 hectares of non-forest (barren land) totaling 10,574 hectares Similarly, Cambodia Cane and Sugar Valley had requested 9,879 hectares of green deciduous forest and 146 hectares of non-forest (barren land) totaling 10,574 hectares, see table 4.3 for the detailed breakdown of the concession land.

¹⁵⁴KI Interview with the Deputy Chairperson of the Ratanak Ruka Community Forest, 11 December 2014.

¹⁵⁵KI Interview with the Deputy Chairperson of the Ratanak Ruka Community Forest, 11 December 2014.

¹⁵⁶Working Group of the Technical Secretariat for ELC, 2007 Assessment Report, June 2007.

Table 4.3 Breakdown of assessed concession land by Angkor Sugar and Cambodia Cane and Sugar Valley

No	Forest/Land Zones identified in the proposed area for lease	Angkor Sugar Co.Ltd Sugar Co.Ltd Sugar (hectares)	Cambodia Cane and Sugar Valley (hectares)
1	Semi-evergreen forest	549	
2	Green Deciduous forest	9,879	10,835
3	Non-Forest land (barren land)	146	90
	Total requested land	10,574	10,925

Source: Assessment Report 2007

They found out that the majority of their forestland was being allocated to the two companies for sugarcane plantation and sugar processing plant. *'We were so shocked and angry, we worked with the provincial authorities and the FA cantonment to establish our CFs, they knew everything.... they came with us to demarcate the CF boundaries.....we marked the trees together and instead of working to conserve the forests they wanted to give away our forestland to the companies, it was like being poked in the eyes with a stick'* a Ratanak Ruka Community Forest member complained to the researchers.¹⁵⁷ The villagers complained that the Oddar Meanchey Working Group never consulted with the CF members when they carried out the assessment, they were not given prior notice or maps of the proposed concession areas.

Advocacy by the Ratanak Ruka Community Forest members

In July 2007 over 1,786 villagers and members of the two CFs submitted a thumb printed petition requesting MAFF to a) reserve the forestland for community forestry in accordance with the 2003 Sub-decree on Community Management and 2003 Sub-decree on Economic Land Concession and b) acknowledge the right of the CF members to use and manage the 2 CF sites in a sustainable way.¹⁵⁸

The CFMC then carried out their own impact assessment in August 2007 detailing that the

granting of the concession over the community forestland would:

- a) Lead to the destruction of the evergreen and semi-evergreen made up of trees such as Pjek, Pjcek Reng, Tmong, Korkos and Sokrum;
- b) Affect 155 hectares of residential land, 2,162 hectares of agricultural land and 250 hectares of chamkar (formerly forestland) of 2 villages: Bak Neum and Koun Damrei located inside the CFs¹⁵⁹;
- c) 2,656 hectares of agricultural land of other 10 villages located inside the CF sites;
- d) The livelihood of communities who depend on NTFP such as mushrooms, bamboo shoots, vines, Kjay Prey other wild fruits and wild animals for their living;
- e) In addition affect and lead to the destruction of archeologically significant sites such as the 11 ancient temples in cluding Tup, Roveng, Sroung kandal, Ompov Deib, Kork Wat, Achar Pan etc located inside the community forest sites.

The CFMC shared the report with the villagers and members and submitted it to the Siem Reap Cantonment with the petition demanding further action and support to halt the granting of the concessions.

The Siem Reap FA Cantonment subsequently sent a number of letters (No 73 KSP, No 2214/RP/KSP) to the Director of the Forestry Administration,

¹⁵⁷KI Interview with a member of the Ratanak Ruka Community Forest CFMC member, 9 December 2014.

¹⁵⁸ART, Action Research Report, 2012

¹⁵⁹Letter No 73 KSP from the Community Forestry Office to the Chief of Community Forestry Office in August 2007

MAFF, one of which obtained by the researcher urged MAFF to a) refrain from granting concessions in evergreen forest lands and b) actively work towards conserving the forestland etc.

Though majority of the villagers interviewed in Samraong and Koun Kriel commune complained that while the local Division and Triage FA were *'on their side to the extent possible'* they lacked confidence in the Siem Reap FA Cantonment to conserve the forest and respect community forestry tenure *'they were the ones who provided the companies with the 2002 Forest Cover maps and were implicit in the land grab of the forestland.'*¹⁶⁰

After a lot of effort and negotiations, the CF communities were able to retain stewardship over only 12,872 hectares or half their planned community forestland, this also meant they could retain only one Ratanak Ruka Community Forest. The CF members were not happy about this since

they lost almost 50 percent or 13,164 hectares of planned community forest land to the concession and the Cambodian Government. A CFMC member interviewed said the Working Group justified this by saying that the majority of the land leased to the companies were on 'degraded forest land' which he said everyone knew was untrue.

In January 2008, the Technical Secretariat on ELC subsequently granted Angkor Sugar and Cambodia Cane and Sugar Valley Companies concession over 13,164 hectares of land. The Community Forest Agreement for the Ratanak Ruka Community Forest was signed on 4 May 2009 and was legally approved by the MAFF through the Sub-decree 487 on the Formation and Management of Community Forests in Oddar Meanchey together with 11 other CFs on 19 November 2008.¹⁶¹ The impact of the concession on the community forest will be addressed in the next chapter.

Table 4.4 Ratanak Ruka Community Forest Land

	Initial CF land (Started the CF process in 2004)	Land granted to the concessionaires on 24 January 2008)	Granted CF land (RR-CF approved on 4 May 2009)	Affected Households/ Families (Total no of RR-CF members)
Rattanak Rotha Community Forest (RR-CF)	26,036 hectares	13,164	12,872 hectares	1,810

As noted by the Impact Assessment Report 2007 carried out by the CFCM, two villages, Bak Neum and Koun Damrei in Koun Kriel Commune, are located inside the CF boundaries. The two concessions of Angkor Sugar and Cambodia Cane and Sugar Valley companies has overlapped with over 5,223 hectares of agricultural, chamkar and residential land of villagers who live within the CF boundaries and overlapped with approximately **7,944 hectares** of the original CF land.

The villagers interviewed all said that the granting of the concession has had an adverse impact on the community, it has also meant that it is now more difficult for them to protect, use and manage their

CF areas. They also expressed concern that by 2009, the company had cut most of the good quality trees in the concession area and had set up a timber processing plant in the Angkor Sugar concession land and started exporting the timber to Thailand as sleepers for railway tracks. The villagers expressed their desire to have the community forest returned back to them so they can work on the rehabilitation of it.

As illustrated in detail in this chapter, the Royal Government of Cambodia and the concessionaires did not fulfill the principles of FPIC during the granting and implementation of the concession contracts.

¹⁶⁰KI Interview with the Deputy Chairperson of the Ratanak Ruka Community Forest, 11 December 2014.

¹⁶¹Kingdom of Cambodia, *Sub-decree 487 on the Formation and Management of Community Forests in Oddar Meanchey 2008*

Chapter 5: Impact of the Sugar Concessions

While almost eight years has elapsed since the granting of the three sugar concessions, the impact of the concession remains acute. Chapter 5 of this report looks at the impact of the concession on the livelihood of the villagers; particularly attention is given to the impact on women on the community forestry and the security of tenure.

5.1 Loss of Land and Property

As a result of the land grab by the three sugar concessions, over **2,073 families** in the affected villages have lost over **9,407 hectares** of agricultural and chamkar land; and **21 hectares** of residential land. In the case of O'Bat Moan/Boss Village in Koun Kriel commune, the whole village was burnt and destroyed and over **214 families** lost all their personal possessions in the fire. No cash compensation has been provided for the houses, properties and possessions lost.

The villagers interviewed said that they had lost investments they had made on the land, which included the clearing and ploughing of the land and the agricultural production and yield of the land. They reported that many were not allowed to harvest their crops after the concessionaires erected boundary poles and lost rice, cassava and other crops. The villagers also lost access to other communal land to graze their cows and buffaloes. They said there were many instances where they were fined 10,000 Riel if their cows or buffaloes strayed into the concession land.

5.2 Loss of community forestland and NTFP and Habitat for Wild Animals

The villagers lost the use and management of over **7,944 hectares** of communal land –original Community Forestland, which they also said they were preserving for the future generations.

When the company came, the villagers could not access and collect NTFPs such as wild mushrooms, bamboos, wild potatoes, wild

ginger, wild honey and other herbs which a lot of the villagers depend on as a food and medicinal source. They also lost access to their resin and rattan trees, which is an additional source of income for the villagers.

The villagers believe the depletion of trees and loss of the natural habitat has also led to the decrease in the number of *Pongru* (Ant eater), *Trakute* (Small dragon), *Chru Prey* (Wild Pig), *Prah* (Deers), and *Tradawk* (Wild Bird) native to the province.

5.3 Loss of access to Water Resources

The villagers complained that when the concessionaires built roads and boundary markers, they blocked the flow of freshwater into the local steungs (canals) that provided freshwater to the irrigation canal in rice fields. In addition, the concessionaires blocked access to other water reservoirs and ponds inside the concessions, this has meant they had to travel far to graze and feed their animals.

5.4 Lack of Security of Tenure on the Swapped Land

The villagers were concerned over the lack of security of tenure over their replacement land. Forced to sign a contract giving up the land to their village chief and agreeing to take the replacement land of lower value and quantity which was signed only by the Village chief and Commune chief, the villagers were concerned about the validity of these contracts, the level of protection they could get from this if somebody else claimed and whether the documents would be recognised by the Land Registration Team when applying for land title. While most of the villagers in Samraong and Koun Kriel communes were given receipts, many of the villagers in Chong Kal and Ponggro were not provided with receipts. These were all kept at the commune and district level.

5.5 Deterioration of Livelihood and Loss of Income

The extensive loss of land, community forest and natural resources has had a severe impact of the livelihoods of the villagers. Almost all the affected villagers depended on agriculture for their livelihood, the villagers grew rice on their agricultural land; and cassava and corn on their chamkar land.

The villagers said the land grab by the concessionaires has led to the loss of livelihood and decrease in the income, which has in turn led to the significant reduction in the quality and quantity of food consumption. The Villagers mostly women during FGDs noted that *'they had less land to grow rice on and that meant less rice and other vegetables to feed their families and less to sell'. They said that 'before the company came most of us could harvest rice to eat well for 10 of the 12 months but after the company came and took away our land, we can only grow and harvest enough to eat for 8 months on our remaining land and have problem for the rest of the 4 month.'*

The villagers claimed that the land grab has led to further and increased food insecurity and impoverishment of the affected villagers. They could no more afford to store food stocks and take part in rice banks, which would provide a coping strategy against natural disaster or health problems within families' emergencies. Many had to go into debt to buy food and many women in particular reported that they ate less to save food for their children.

They said that the argument that the sugar plantation could provide jobs is untrue, in fact they said the concessionaire brought machinery and hid it in the next village so that the affected villagers would not protest. They said the companies preferred to use machinery than hire labour from the villagers.

5.6 Increased Migration to Thailand

Villagers claimed that due to insufficient land, low market rates for their products, increased debt for fertilisers and lack of other non-land based livelihood, an increasing number of villagers have been migrating to Thailand in search for work. The villagers reported that more and more families are taking out loans and sending their families to Thailand and are relying on remittance to survive.

One villager in Ponggro Commune complained that *'the price of rice is so low I only get 1,000 Riel for 1kg of rice and on top of that I am in debt from buying fertilizers which is so expensive...but I have no choice I am forced to sell at this very low rate.... in 2-3 years if you come back here the whole village will be empty, you will find no one here maybe just the elderly.....almost all villagers will have go to Thailand....we have no choice na.'*¹⁶³

Another villager in Chong Kal Commune noted that *'I really wish I could get higher price for my cassava and rice, I have invested so much money but I cannot sell it at a good rate, this year, I have lost half my investment, now I cannot pay back my debt for fertiliser and labour costs. I had to send my children to work in Thailand then I had no one to help me harvest the rice and cassava and had to pay labourers to work in the rice fields but I don't know what else to grow. I think I will go to Thailand next year'.*

5.7 Women and Children

The research study also found that the land grab has disproportionately affected the women. Many women have had to migrate to Thailand while others were left with small children while their husbands left to work in Thailand and some in Malaysia. The women during FGD in Banteay Chaor Village in Ponggro Commune noted that they were responsible for household activities and farming in the remaining land and said they faced extreme difficulty to manage both, especially harvesting by themselves.¹⁶⁴

¹⁶³FGD Interview at Ta Pean Village, Ponggro Commune, 26 November 2014.

¹⁶⁴FGD Interview at Banteay Chhor, Ponggro Commune, 26 November 2014.

The women from O'Bat Moan/Boss Village in particular have been seriously impacted, a villager noted:

*'During the eviction, my husband got injured and could not work anymore, he died after a years I was so heart broken. Now I have to look after my eight children by myself. It has been very difficult, I have no land to live or to grow rice on, I am surviving by living on a small plot of land in the community forestland which the Ratanak Ruka Community Forest members have allowed me to do as I am also their member. Now I make my living by digging, cutting and drying cassava for other villagers. For every tonne of cassava I cut I get 200,000 Riel (approximately \$50) but this can take a lot of time and its a lot of hard work.'*¹⁶⁵

The villagers also noted that due to the loss of income, many of them had difficulties paying for the school and other education related expense and they had to take children out of school and many children had to disrupt their studies and children had to start work, many as young as 13 go to Thailand.

5.8 Loss of Temples and Sites of Archaeological Importance

The villagers said they loss access to important temples and archeological sites with intricate Hindu and brahma statues like Tup, Roveng, Sroung Kandal, Ompov Deib, Kork Wat, Achar Pan, Ompelt, Sroung Rodash, Sat Mat, Rong Kla Khmon, Kork Jieu and Ompelt Roleng within the concession land.

¹⁶⁵KI Interview with a Villager from O'Bat Moan/Bos Village, Koun Kriel Commune, 4 December 2014.



K93-219

Planting Date
24-10-12

Chapter 6 Current Status of the Concession Land and Breaches of Cambodian Law

Though the stated intention of three concessions were for the purpose of sugarcane plantations and sugar processing plant, sugarcane was never cultivated on a large scale with only sugarcane saplings in plots planted in Angkor Sugar and Tonle Sugar Company concession land. The sugar processing plant also was never built. Contrary to this, the concessionaires signed a **logging contract** with an unknown company to harvest timber and setting up of a timber processing plant in Angkor Sugar concession land. Logging and timber processing was thus taking in the concession land and later cassava plantations. The company had been logging the trees, processing it in the timber processing plant in Bak Nuem Village located within the Angkor Sugar concession land and converting it to sleepers for train tracks and exporting it to Thailand.

Following the logging of trees, they cut and burnt the remaining sugarcane and started planting

cassava. The villagers noted that the company could not grow sugarcane as there was pressure from the international community and UN and there were complaints lodged against them in the Thai Human Rights Commission ‘*so sugar cane was cut down in 2013 to plant cassava instead*’. The researchers visited the concession sites in December 2014 and saw no sugarcane but found only cassava being grown in small quantities.

Confidential documents from the Department of Planning and Statistics at the MAFF has revealed that the areas actually planted does not commensurate the areas cleared and areas contracted for concession. The concession land was not fully exploited for the overt purpose of the production of sugarcanes, out of the total 19,736 hectares of concession land 3,190 hectares of forestland was cleared and **only 219 hectares or 1.1 percent** of the land were planted with sugarcane saplings, see Table 5.1 for more details.

Table 5.1 Status of the Sugar Concessions

No	Total concession area (hectares)	Concession area cleared (hectares)	Concession area planted (hectares)
Angkor Sugar	6,573	1,391	128
Cambodia Cane and Sugar Valley	6,595	468	36
Tonle Sugar	6,618	1,331	55

Source: Department of Planning and Statistics at MAFF Document

6.1 Breaches of Cambodian Law and International Human Rights Principles and Law

The three sugar concessions held by Mitr Phol are in breach of a number of Cambodian laws and regulations and International Human Rights Principles and Instruments.

The Land Law 2001 stipulates that ELCs can only be granted over State Private Land¹⁶⁶, however the three sugar concessions have been granted over (sparse deciduous) forestland, which is classified in the law as State Public Land. The concessions in addition has been granted over and has blocked access to river, ponds used by the villagers as irrigation canals and in addition many temples and

archeologically significant sites, which is prohibited by the same article of the Land Law.

The three sugar concession land was retroactively reclassified from State Public to State Private Land in August 2012, five years after the concession lease was granted in January 2008 which is in breach of the Sub-Decree on ELC states that land granted for concessions must have been registered and classified as state private land under the legal process for land registration.¹⁶⁷ The three sugar concession cover a cumulative area of 19,736 hectares almost twice the legal limit of concession holdings, including by several legal entities controlled by the same natural person.¹⁶⁸

¹⁶⁶Land Law, op cit. Article 58.

¹⁶⁷Sub-Decree No 146 on Economic Land Concessions, op cit. Article 4.

¹⁶⁸Land Law, op cit. Article 59.

The three sugar concessions have been involved in the land grab of over 9,450 hectares of agricultural, chamkar and residential land belonging to villagers. The Royal Government of Cambodia and companies' activities including the dispossession of land, burning and destruction of housing and property, and displacement of over 214 families have infringed on the peaceful tenure rights of legal possessors of land, an area not covered by cadastral index maps and therefore constitutes a penal offence under the Land Law 2001.¹⁶⁹

No consent was sought and no consultations with local residents took place prior to the granting of the concessions as required by the Sub-Decree No 146 on ELC.¹⁷⁰ There is no evidence of any comprehensive Environmental and Social Impact Assessments or Land Use Plans undertaken with public participation by the concessionaires in the three concessions prior to approval of the concession lease. Environmental and Social Impact Assessments are required by a number of Cambodian Law and regulations, including the Sub-Decree No 146 on ELC, the Law on Environmental Protection and Natural Resources 1996 and Forestry Law 2002 for projects adjacent to forest land.

The three sugar concessions did not comply with the legal requirements of its concession contracts. The Land Law 2001 requires concessions created for the purpose of industrial cultivation be exploited within twelve months after issuance of the concession and comply to the clauses specified in the contract.¹⁷¹ As noted in the earlier section the concession land was not fully exploited for the overt purpose of the production of sugarcanes, out of the total 19,736 hectares of concession land, 3,190 hectares of forestland was cleared and only 219 hectares or 1.1% of the land were planted with sugarcane saplings, nor a sugar processing plant ever built. Contrary to this, logging and timber processing were taking place in the concession land and later cassava plantations.

The Royal Government of Cambodia and companies' dispossession of land; burning and destruction of housing and property; use of force, injury and displacement of over 214 families in O'Bat Moan/Bos Village in Kun Kriel Commune in April 2008 and October 2009¹⁷² is in breach of the legal and procedural requirements for ensuring respect of human rights prior to, during and after evictions as spelled out in *UN Basic Principles and Guidelines on Development-based Evictions and Displacement 2012*,¹⁷³ these procedural requirements uphold the rights to security of person and home, which is protected by the International Covenant on Civil and Political Rights (ICCPR). The Royal Government of Cambodia has incorporated its obligations under international human rights law in its Constitution through Article 31 this includes its obligations under ICCPR.¹⁷⁴

No proper solutions for resettlement, shelter or cash compensations had been carried out prior to the granting of the concession lease. The Sub-Decree on ELC stipulates that's solutions for resettlement have been established in accordance with existing law and procedures and the granting authority can ensure that there will be no involuntary resettlement of lawful landholders and access to private land respected. After months of advocacy and community action only 14 families from O'Bat Moan/Bos Village received replacement land which was unsuitable for them. Table 6.1 provides a matrix setting the breaches of Cambodian Law.

¹⁶⁹Ibid, Article 248.

¹⁷⁰Sub-Decree No 146 on Economic Land Concessions, op cit. Article 4.

¹⁷¹Land Law, op cit. Article 54-55 and 62.

¹⁷²KI Interview with a Villager from O'Bat Moan/Bos Village, Koun Kriel Commune, 4 December 2014.

¹⁷³UN OHCHR, UN Basic Principles and Guidelines on Development-based Evictions and Displacement adopted by the Human Rights Council Resolution 6/27/HRC/6/L.11/Add.1 on 19 December 2007, Article

¹⁷⁴Kingdom of Cambodia, Constitution of the Kingdom of Cambodia, 1999 Amended, Article 31.

Table 6.1: Breaches of Cambodian Law

Law and Sub-Decrees	Article	Breach
Land Law 2001	<p>Article 58 A land concession can only be granted on lands that are part of the private property of the State. The land concession may not violate roadways or transportation ways or sidewalks or their borders and the ground necessary for their maintenance, nor to waterways, pools, ponds and water reserves to be used by the people in their daily lives.</p>	The three sugar concessions (Angkor Sugar, Cambodia Cane and Sugar Valley, and Tonle Sugar) has been granted over sparse deciduous forest which is State Forest and waterways, ponds, water reserves and archeological areas which are all State Public Land pursuant to Article 15 of the Land Law.
	<p>Article 59 Land concessions areas shall not be more than 10,000 hectares. Existing concessions which exceed such limit shall be reduced. The issuance of land concession titles on several places relating to surface areas that are greater than those authorized by the first paragraph in favor of one specific person or several legal entities controlled by the same natural persons is prohibited.</p>	The three sugar concessions (Angkor Sugar, Cambodia Cane and Sugar Valley, and Tonle Sugar) which are connected and owned by the same entity Mitr Phol cover a cumulative area of 19,736 hectares this contradicts the prohibitions on the issuance of concession over 10,000 hectares on several places controlled by the same legal entity.
	<p>Article 248 The following acts are considered as infringements on ownership and other legal rights to immovable property and constitute penal offenses under this law: - An act or conduct, in fact, that is a hinders the peaceful holder or possessor of immovable property in an area not yet covered by the cadastral index maps, the ownership rights of which have not yet been fully strengthened under this law; - An improper or illegal beginning of occupation of State public property or State private property that is not in accordance with the provisions of articles 17, 18 and 19 of this law;</p>	The families in the affected villages are peaceful possessors of immovable property (majority hold Certificates of Possessory Rights -soft titles) but not yet comprehensively covered by the cadastral index map. The province is currently undergoing systematic land registration. The conduct of the Royal Government of Cambodia and the companies which has included the dispossession of land, burning and destruction of housing and property has infringed on the land and tenure rights of the villagers and constitute a penal offence under the Land Law.
Forestry Law 2002	<p>Article 4 Consistent with the Cambodian code of forest management and the Environmental Protection and Natural Resources Law, an Environmental and Social Impact Assessment shall be prepared for any major forest ecosystem related activity that may cause adverse impact on society and environment. Document of the Environmental and Social Impact Assessment shall be made available for public comment.</p>	There is no evidence of any comprehensive Environmental and Social Impact Assessments carried out in the forested area prior to the granting of concessions and no such assessments were made available for public comments.

<p>Sub-Decree on Economic Land Concession Land Concessions (2005)</p>	<p>Article 4 An economic land concession may be granted only on land that meets all of the following criteria:</p> <ol style="list-style-type: none"> 6. The land has been registered and classified as state private land under the legal process for land registration; 7. A land use plan for the land has been adopted by the Provincial State Land Management Committee; 8. Environmental and Social Impact Assessments must have been completed and approved according to the regulations set out in the environment law and associated regulations. 9. Solutions for resettlement have been established in accordance with existing law and procedures must, and the granting authority can ensure that there will be no involuntary resettlement of lawful landholders and access to private land respected; and 10. Public consultations have been conducted with local authorities and residents of the area, relating to ELC projects and proposals. 	<p>Criteria not met:</p> <p>The concession lands were not classified or registered as State Private Land prior to the granting of the concessions. The three sugar concessions have been granted over land that in accordance with the Land Law should be classified as State Public Land. It was retroactively reclassified from State Public to State Private Land in August 2012, five years after the concession lease was granted in January 2008.</p> <p>No evidence of a Land Use Plan for the concession land and prepared and/or adopted by the Provincial State Land Management Committee.</p> <p>There is no evidence of any comprehensive Environmental and Social Impact Assessments undertaken with public participation by the concessionaires in the three concessions prior to approval of the concession lease as also required by a number of other Cambodian Law and regulations, including the Law on Environmental Protection and Natural Resources 1996 and Forestry Law 2002 for projects adjacent to forest land.</p> <p>No evidence of solution for land acquisition and resettlement in accordance with legal frameworks was in place prior to and following the granting of the concession.</p> <p>No evidence of consent was sought and public consultations with local residents undertaken prior to the granting of the concessions.</p>
	<p>Article 24 Any individual, legal entity or community that intends to harvest timber products and NTFPs for commercial purposes shall have a harvest permit issued by the Forest Administration.</p>	<p>According to reports by the villagers the concessionaires signed a logging contract with an unknown company to harvest timber and set up a timber processing plant in Angkor Sugar concession. The company till November 2014 had cleared almost 3,190 hectares of forestland in the concession, processing the timber into train sleepers and transporting it in trucks to Thailand. There is no evidence of whether a harvest permit was issued by the FA or royalties paid.</p>

<p>Law on Environmental Protection and Natural Resource Management 1996</p>	<p>Article 6 An environmental impacts assessment shall be carried out on every project and activity of either private or public and shall be examined and evaluated by the Ministry of Environment before it is submitted to the Royal Government of Cambodia Government for decision.</p>	<p>There is no evidence of any comprehensive Environmental Impact Assessments carried out prior to the granting of concessions.</p>
<p>Land Law 2001</p>	<p>Article 54 A land concession is conditional. It must comply with the provisions of this law that are provisions of public order. The concession document may further contain other specific clauses that have contractual force.</p> <p>Article 55 A land concession is revocable through governmental decision when its legal requirements are not complied with.</p> <p>The concessionaire is entitled to appeal these decisions in compliance with the procedures provided by law.</p> <p>A court may cancel the concession if the concessionaire does not comply with specific clauses specified in the contract.</p>	<p>Conditions in Land Law 2001, Articles 54-55 and 62 not met.</p> <p>The three sugar concessions did not comply with the legal requirements of its concession contracts. The concession land was not fully exploited for the overt purpose of the production of sugarcanes, of the 19,736 hectares, 3,190 hectares of forestland was cleared and only 219 hectares or 1.1% of the land were planted with sugarcane saplings, nor a sugar processing plant ever built. Contrary to this logging and timber processing were taking place in the concession land and later cassava plantation.</p>
	<p>Article 62 Any land concession created for the purpose of industrial cultivation must be exploited within twelve months after issuance of the concession. If this is not complied with, it [the concession] will be considered as cancelled. Any failure to exploit [lasting] longer than 12 months, without proper justification, shall be grounds for cancellation of the concession.</p> <p>.....</p> <p>Any failure by a concessionaire to fulfill the conditions attached to the concession charges book shall be grounds to withdraw the concession.</p> <p>.....</p>	

Chapter 7. Conclusion and Recommendations

The objectives of granting ELCs is mainly to develop the agricultural and industrial-agricultural production and increase the employment, livelihood opportunities and raise the living standards of the villagers, however the findings of this research confirms that the ELCs has instead caused the dispossession of land and housing, loss of income and livelihood, impoverishment of the villagers and have sunk them further into poverty and debt.

7.1 Conclusions

The granting of sugar concessions to three companies, Angkor Sugar, Cambodia Cane and Sugar Valley and Tonle Sugar Cane Companies has:

- Affected over **2,073 families in 26 villages** in Samraong, Koun Kriel, Ponggro and Chong Kal communes;
- Led to the land grab and dispossession of over **9,430 hectares** of agricultural, chamkar and residential land in the 26 affected villages;
- Led to the land grab of over **7,944 hectares of community forestland** proposed and allocated to the Ratanak Ruka Community Forest in Samraong and Koun Kriel Commune;
- **Destruction of one village** and the forced eviction and **displacement of 214 families** in O'Bat Moan/Boss Village in Koun Kriel commune;
- **Forced land swap of 3,588 hectares** of low quality insufficient replacement land under duress to families in the affected villages;
- **Loss of housing structure, property, personal possession** and crops leading to **loss of income, livelihood** and increased food insecurity and impoverishment. Leading to increased migration to Thailand for non-land based livelihood;
- The concessionaires signed a **logging**

contract with an unknown company to harvest timber and setting up of a timber processing plant in Angkor Sugar concession land. The company till November 2014 had cleared almost **3,190 hectares of forestland** in the concession, processing the timber into train sleepers for export to Thailand. No sugar processing plant was ever built, only 219 hectares of 1.1 percent of the total concession land were planted with sugarcane saplings, which was later cut and burnt and replaced with cassava.

- **Breaches of a number of national and international law and standards** including the Land Law 2012, Sub-Decree on Economic Land Concessions (2005), Law on Environmental Protection and Natural Resource Management 1996, Forestry Law 2002. Breach of the legal and procedural requirements for ensuring respect of human rights prior to, during and after evictions as spelled out in UN Basic Principles and Guidelines on Development-based Evictions and Displacement 2012, these procedural requirements uphold the rights to security of person and home, which is protected by the International Covenant on Civil and Political Rights which Cambodia is obligated to.
- And violations of human rights of the families.

Victims of human rights violation are entitled under international law and standards to effective remedy, restitution and reparations for the harm they have suffered. Some of the main international human rights law and standards are provided below.

7.2 Legal Framework and Standards relating to Access to Effective Remedy, Restitution and Reparations

International Covenant on Civil and Political Rights (1996)

The International Covenant on Civil and Political Rights (ICCPR)¹⁷⁵ was adopted by the General Assembly in 16 December 1966. It commits its parties to respect the civil and political rights of individuals, including the right to life; freedom from torture, inhuman and degrading acts; freedom of religion, expression, association, assembly, electoral rights and rights to due process and effective remedy under Article 2.3.

International Covenant on Civil and Political Rights (1966)

Article 2.3. Each State Party to the present Covenant undertakes:

- (a) To ensure that any person **whose rights or freedoms as herein recognized are violated** shall have an **effective remedy**, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b) To ensure that **any person claiming such a remedy shall have his right there to determined by competent judicial, administrative or legislative authorities**, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) To ensure that the competent authorities shall enforce such remedies when granted.

UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (2005)

The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law¹⁷⁶ was adopted by the UN General Assembly on 16 December 2005 and it provides guidance to States on reparation for gross violations of human rights and harm

suffered, which includes reparation, restitution and compensation.

Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (2005)

15. **Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law.** Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.

16. States should endeavour to establish **national programmes for reparation** and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations.

17. States shall, with **respect to claims by victims, enforce domestic judgements for reparation against individuals or entities liable for the harm suffered** and endeavour to enforce valid foreign legal judgements for reparation in accordance with domestic law and international legal obligations. To that end, States should provide under their domestic laws effective mechanisms for the

¹⁷⁵UN OHCHR, International Covenant on Civil and Political Rights (ICCPR) was adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December 1966 and entered into force on 23 March 1976, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

¹⁷⁶UN OHCHR, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law adopted by the General Assembly Resolution 60/147 on 16 December 2005. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>

enforcement of reparation judgments.

18. In accordance with domestic law and international law, and taking account of individual circumstances, victims of gross violations of international human rights law and serious violations of international humanitarian law should, as appropriate and proportional to the gravity of the violation and the circumstances of each case, be provided with full and effective reparation, as laid out in principles 19 to 23, which include the following forms: **restitution, compensation, rehabilitation, satisfaction** and guarantees of non-repetition.

19. **Restitution should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred.** Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, **return to one's place of residence, restoration of employment and return of property.**

20. **Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case,** resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as:

- (a) Physical or mental harm;
- (b) Lost opportunities, including employment, education and social benefits;
- (c) Material damages and loss of earnings, including loss of earning potential;
- (d) Moral damage;
- (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

UN Basic Principles and Guidelines on Development-based Evictions and Displacement (2007)

UN Basic Principles and Guidelines on Development-based Evictions and Displacement¹⁷⁷ was adopted by the Human Rights Council on 19 December 2007 and addresses the human rights implications of evictions induced by development projects in urban and rural areas and enumerates detailed steps to be taken by States to protect human rights prior to, during, and after evictions and in particular calls for provision of compensation, restitution and adequate rehabilitation consistent with human rights standards for remedies for forced evictions.¹⁷⁸

UN Basic Principles and Guidelines on Development-based Evictions and Displacement (2007)

VI Remedies for Forced Evictions

59. All persons threatened with or subject to forced evictions have the **right of access to timely remedy.** Appropriate remedies include a fair hearing, access to legal counsel, legal aid, return, **restitution, resettlement, rehabilitation and compensation,** and should comply, as applicable, with the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

A. Compensation

60. When eviction is unavoidable, and necessary for the promotion of the general welfare, the State must provide or **ensure fair and just compensation for any losses of personal, real or other property or goods, including rights or interests in property.** Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each

¹⁷⁷UN OHCHR, UN Basic Principles and Guidelines on Development-based Evictions and Displacement adopted by the Human Rights Council Resolution 6/27/HRC/6/L.11/Add.1 on 19 December 2007.

¹⁷⁸HIC-HLRN, Handbook on the UN Basic Principles and Guidelines on Development-based Evictions and Displacement, November 2010, p8.

case, such as: loss of life or limb; physical or mental harm; **lost opportunities, including employment**, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; and costs required for legal or expert assistance, medicine and medical services, and psychological and social services. **Cash compensation should under no circumstances replace real compensation in the form of land and common property resources. Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better.**

61. All those evicted, irrespective of **whether they hold title to their property, should be entitled to compensation for the loss, salvage and transport of their properties affected**, including the original dwelling and land lost or damaged in the process. Consideration of the circumstances of each case shall allow for the provision of compensation for losses related to informal property, such as slum dwellings.

62. Women and men must be **co-beneficiaries of all compensation packages**. Single women and widows should be entitled to their own compensation.

63. To the extent not covered by assistance for relocation, the **assessment of economic damage should take into consideration losses and costs, for example, of land plots and house structures; contents; infrastructure; mortgage or other debt penalties; interim housing; bureaucratic and legal fees; alternative housing; lost wages and incomes; lost educational opportunities; health and medical care; resettlement and transportation costs (especially in the case of relocation far from the source of livelihood). Where the home and land also provide a source of livelihood for the evicted inhabitants, impact and loss assessment must account for the value of business losses, equipment/inventory, livestock, land, trees/crops, and**

lost/decreased wages/income.

B. Restitution and Return

64. The circumstances of forced evictions linked to development and infrastructure projects seldom allow for restitution and return. Nevertheless, when circumstances allow, States should **prioritize these rights of all persons, groups and communities subjected to forced evictions**. Persons, groups and communities shall not, however, be forced against their will to return to their homes, lands or places of origin.

65. When return is possible or adequate resettlement in conformity with these guidelines is not provided, the competent authorities should establish conditions and provide the means, including financial, for voluntary return in safety and security, and with dignity, to homes or places of habitual residence. Responsible authorities should facilitate the reintegration of returned persons and exert efforts to ensure the full participation of affected persons, groups and communities in the planning and management of return processes. Special measures may be required to ensure women's equal and effective participation in return or restitution processes in order to overcome existing household, community, institutional, administrative, legal or other gender biases that contribute to marginalization or exclusion of women.

66. Competent authorities have the duty and responsibility to assist returning persons, groups or communities to **recover to the maximum extent possible, the property and possessions that they left behind** or were dispossessed of upon their eviction.

67. When return to one's place of residence and recovery of property and possessions is not possible, competent authorities must provide victims of forced evictions, or assist them in obtaining, appropriate compensation or other forms of just reparation.

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries (2012)

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries (also referred as the Voluntary Guidelines) are non-legally-binding set of principles to help countries improve their governance of land tenure so as to ensure better food security of their population with special attention given to smallholder farmers, indigenous communities and women's rights.¹⁷⁹The Voluntary Guidelines was adopted by the UN Committee on World Food Security on 11 May 2012. Principle 14 focuses on restitution and compensation for loss of tenure rights to land and forests.

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries (2012)

14.1 Where appropriate, considering their national context, States should consider **providing restitution for the loss of legitimate tenure rights to land**, fisheries and forests. States should ensure that all actions are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments.

14.2 Where possible, **the original parcels or holdings should be returned to those who suffered the loss, or their heirs, by resolution** of the competent national authorities. Where the original parcel or holding cannot be returned, States should **provide prompt and just compensation in the form of money and/or alternative parcels or holdings**, ensuring equitable treatment of all affected people.

14.3 Where appropriate, the **concerns of indigenous peoples** regarding restitution

should be addressed in the national context and in accordance with national law and legislation.

14.4 States should develop gender-sensitive policies and laws that provide for clear, transparent processes for restitution. Information on restitution procedures should be widely disseminated in applicable languages. **Claimants should be provided with adequate assistance**, including through legal and paralegal aid, throughout the process. States should ensure that **restitution claims are promptly processed**. Where necessary, successful claimants should be provided with support services so that they can enjoy their tenure rights and fulfil their duties. Progress of implementation should be widely publicized.

The Royal Government of Cambodia has incorporated its obligations under international human rights law in its Constitution through Article 31.¹⁸⁰ The Royal Government of Cambodia and the three sugar concessionaires are thus obligated to ensure that remedial action as stated in Article 2.3 of the International Covenant on Civil and Political Rights (1996) and further spelled out in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (2005), UN Basic Principles and Guidelines on Development-based Evictions and Displacement (2007), Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries (2012), which includes fair hearing of claims, assessment of loss and damages, restitution and return of land, reparation, fair and just compensation, rehabilitation is taken with respect to the villagers who's human rights have been violated as a result of the granting of the three sugar concessions.

¹⁷⁹FAO, Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries, May 2012, Rome, p5. <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

¹⁸⁰Kingdom of Cambodia, Constitution of the Kingdom of Cambodia, 1999 Amended, Article 31.

7.3 Recommendations for Remedy

The study recommends the In particular the affected villagers seek the following remedies from the Royal Government of Cambodia in particular the Ad Hoc Inter-Ministerial Committee and the three sugar concessionaires via the parent company Mitr Phol and the EU:

1. The immediate and **formal cancellation** of the **three sugar concessions**.
 2. A comprehensive and transparent **assessment of the housing, land, property, livelihood and income loss claims** of the villagers affected by the three sugar concessions. Those affected families who have not been included in this study should also be consulted and their housing, land, property, livelihood and income loss claims be assessed. Followed by the preparation and implementation of a time-bound and verifiable **Remedial Action Plan** based on the List 1 and List 2: Land Swap which includes the following:
 - I. The setting of a **comprehensive and transparent restitution claim mechanism** whereby the **legitimate tenure rights to 9,430 hectares** of grabbed agricultural, chamkar and residential land can be adjudicated and full ownership in the form of a land title to legal possessors of residential, agricultural land and chamkar land; and usufruct rights to chamkar land be restored to the claimants through the Systematic Land Registration (SLR) process since the province is currently undergoing the SLR process. The affected villagers were explicit in their demand for their land back, they do not want cash compensation.
 - II. A comprehensive, independent and transparent **review of the 3,588 hectares of replacement land received** by the villagers under duress during the land swap process so that each families either receives a) full replacement land commensurate to the quality, size and value of the land lost and/or b) their old land back depending on their wishes.
 - III. Formulation of a strategy for the **rehabilitation of the 7,944 hectares of community forestland** grabbed by the concessionaires and a mechanism to return it back to the Ratanak Ruka Community Forest members for management and use.
 - IV. **Fair and just cash compensation** for the **loss of housing structure, property, personal possession and crops** lost and destroyed in the fire by the 214 families in O'Bat Moan/Bos village in Koun Kriel commune.
 - V. A comprehensive, transparent and independent **review of the livelihood and income lost due** to the loss of the villagers' land, crops, blocked access to the community forest, resin trees and NTFP and the formulation of a cash compensation mechanism and an Enhanced Livelihood and Income Restoration programme.
 3. Development assistance in the affected villages, these include:
 - a. Better irrigation systems as many of the affected villagers depend on the weather and harvest once a year during rainy season and not in the summer;
 - b. Improved local transport and infrastructure including access roads so the villagers can transport rice and others crops from their agricultural and chamkar land and access the markets;
 - c. Knowledge and application of techniques to improve the diversity and yield of agricultural crops;
 - d. Access to competitive markets and power to negotiate prices with buyers, lenders, sharing capital equipments among farmers etc.
 - e. Opportunity to participate further up the supply chain.
- In addition to the restitutions and direct reparations to the villagers for breaches of human rights, the Royal Government of Cambodia should consider developing and promoting alternative models for agricultural investments.

4. Developing and promoting alternative models for agricultural investments

There is underlying assumption underpinning ELCs that large-scale corporatised production of agricultural produce is the most suitable solution for Cambodia. This is not the case, the Laotian and Vietnamese experience has shown that smallholder rice production can be highly efficient and internationally competitive. Second, and perhaps more importantly, such a strategy is not likely to improve food security in Cambodia where the central piece of the food security problem is the affordability of and access to food and food production related materials by poor and largely rural farmers rather than production quantity per se. This suggests an alternative strategy for the Royal Government of Cambodia and the companies to invest not in the land itself but more in the people currently farming this land and their local food production practices, who will be able to deliver the productivity if given the rights tools and knowledge including Climate Resilient Sustainable Agriculture practices.

These three main and six sub-recommendations are consistent with those of the UN Special Rapporteur on the Situation of Human Rights in Cambodia, Surya Subedi who in his 2012 report to the Human Rights Council focused on ELCs recommended that:

*Companies of all sizes, structures and modes of operation, both domestic and foreign, and whether wholly or partly owned by the State, should address their human rights impact by practicing due diligence, including implementing measures to identify, prevent, and mitigate adverse human rights consequences and account for their business activities.*¹⁸¹

The UN Special Rapporteur also recommended that:

... In the case of past abuses, all efforts should be made to ensure **remediation**.....adhere to international human rights standards related to adequate **housing and fair and just compensation**. Additional efforts should be made to **re-establish livelihood opportunities**.¹⁸²

The **livelihoods and income generation opportunities** of families affected by concessions should be examined and made part of a quantitative and qualitative study, with solutions proposed to **address negative financial impacts** at the household and community level.¹⁸³

The Royal Government of Cambodia has shown its commitment to redress the breaches of human rights under the national and international law through the granting of ELCs by taking steps to review and cancel many ELCs since 2012, instituting the Order 01 mechanism, specifically the establishment of the Ad Hoc Inter-Ministerial Committee in January 2014 to address the issues arising from the sugar concessions in collaboration with the EU.

The concrete steps taken by the Cambodian Government, the three concessionaires via its parent company Mitr Phol and the EU to address the three main and six sub recommendations presented in this report would represent an important step towards accountability for breaches of human rights, Corporate Social Responsibility (CSR) and provide justice for the families in Samraong and Chong Kal District in Oddar Meanchey Province who have suffered human rights violations due to the land grab for sugar concessions.

¹⁸¹Surya Subedi, Report of the Special Rapporteur on the situation of human rights in Cambodia: Addendum, A human rights analysis of economic and other land concessions," A/HRC/21/63/Add.1, 24 September 2012, para 217.

¹⁸²Ibid, para 219.

¹⁸³Ibid, para 226.

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