



វេទិកាសម្រាប់អង្គការមិនមែនរដ្ឋាភិបាល ស្តីពីកម្ពុជា
The NGO Forum on Cambodia

ធ្វើការរួមគ្នាដើម្បីការវិវឌ្ឍវិជ្ជមាន
Working Together for Positive Change



NEW ACTIONS AND EXISTING POLICIES

The Implementation and Impacts of Order 01

PHNOM PENH, CAMBODIA

June 2015

NEW ACTIONS AND EXISTING POLICIES

The Implementation and Impacts of Order 01

Printed Date: June 2015

Published by: The NGO Forum on Cambodia
Land and Livelihoods Program

Authors: Mark Grimsditch and Laura Schoenberger

Field Work Team Leader: Dr. Meas Nee

Survey Supervisors: Kol Leakhana and Keo Bora

Research Coordinated by: Ms. Sao Vicheka, Research Officer

Layout Designed by: Mr. Phourn Yu, Information and Publication Officer

DISCLAIMER: The views expressed in this report are those solely of the authors and do not necessarily represent the views of The NGO Forum on Cambodia. While the content of this report may be quoted and reproduced, acknowledgement and authorization of the report's authors and publisher would be appreciated.

© **The NGO Forum on Cambodia, June 2015**

ACKNOWLEDGEMENTS

First and foremost, the authors of this report would like to express their sincere appreciation to the residents of the villages that were surveyed during the course of this research, especially those who gave their valuable time to answer household questionnaires and join in focus group discussions.

Our special thanks go to those officials at the village, commune, district and provincial levels, and others who agreed to be interviewed and provided valuable insights into the implementation of the Order 01 land titling campaign.

We are grateful for the cooperation and assistance provided by 3S Rivers Protection Network, Highlanders Association, Trocaire and Indigenous People Working Group (Ratanakiri); LICADHO and Moradak Khmer (Koh Kong); Children's Development Association (Oddar Meanchey); Community Economic Development Organization and Cambodia Peace-building Network (Kratie); ADHOC (Kampong Speu); LICADHO and Cambodia Peace-building Network (Pursat).

We are thankful to our research assistants Mr. Put Noeun, Mr. Sin Phorn, Mr. Yous Pich and Ms. Ke Sophea, who made the data collection possible, working under challenging conditions in often remote areas to conduct the household surveys and focus group discussions.

Thanks also go to Jeremy Ironside who provided valuable support in the design of the fieldwork during the early stages of the study.

Thank you to all those who gave comments and constructive feedback on draft versions of the report. Special thanks to Alice Beban for her thoughtful and detailed review and feedback, Jeremy Ironside for sharing his thoughts on the sections of the report related to indigenous community land, and Robin Biddulph who read and commented on a draft of this text and provided critical feedback. Finally, thank you to the NGO Forum on Cambodia for the opportunity to investigate this topic, and for the continued support provided throughout the research process.

CONTENTS

Executive Summary.....	1
Part 1: Introduction.....	45
1.1 Introduction to the Research.....	46
1.2 Objectives of the Research.....	48
1.3 Methodology.....	49
1.4 Selection of Study Areas.....	50
1.5 Quantitative and Qualitative Methods.....	53
1.5.1 Household Questionnaire.....	53
1.5.2 National and Provincial Level Interviews.....	54
1.5.3 Focus Group Discussions.....	55
1.6 Limitations of the Study.....	56
1.7 Report Outline.....	57
Part 2: The Background and Results of Order 01.....	59
2.1 The Growth of Economic Land Concessions in Cambodia.....	60
2.2 What is Order 01 and Where Did it Come From?.....	66
2.3 Approach of the Order 01 Land Titling Campaign.....	74
2.4 Results of the Order 01 Land Titling Campaign.....	77
2.5 Cancellation of Economic Land Concessions.....	83
2.6 Conclusion: Background of the Order 01 Land Titling Campaign.....	85
Part 3: The Legal Basis for the Order 01 Land Titling Campaign.....	87
3.1 Order 01 and Compliance with Pre-existing Legislation.....	88
3.1.1 The 2001 Land Law.....	89
3.1.2 Sub-decree #118 on State Land Management.....	91
3.1.3 Circular #02 on Illegal Occupation of State Land.....	92
3.1.4 Sub-decree #46 on the Procedure to Establish the Cadastral Index Map and Land Register.....	92
3.1.5 Reflections on the legality of Order 01.....	93
3.2 The Administrative Structure of the Order 01 Titling Campaign.....	94
3.3 Breakdown of the Order 01 Land Tilting Process.....	97
3.3.1 Selection of adjudication areas.....	99
3.4 Observations on Survey Implementation from the Field.....	105
3.4.1 Public Announcement.....	105
3.4.2 Land Survey and Data Collection.....	107
3.4.3 Public Display.....	108
3.5 Villagers' Perspectives on the Survey Process.....	108
3.6 Conclusion: Implementation of the Order 01 Process.....	110

Part 4: Access to the Order 01 Survey Process.....	119
4.1. What Types of Land Were Surveyed and Titled By Order 01?.....	121
4.1.1 ELCs, Forest Concessions and Other Types of State	121
4.1.2 How Order 01 Approached Forested Land.....	122
4.1.3 The Inclusion and Exclusion of Disputed Areas.....	123
4.2 Targeting of Order 01 at the Village Level: Land Surveys and Titling.....	124
4.3 Untitled Land.....	129
4.4 What Reasons Were Given for Not Surveying Land?.....	131
4.4.1 Village Level Exclusions from the Order 01 Land Survey Process.....	132
4.4.2 Land Excluded Due to Conflict with ELC.....	134
4.4.3 Land Excluded Due to Overlap with Protected Areas or Forests.....	138
4.4.4 Land Excluded Due to Claims by the State.....	140
4.4.5 Other Reasons Why Land May Not Have Been Surveyed.....	140
4.5 What Size Limits Applied to Land Surveys Under Order 01?.....	141
4.6. Who Received Land Titles Through Order 01?.....	146
4.6.1 Length of Occupation.....	146
4.6.2 Origin of Land Title Recipients: Insiders and Outsiders.....	148
4.7 Were Those Targeted by Order 01 Really Illegal Settlers?.....	151
4.7.1 Assessing The Legality of Land Occupation and Use in the Six Study Areas.....	152
4.7.2 Perceptions of ‘illegality’ at the Local Level.....	156
4.8 Conclusion: Factors Affecting Inclusion and Exclusion under Order 01....	157
Part 5: Order 01’s Approach to Land Disputes.....	161
5.1 Presence of Disputes Prior to the Start of the Order 01 Campaign.....	162
5.2 Background of Disputes in the Study Areas.....	165
5.2.1 Actors Involved in the Dispute.....	165
5.2.2 Date that Land Disputes Commenced.....	165
5.3 Did Order 01 Survey Disputed Areas?.....	170
5.4 Types of Disputes Observed During the Order 01 Process.....	171
5.4.1 Boundary Disputes between Neighbours.....	172
5.4.2 Disputes between Villagers and ELC Holders.....	173
5.4.3 Disputes with the Military.....	177
5.5 Disputes Remaining after Order 01.....	178
5.6 Conclusion: Dealing (and Not Dealing) with Land Disputes.....	179
Part 6: Order 01 and Communally Held and Managed Land.....	183
6.1. Order 01 and Indigenous Community Land.....	185
6.1.1 Cambodia’s indigenous people and communal land.....	185
6.1.2 Overview of household questionnaire responses from indigenous people.....	187
6.1.3 Order 01 and the issuance of private titles in indigenous communities.....	189

6.1.4 Issuance of Private Titles to Indigenous Communities in the Study Areas.....	190
6.1.5 Were Indigenous People Pressured to Accept Individual Titles?.....	191
6.1.6 Indigenous Community Lands Left Unprotected after Order 01.....	194
6.2 Conclusion: Implementation of Order 01 in Indigenous Areas.....	198
6.3 Order 01 and Community Forests.....	199
6.3.1 Community Forests in Cambodia.....	200
6.3.2 Order 01 land surveys within Community Forest Areas.....	202
6.3.3 Activities of Order 01 in 'failed' Community Forest Areas.....	204
6.3.4 Impacts of Order 01 on Community Forest Protection.....	206
6.4 Conclusion: Implementation of Order 01 in Community Forest Areas...	207
6.5 Order 01 and Community Protected Areas.....	208
6.5.1 Cambodia's Community Protected Areas.....	209
6.5.2 Order 01 land surveys within Community Protected Areas.....	210
6.6 Conclusion: Implementation of Order 01 in Community Protected Areas.....	212
Part 7: The Impact of Order 01 on Livelihoods and Tenure Security.....	215
7.1 Livelihood Profile of Respondents.....	217
7.2 Perceived Livelihood Impacts of Order 01.....	219
7.2.1 Livelihood Impacts of receiving Order 01 Titles.....	219
7.2.2 Livelihood Impacts of not receiving Order 01 Titles.....	222
7.2.3 Land Titles and Borrowing Money.....	226
7.3 Impacts of Order 01 on Land Tenure Security.....	230
7.4 Order 01 Titles and Impacts on the Land Market.....	233
7.5 Conclusions: Livelihood and Tenure Impacts of Order 01.....	236
Part 8: Perceptions of Order 01 in the Six Study Provinces.....	239
8.1 Satisfaction Levels Among Household Questionnaire Respondents.....	240
8.2 Positive Perceptions of Order 01 and Indications of 'Success'.....	241
8.3 Dissatisfaction with the Campaign Among Local Officials.....	244
8.4 Sources of Discontent Among Community Members.....	246
8.5 Conclusions: Assessment of Order 01 Satisfaction Levels.....	248
Part 9: Assessing the Critiques of Order 01.....	251
9.1 The Politicized Nature of the Order 01 Titling Scheme.....	252
9.2 Use of the "Youth Volunteers" in the Order 01 Campaign.....	256
9.2.1 Attitudes of Villagers and Local Officials to the Youth Volunteers.....	257
9.2.2 The Appearance of 'Militarized' Volunteers: Perceptions and Reactions to the Army Uniforms.....	262
9.3 Potential for Corruption in the Order 01 Campaign.....	265
9.3.1 Payment of Informal Fees to Secure Order 01 Land Survey and Titles..	265
9.3.2 Focus on Irregularities in Oddar Meanchey.....	268
9.4 Conclusions: The Critiques of Order 01.....	271

Part 10: Conclusion and Recommendations.....273

10.1 Conclusion.....274

10.2 Key Findings.....275

10.2.1 General Observations.....275

10.2.2 The Order 01 Survey and Titling Process.....278

10.2.3 The results of Order 01.....280

10.2.4 Beyond Order 01.....284

10.3 Recommendations.....287

10.3.1 To The Royal Government of Government.....287

10.3.2 To Civil Society and Development Partners.....290

References.....293

Appendix.....300

Full Text of Order 01.....300

Example of MLMUPC Notification on Order 01 Results.....301

Form Confirming Desire to Leave Indigenous Community.....302

The research Tool Used for the Fieldwork Portion of This Study.....303

ABBREVIATIONS

AC	Administrative Committee
CC	Cadastral Commission
CCHR	Cambodian Centre for Human Rights
CF	Community Forest
CLP	Council for Land Policy
CPA	Community Protected Areas
CPP	Cambodian People's Party
ELC	Economic Land Concessions
FGD	Focus group discussion
GDANCP	MoE General Department of Administration for Nature Conservation and Protection
GPS	Global Positioning System
HRW	Human Rights Watch
ILO	International Labour Organization
LASSP	Land Administration Sub-Sector Program
LMAP	Land Management and Administration Project
MAFF	Ministry of Agriculture, Forestry and Fisheries
MDG	Millennium Development Goals
MFI	Microfinance institution
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MoE	Ministry of Environment
NARLD	National Authority for Resolution of Land Disputes
NGOF	NGO Forum on Cambodia
NTFP	Non-timber forest products
ODC	Open Development Cambodia
OHCHR	United Nations Office of the High Commissioner for Human Rights
Order 01	Order 01 on
PACP	Public Awareness and Community Participation
PDLM	Provincial Department of Land Management
PSLMC	Provincial State Land Management Committee
RGC	Royal Government of Cambodia
SLR	Systematic Land Registration
UNCERD	United Nations Committee on the Elimination of Racial Discrimination

PROVINCE CODE

KK	Koh Kong
KRT	Kratie
KPS	Kampong Speu
ODM	Oddar Meanchey
PST	Pursat
RTK	Ratanakiri

LIST OF TABLES

S.1	Order 01’s results and outputs as of 17 December 2014.....	9
1.1	ELC companies present in sampling areas (identified by respondents during field research).....	52
1.2	Surveyed areas.....	53
1.3	Interviews conducted by province.....	55
2.1	Timeline of key events related to Order 01.....	70
2.2	Cumulative results of the Order 01 land titling campaign, May 2013 to December 2014.....	82
3.1	Main ways in which questionnaire respondents heard about Order 01 adjudication.....	102
3.2	Comparison of the SLR process and Order 01 land titling campaign process	
4.1	Incidence of surveyed land failing to receive title.....	130
4.2	Reasons for land being excluded from Order 01 survey.....	133
4.3	Officials’ responses on the maximum size of land that can be measured by Order 01.....	143
5.1	Percentage of respondents involved in land disputes prior to Order 01..	164
5.2	Cause of disputes reported in study areas.....	165
5.3	Survey of disputed and non-disputed land in study areas.....	170
5.4	Disputes resolved during the Order 01 survey in the six study areas.....	171
6.1	Number of Recognized Community Protected Areas in Cambodia, 2009-2012.....	210

LIST OF FIGURES

2.1	Cumulative land area granted as ELCs by MAFF, 1996 - June 2012.....	63
2.2	Number of ELCs contracts signed by MAFF, 1996 - June 2012.....	63
2.3	Geographical distribution of ELCS granted by MAFF.....	64
2.4	Cumulative number of land titles issued under Order 01, June 2012 - December 2014.....	78
2.5	Cumulative area of land re-classified under Order 01, June 2012 - December 2014.....	79
2.6	Breakdown of land types reclassified under Order 01 up to December 2014.....	80

3.1	Administrative structure of the Order 01 land survey process.....	95
3.2	The Order 01 land titling process.....	98
4.1	Percentage of questionnaire respondents who had rice land surveyed...	125
4.2	Percentage of questionnaire respondents who had Chamkar land surveyed.....	126
4.3	Percentage of questionnaire respondents who had residential land surveyed.....	126
4.4	Comparison of land survey activity with land title outcomes for rice land.....	127
4.5	Comparison of land survey activity with land title outcomes for Chamkar land.....	128
4.6	Comparison of land survey activity with land title outcomes for residential land.....	128
4.7	Types of land registered in the six provinces studied.....	129
4.8	Incidence of surveyed land failing to receive title.....	131
4.9	Comparing length of occupation with receipt of 01 land title (HH questionnaire respondents).....	147
4.10	Household questionnaire respondents' opinion on origins of majority of title recipients.....	149
4.11	Method of acquiring first plot of rice land.....	154
4.12	Method of acquiring first plot of chamkar land.....	155
5.1	Prevalence of land disputes prior to Order 01 in the six study areas.....	163
5.2	Number of respondents with some land in dispute prior to Order 01....	164
5.3	Start date of disputes concerning rice land within the six study areas....	166
5.4	Start date of disputes concerning chamkar land within the six study areas.....	167
5.5	Start date of disputes concerning rice and chamkar land within the six study areas.....	168
5.6	Comparison of incidence of land dispute nationwide and in study areas, 2000-2013.....	169
6.1	Indigenous identity of household questionnaire respondents.....	188
6.2	Number of questionnaire respondents living in communities with Community Forest.....	203
6.3	Respondents' view on whether Order 01 made it easier or more difficult to protect CF.....	207
6.4	Number of respondents living in communities with Community Protected Areas.....	211
6.5	Respondents' view on whether Order 01 made it easier or more difficult to protect CPA.....	212
7.1	Most important sources of income for household questionnaire respondents.....	217
7.2	The second most important sources of income for questionnaire respondents.....	218

7.3	Estimated average monthly income of questionnaire respondents.....	219
7.4	Title recipients' perception of Order 01 title and impacts on livelihood..	220
7.5	Ways that receiving land titles impacted on livelihoods of questionnaire respondents.....	222
7.6	Non-title recipients' perception of Order 01 title and impacts on livelihood.....	223
7.7	Ways that not receiving a land title impacted livelihoods of questionnaire respondents.....	224
8.1	Satisfaction with outcomes of Order 01 among household questionnaire respondents.....	241

LIST OF ILLUSTRATIONS

1.1	Map prepared by villagers to assist selection of households for interview, July 2014.....	54
1.2	Focus Group Discussion in Kratie, July 2014.....	56
2.1	Concessions and other developments mapped by Licadho.....	62
3.1	Farmland in Pursat, July 2014.....	112
4.1	The Journey to Chhlong District, July 2014.....	136
5.1	Forest clearance in Snoul District, Kratie, 2013.....	177
5.2	Household Interview Being Tested in Kampong Chhnang, June 2014...178	
6.1	Geographical distribution of indigenous groups in Cambodia.....	185
6.2	Household Interview in Ratanakiri , July 2014.....	199
6.3	Sugarcane concession within the Ratanak Rotha Community Forest, Oddar Meanchey, 2014.....	202
6.4	Cambodia's Protected Areas.....	209
7.1	Travelling to a Study Village in Ratanakiri , July 2014.....	226
7.2	Cassava cultivation in Snoul district, Kratie, 2014.....	229
7.3	Upland intercropped rice, Snoul district, Kratie, 2014.....	237
8.1	Focus Group Discussion in Pursat, July 2014.....	244
8.2	Villager's farmland alongside rubber plantation.....	250

LIST OF TEXT BOXES

2.1	Key regulations relating to ELCs.....	65
2.2	Insights from local officials on the origins of Order 01.....	68
2.3	The "Youth Volunteers".....	75
6.1	Indigenous communities and individual land titles.....	193

LIST OF CASE STUDIES

3.1	A concessionaire influences the land survey process in Koh Kong.....	109
4.1	Post-Order 01 insecurity, Andoung Meas District, Ratanakiri.....	137
6.1	Loss of Swidden Land and NTFPs, Andoung Meas District, Ratanakiri..	196
6.2	A Community Forest and ELC encroachment, Pursat.....	205
9.1	Grabbing Order 01 in Oddar Meanchey.....	269

EXECUTIVE SUMMARY

Introduction

The current system for granting land concessions was formalized in the 2001 *Land Law*, under which Economic Land Concessions (ELC) can be granted on state private land for the purposes of agro-industrial development. Despite the relatively strong legal framework contained in the *Land Law* and the subsequent *Sub-decree on Economic Land Concessions* (2005), serious concerns have been raised by communities, local and international organizations, UN agencies and development partners about the granting and implementation of ELCs and the impacts that they are having on people and the environment.

Prior to the issuing of *Order 01 on Measures for Strengthening and Increasing the Effectiveness of the Management of Economic Land Concessions* (Order 01)¹ in May 2012, there had not been any systematic or comprehensive review of ELCs. Order 01 declared a moratorium on the granting of new ELCs and called for a review of existing concessions. This was expanded one month later when the Prime Minister formally announced a new nationwide land titling campaign, specifically aimed at people residing within ELC areas, forest concessions, and other types of state land (Im, 2012). The rapid pace at which this new titling campaign was prepared and implemented took many by surprise, as did the speed at which the campaign was able to swiftly issue land titles across the country.

During Order 01's implementation, the Cambodian Government and the Ministry of Land Management, Urban Planning and Construction (MLMUPC), were clearly pleased with the progress of the campaign, which succeeded in issuing a large number of titles in a relatively short span of time. Yet, some critical questions remain about the approach of the campaign, and during its implementation a number of concerns emerged. Although the MLMUPC has announced basic statistics on the campaign's results, such as the total number of titles issued, the campaign was conducted in a manner that was viewed by many observers as non-transparent, and access to information was limited (for example, Dwyer, 2013). This report sets out to fill in some of the information gaps around Order 01, and to assess the major criticisms of the campaign.

¹ Although some authors use the term "Directive" to refer to this document, in this report the Khmer term "botbangchia" is translated as "Order". MLMUPC translations of related documents for the most part use the term "Order", and for this reason and to maintain consistency, this term is also used here.

Aims of the Study

Several studies were conducted while Order 01 was on going in 2012-13 that focused on its implementation.² Media coverage was also extensive during this period. The aim of this research is to build on these earlier studies and investigate in more detail the implementation and impacts of Order 01, using both quantitative and qualitative methods, over a large study area. This study looks at the implementation and impacts of Order 01 in both indigenous and non-indigenous areas and seeks to address the following overarching objectives:

- To better understand how Order 01 was implemented on the ground, the degree to which it proceeded according to the guidelines for its implementation, and how different types of land and land users were targeted by the campaign and to what effect.
- To assess the impacts of Order 01 on indigenous community land, Community Forests and Community Protected Areas.
- To evaluate the impacts of Order 01 on the livelihood and tenure security of non-indigenous, indigenous, and forest dependent communities.
- To identify the potential adverse impacts of the campaign and draw recommendations for all concerned stakeholders on how to deal with the outcomes of the Order 01 titling campaign.

In order to address these objectives, this research used a mix of quantitative and qualitative methods over a large study area. A comprehensive survey was conducted involving 480 households across six provinces where Order 01 was active. Qualitative data was also collected via 45 interviews with key informants at village, commune, district and provincial levels; consultations with 12 members of civil society, development partners and academics; and six village-level focus group discussions. Data collection for this research was conducted between February and August 2014 and data analysis and writing took place between September 2014 and January 2015.

This report presents the findings of the research and is broken down into ten main parts. Due to the length and detail of this study, each part of the report is written so that it can be read as a stand-alone piece, or, if the reader chooses, in the context of the whole report.

² See for example: Müller and Zülsdorf (2013), Milne (2013), Focus on the Global South (2013), and Rabe (2013).

Key Findings

The remainder of this summary provides an overview of the study's contents, and the findings are set out in detail in Part 10 of the report. A selection of the study's key findings are as follows:

- **Order 01 has achieved formidable results in a short space of time.** Between the start of the campaign in June 2012 and December 2014, approximately 610,000 titles have been issued. Up to December 2014 a total of 1.2 million hectares of land were reclassified through Order 01 (32% within ELCs, 23% in forest concessions, and 55% in other areas of state land and forest land).³ Since August 2014, a number of ELCs have also been cancelled outright.
- **The Order 01 survey process largely followed the main steps of the systematic land registration process:** An analysis of the Order 01 process shows that, on paper at least, the process mirrors the existing legal framework for land registration. However, this was conducted at a much faster pace, and some deviations were observed in the study areas.
- **People living within an Order 01 survey area had a high likelihood of receiving title to at least *some* of their land, but many plots were left untitled:** Questionnaire respondents who lived in an area where land surveys took place were likely to have at least *some* of their land surveyed. However, a very high number of people (75%) did not receive titles for *all* the land that they had surveyed, and over 50% said that some of their plots were not surveyed at all.
- **Various reasons were given for denial of title, but these reasons were applied inconsistently:** Numerous reasons were given, including the existence (or not) of a dispute, overlap with ELCs, and overlap with protected areas, among others. However, there were inconsistencies in how exclusions were implemented.
- **Order 01 had mixed results in areas with history of land conflict:** Dealing with disputes was a major area of inconsistency in Order 01's implementation. In many of the districts visited for this research, officials stated that the campaign explicitly targeted disputed areas. However, in some areas people were denied surveys *because* the land was disputed. When disputes were addressed, the process was often able to resolve small scale boundary disputes, but conflicts involving powerful actors (such as military or concessionaires) were rarely resolved.

³ MLMUPC, *Notification*, 17 December 2014.

- **Implementation of Order 01 in indigenous people's land raises significant concerns:** Surveys proceeded on indigenous community land, provided the household applying for the title agreed to sign a declaration to leave the community and give up rights to all traditional lands. This is a highly problematic feature of the campaign, and indigenous communities should not have been placed in this position. Many of those who did apply for 01 titles were frustrated that their fallow shifting agriculture lands were not surveyed, and respondents in some areas indicated that access to the forest has become more restricted since Order 01.
- **Order 01 surveyed land in some Community Forest areas:** About one-quarter of questionnaire respondents that had a Community Forest (CF) in their area prior to Order 01 land surveys reported that CF areas were surveyed by the Order 01 teams – which was not permitted under Order 01 guidelines. This was verified by information provided in interviews with local officials.
- **No livelihood impacts were observed during the study, but land titles facilitate rural households accessing loans:** The research found little evidence that livelihoods had been impacted by Order 01, and this was no different for households who received a title and for those who did not. However, it may take more time for such impacts to become apparent. The possession of a land title is seen by many as being a useful document for using as loan security, potentially accelerating the process of rural indebtedness and increasing access to larger loans.
- **Recipients of Order 01 land titles strongly associate those titles with improved tenure security:** 86% of questionnaire respondents stated that they felt more secure after receiving title, this opinion was shared by many local officials. Two-thirds of those that did not receive a land title through the Order 01 campaign stated that they felt *less* secure after Order 01. Geographically, respondents in Ratanakiri were least likely to associate the titles with improved tenure security.
- **Satisfaction levels were relatively high, but inevitably polarized between those who received titles and those who did not:** The results of the questionnaire indicated relatively high levels of satisfaction with the campaign, with about three-quarters of respondents satisfied with the process, and over 60% stating that they were satisfied or very satisfied with the outcomes. However, those who did not have all or part of their land titled expressed serious frustration, and the number of negative responses received from villagers and local officials indicates that experiences differed significantly from location to location.

- **Household questionnaire respondents generally had a positive assessment of the ‘youth volunteers’, some local officials were less positive:** The volunteers were popular among the surveyed villagers, who found them helpful, respectful and competent. Local officials were more critical of the way in which youth volunteers were involved in the program, and commented in particular that their military-style uniforms were inappropriate.
- **Few respondents reported having to pay unofficial fees, but many rumours circulated about corruption within the process:** Very few questionnaire respondents (20 people out of 441 responses) reported having to pay fees during the land survey process. However, it should be kept in mind that this may not be an issue that people are willing to talk openly about. Numerous local officials stated that they had heard of informal payments being made, especially by wealthier land holders, but this could not be verified.

Economic Land Concessions in Cambodia

The amount of land granted through large-scale Economic Land Concessions climbed steadily after the legal framework for granting concessions was formalized in the 2001 Land Law. There is no comprehensive and definitive dataset that compiles information on all concessions in Cambodia, and this lack of transparency has been a cause for concern for a number of years. Statistics from the Ministry of Agriculture, Forestry and Fisheries (MAFF) 2014 annual report state that the ministry has granted ELCs to a total of 122 companies covering a total land area of 1,316,396 hectares (MAFF, 2014, p.64). Information displayed on the MAFF website differs slightly and states that 118 concessions have been granted over 1,204,750 ha. Confusingly, the former Minister of Agriculture, Forestry and Fisheries reported to the National Assembly in May 2013 that the figure for ELCs granted between 1996 and 2012 was 1.5 million hectares to 117 companies – significantly larger than reported in 2014 (Trach, 2013). Reports by non-government agencies tend to emphasize that the true figure is much larger than suggested by government figures and may in fact be closer to 2 million hectares (Subedi, 2012, p.9). This discrepancy is also likely due to the fact that two ministries have granted ELCs, MAFF and the Ministry of Environment (MoE), and they do not publish joint data sets. There are also a number of other concessions that have not been well publicized.

Numerous reports have documented how a large number of ELCs have been linked to serious land conflicts, destruction of indigenous community land, and

blocking of access to natural resources.⁴ A number of concessions have also been found to be in breach of their concession agreement, either failing to develop the land in good time or using the land for purposes other than those stated in the contract. Some companies have failed to commence operations at all, while there is also evidence to suggest that some companies have used concessions simply to conduct logging in the ELC area. With pressure mounting and many long-running land conflicts remaining unresolved, the landscape changed significantly with the issuance of Order 01.

Background of Order 01

In May 2012, the Cambodian Government issued *Order 01 on Measures for Strengthening and Increasing the Effectiveness of the Management of Economic Land Concessions*. This Order announced a suspension on the granting of new ELCs and called for a review of existing concessions. Order 01 also stated that the Government shall seize ELCs if concessionaires have failed to comply with their contract or the relevant legal procedures. This includes concessionaires that have:

- used the concession to cut trees but have failed to cultivate the land;
- encroached on land beyond concession boundaries;
- left parts of the concession vacant in order to sell to third parties;
- undertaken business activities that violate the ELC contract; and
- taken land from local people or indigenous communities.

Order 01 states that any seized concession areas shall return to the direct management of the state. It also called on the relevant ministries, institutions and authorities to follow the “leopard skin” strategy when implementing the Government’s ELC policy. The leopard skin strategy refers to the practice of demarcating concessions in a way that avoids existing residential and agricultural land, and therefore in theory reduces the risk of land conflicts emerging. While the Order suspended the granting of new concessions, those that had already received approval in principle at the time of the Order were not affected by the suspension. According to an MoE spokesperson, 32 new concessions issued in the six months following the suspension because they were already “in the pipeline” at the time Order 01 was issued (Aun, 2014b).

Despite being an extremely brief one-page document, Order 01 set in motion a chain of events that led to the creation of a new nationwide campaign for surveying land and issuing land titles to people living on state land, including forest land, ELCs and forest concessions. In June 2012, one-month after Order 01

⁴ See for example: Cambodian Human Rights Action Committee (2009), Subedi, (2012), Equitable Cambodia & Inclusive Development International (2013), and Global Witness (2013).

was issued, the new land titling campaign was formally announced by the Prime Minister (Im, 2012). Implementation of Order 01 land surveys began the same month and continued for a year until being put on hold in June 2013 during the run up to the national elections held the following month. After the election, major land surveying did not recommence, but some areas that were surveyed prior to the election were issued title.

During data collection, the research team solicited opinions from local government officials, interviewees and focus group participants about what they considered to be the motives for the campaign. Surprisingly, the responses of government officials displayed the most diverse range of views on the campaign. While many of the respondents explained that the Order came from “the top” or “higher levels”, their thoughts on the exact reasons why the Order was issued differ significantly. For example, a commune council member from Kampong Speu stated that the campaign was to resolve land conflicts, many of which were caused by “powerful men”. In the opinion of this official: “As long as people get land titles, no one can take their land”, suggesting that the campaign was intended to prevent future land conflicts impacting on villagers. A village chief in Kratie thought the campaign had an entirely different purpose, stating: “The campaign focuses on the company land in order to prevent the people grabbing the company land.” Indicating how the campaign may have been both political and highly personalized around the figure of the Prime Minister, one commune council chief in Pursat spoke highly of the campaign, stating that it happened “because of the brilliant idea of Prime Minister Samdech Hun Sen”, although in Kampong Speu another village chief stated that the government’s motivation was “to get votes from the people.” While several respondents associated the campaign with securing tenure and clarifying boundaries of state land, several interviewees were unclear about the origin of the order and indicated that their role was to follow the orders of the higher authorities. By way of example, a village chief in Ratanakiri stated simply: “I do not know what was behind it. It was the national policy that we have to follow.”

Approach of the Order 01 Campaign

The Order 01 land titling campaign was presented by the Royal Government of Cambodia (RGC) as “new actions” to implement “existing policies” (Im, 2012). An analysis of the Order 01 process shows that, on paper at least, the process mirrors the existing legal framework for land registration. However, in order to survey and register such a large number of parcels in a limited timeframe, the Order 01 process was inevitably faster and less precise than the more thorough process that was already in place for systematic land registration (SLR). Government speeches and documents related to the Order 01 campaign used the terminology of “donating” land to non-legal settlers on state land. This

distinguishes Order 01 titling from Cambodia's SLR process, which seeks to acknowledge and formalize existing legal land rights.

This ambitious program initially aimed to cover a total area of 1.2 million hectares (ha), including 400,000 land parcels, and aimed to issue land titles to an estimated 350,000 households. However, in September 2012 these targets were revised upwards to 1.8 million ha, 700,000 land parcels, and 470,000 land titles, to be completed by the end of the first quarter of 2014 (Im, 2012; May, 2013a). These targets required the procurement of a large workforce and an expansion of the land surveying teams working for the Ministry. To do this, many land ministry staff were redirected to Order 01 work, and 'youth volunteers' were recruited to support land survey work. The first phase of the project ran from June to December 2012 and involved over 1,000 youth volunteers Cambodia New Vision (2012). Phase two ran from January 2013 to June 2013, and involved about twice as many youth volunteers, who comprised half of the workforce responsible for campaign implementation (Müller and Zülsdorf, 2013, p.9). The students were formally retired from the Order 01 campaign in late December 2014 (Aun 2014b).

Results of the Order 01 Land Titling Campaign

According to statistics from the MLMUPC, as of mid-December 2014 the Order 01 campaign surveyed over 710,000 plots in 357 communes and issued 610,000 titles – indicating that Order 01 exceeded the revised targets for issuing titles.⁵ The *Cambodia Daily* quoted a Secretary of State from the MLMUPC as saying that titles had been issued to 400,000 families, also indicating that the campaign exceeded its target of households granted title by as much as 50,000 families (Aun, 2014b). To grant these land titles also required a massive reclassification of land. As of 17 December 2014, the campaign had resulted in the reclassification of approximately 1.2 million hectares of land that was previously regarded by the Government as state land. This included 270,000 ha from 17 forest concessionaires, 380,000 ha from 134 ELC companies, and 530,000 ha from other types of state land and forest areas.⁶

If all 1.2 million hectares of reclassified land was granted to the people, a rough calculation using the 610,000 titles reportedly issued by Order 01 suggests that the average titled plot size is 1.98 hectares. This is a crude calculation, and obscures the variation in plot sizes on the ground as some people may have had very small plots, some larger, and some people broke their plots into numerous parts in order to have them registered by the Order 01 teams. However, it does

⁵ MLMUPC, *Notification*, 17 December 2014.

⁶ *ibid.*

indicate that for the most part, titles issued through Order 01 are likely to cover fairly small land parcels.

The table below, which presents an overview of Order 01's results and outputs, shows that in the June 2012-13 period 710,000 parcels were surveyed and publicly displayed, but up to December 2014 only 610,000 titles have been issued. This shows that at least 100,000 surveyed parcels have not been granted final title a full seventeen months after land surveying activities were suspended. Whether these plots will be awarded title in the future is unclear, as is the reliability of the figures given the likelihood that these are approximate.

Table S.1. Order 01's results and outputs as of 17 December 2014

	Results up to 17 Dec 2014
Communes adjudicated	357
Declaration forms completed	710,000
Parcels surveyed	710,000
Parcels publicly displayed	710,000
Titles delivered	610,000
Area cut from forest concessions	270,000 ha from 17 companies
Area cut from ELCs	380,000 ha from 134 companies
Area cut from state land and forest land	530,000 ha
Total area of land reclassified	1,180,000 ha

Source: Data from MLMUPC, Notification, 17 December 2014.

Investigation and Cancellation of Economic Land Concessions

The text of Order 01 states that if an ELC has not been implemented in accordance with the law, then the concession shall be seized. For those concessions that remain active, the RGC has issued additional instructions in an apparent attempt to improve implementation. In May 2014, MAFF and MoE issued a joint prakas (regulation) which again called on concessionaires to follow the 'leopard skin' strategy, and urged all companies that have received ELC approval to move forward with development master plans, complete environmental and social impact assessments, and to commence paying the

appropriate fees and royalties. The prakas also includes provisions related to dealing with community conflicts and forest clearance.⁷

Several months after this joint-prakas was issued, an inter-ministerial commission was formed to assess the implementation of ELCs in August 2014. That this commission was formed two years after the Order was issued and more than a year after the land surveying work was suspended is remarkable given the centrality of reviewing existing ELCs as part of the mandate laid out under Order 01. The role of the inter-ministerial commission is to inspect, demarcate and assess ELCs that have already been granted and to withdraw approval from any concessions that are not in compliance with the obligations set forth in the contract.⁸ During the Order 01 land titling campaign a number of concessions had land excised from their holdings, and since the commission was established a considerable number of ELCs have been cancelled outright, in particular those issued by the Ministry of Environment (MoE) which cancelled 26 concessions in 2014 (Khoun, 2015). Several of these major cancellations were announced at press conferences, and in September 2014, H.E. Sok Sam Al, Minister of Environment told the media:

We have seized the land, because they have had it for such a long time but they have not developed [it]. Some land is occupied by people. We do not [revoke concessions] without any reasons ... All the land will be transferred into preservation areas again because the forest has not been cut yet in those areas (May, 2014a).

Talking to local press in January 2015, an official from the MoE stated that there are three reasons for the cancellations:

First, the company was not following legal procedures. For example, before development they need to do an [environmental impact assessment] and a master plan ... Second, there was no resolution with affected villagers. And third, the company did not have the ability to develop the land (Khoun, 2015).

The cancellations of ELCs have proceeded along ministerial lines, with the Ministry of Environment and the Ministry of Agriculture Forests and Fisheries (MAFF) making separate announcements regarding ELCs. Turning first to MoE, in January 2015 local media reported that the Ministry of Environment announced at a press conference that the RGC had revoked ELCs covering a total area of 90,682 hectares from 23 companies and returned the areas to the management

⁷ MAFF and MoE, *Inter-ministerial Prakas #177/#206 on Strengthening Economic Land Concession Management* (9 May 2014).

⁸ Royal Government of Cambodia, *Decision #125 on the Creation of the Inter-Ministerial Commission to Inspect, Demarcate and Assess Economic Land Concessions* (18 August 2014).

of the MoE. An additional three companies voluntarily handed over a total of 28,855 hectares of ELC land and two other ELCs were reduced (Khan, 2015).

MAFF announced the cancellation of ELCs within MAFF territory in late January 2015. This announcement clarified that eight ELCs of about 50,000ha have been cancelled since the 2013 elections in addition to 100,000ha that has been cut out of four other ELC areas. These concessions were located in the provinces of Kratie, Siem Reap and Stung Treng (Aun, 2015). The massive 100,000 ha Green Sea ELC was included in the companies that were reduced. A ministry spokesman stated that the confiscated areas will be put under the management of MAFF (Lim, 2015a).

At present a consolidated and comprehensive list of all concessions that have been reduced or cancelled under Order 01 has not been made available to the public. There is also no information on how the land within cancelled ELCs is going to be utilized or managed in the future and whether or not there will be any acknowledgement or awarding of land rights to people who may be living on or using these land areas.

The Legal Basis for the Order 01 Land Titling Campaign

Approximately five weeks after Order 01 was issued, during a public speech on 14 June 2012, the Prime Minister announced the new land titling campaign. Order 01 was subsequently supplemented by a number of additional Instructions and Notifications issued by the Council on Land Policy (CLP) and the Council of Ministers to guide the land titling campaign. Between 26 June and 5 December 2012, as Order 01 land surveys were underway, at least 11 administrative documents were issued providing guidance on the implementation of the titling campaign. This caused some observers to suggest that the campaign was being implemented in a somewhat *ad hoc* manner (Subedi, 2012, p.37).

The Order 01 titling campaign was presented by the RGC as a tool that supports the implementation of existing land policy, rather than one that overrides or exists outside of the legal framework, and in official documents the campaign was referred to as “New Actions on Existing Policies”. However, a number of observers suggested otherwise, including Human Rights Watch (2013) and the Cambodian Centre on Human Rights (2013, p.20), who both referred to the campaign as “extra-legal”. The government dismissed such accusations, and Minister for Land Management, H.E. Im Chhun Lim stated in 2012 that the

campaign “is based on the existing policies, laws and regulations which have been adopted and put in force for several years already.”⁹

In order to verify the extent to which Order 01 surveys followed the process already established for Systematic Land Registration (SLR), the authors conducted compared the publicly available Order 01 documents to the pre-existing land registration regime (Part 2 of this report). In general, the legal analysis revealed that the Order 01 process, on paper at least, mirrored the main stages of SLR, although the process was often implemented at a much faster pace. The authors do not agree with suggestions that the process was “extra-legal” as such, but the context for its implementation meant that it took place in a manner that was parallel to pre-existing mechanisms for land administration, rather than part of them. Although pre-existing systems were utilized, and trained land administration staff were deployed, the speed of the process and the lack of transparency in which it was implemented raise concerns that become apparent throughout this report.

The Survey Process

The actual process for Order 01 land surveys was set out in late July 2012, when the Council on Land Policy issued *Instruction #018*.¹⁰ It is notable that this Instruction was issued three weeks after the survey teams departed from Phnom Penh on 28 June. The fact that Order 01 implementation guidelines were only issued after survey teams were deployed indicates that there was a strong sense of urgency to commence the campaign quickly, and suggests that planning was not as comprehensive as it should have been. This is supported by the fact that further instructions continued to be issued over the following months.

The Order 01 guidelines do not specify detailed criteria for the selection of survey areas, however, it was apparent from the research team’s meetings with local officials and from public statements of the RGC that the selection process was guided by Order 01’s priorities of surveying land in ELCs, forest concessions, and other types of state land. For the most part, information gathered from sub-national officials indicated that identification of state land was conducted at the provincial level, where target areas were broken into various types of state public and state private land. This information was then handed over to the technical teams to guide survey implementation.

⁹ MLMUPC, *Notification #1177 from Senior Minister, Minister of LMUPC to H.E. Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation, Subject: Clarification on the implementation of New Actions on Existing Policies for Land Sector, in accordance with RGC’s Order #01, responding to letter of Mr. Surya P. Subedi* (20 September 2012).

¹⁰ Council for Land Policy, *Instruction #018 on the implementation of Royal Government Order 01 dated 7th May 2012 on Reinforcing and Increasing the Effectiveness of ELC Management - Land Identification, People Identification and Issuance of Primary Land Title* (20 July 2012).

Interviewees explained that at the commune and village level, the role of local authorities was to guide the technical teams on the ground and to facilitate the connection between survey teams and the villagers. It was clear that the main authority responsible for selecting survey areas was at the provincial level and included input from various provincial level departments, including land management, environment and agriculture, forests and fisheries. However, it still remains unclear how exactly provincial authorities prioritized areas within each province and why, for example, land within some ELCs was eligible for survey and in others was not, or why some ELCs were targeted and not others. Once areas were selected, the basic process set out in *Instruction #018* guided Order 01 surveys. This process included: an announcement and public information campaign; identification of occupied areas; survey of land parcels and identification of occupants; decision; and, registration and issuance of land ownership titles. A detailed breakdown of this process is included in Part 2 of the report.

Observations on Survey Implementation from the Field

The most common ways that people in areas targeted by Order 01 heard about the campaign was via their village chief or commune council officers, followed by friends, neighbours or relatives. Information about the campaign appears to have been disseminated well, and 75% of 480 questionnaire respondents confirmed that they attended a public meeting in advance of the surveys. While efforts were made in most places to disseminate information, the research team also heard that this information was sometimes difficult to understand, and comprehensive public education campaigns were not implemented, likely due to the swift pace of the campaign. A number of villagers expressed that they did not have a full understanding of the process and simply did what they were told to do by local officials and the survey teams. This lack of understanding was not helped by the fact that there was no coordinated system for public education carried out in the villages prior to the survey process. The impacts of this limited understanding of the process and outcomes of Order 01 are impossible to measure, but it is clear that the risk of harm is higher when people in affected areas are unaware of their rights and responsibilities under such programs.

Prior to land surveys commencing, households were required to fill in a declaration form including the details of their land claim. Based on these declarations, teams surveyed parcels and gathered personal data and viewed documents including photographs, thumbprints, family books and ID cards. As is often the case during the land titling process, in some areas boundary disputes emerged between competing claimants. As in the SLR process, when possible, attempts were made to conciliate border disputes locally, but if no resolution was possible, the case would be sent to the district and then the provincial level. It was observed that in a number of complex disputes and disputes involving

powerful actors, the dispute resolution mechanism was unable to resolve conflicts during the period of the Order 01 campaign and those lands remained untitled.

After surveys were complete, the data was put on public display. Under *Instruction #018* displays should have lasted 30 days. During this time people were able to check the list of citizens and parcel data and raise objections if they had any. Public displays were held in all the areas visited by the research team and in most cases interviewees stated that a one-month period was given for people to raise complaints about the adjudication record before it was finalized. However, in a few areas officials stated that the public display was shorter. For example, village chiefs in Phnom Sruoch and Thpong districts of Kampong Speu stated that public display lasted only two weeks (KPS2, 22/07/2014; KPS, 19/07/2014¹¹). In one area of Ratanakiri, people reported that they could not understand the information included in the adjudication documents, and those villagers that had objections to the survey results were not comfortable to raise objections (RTK-FGD, 05/07/2014). This is worrying, as the public display represents the last opportunity for landholders to have input before the record is finalized and titles issued.

Once the process of survey, display, land reclassification and registration was complete, land titles were distributed. This took place in public ceremonies, which in the early stages of the campaign were attended by the Prime Minister, and later by other senior officials. One village chief from Kampong Speu reported that at the first ceremony held in his district, land title recipients were also given 20,000 riels (US\$5) transportation money, one sarong and a cotton scarf by the provincial land department, although this did not happen at subsequent ceremonies (KPS2, 22/07/2014). It is unclear who provided the funds for these gifts, but this is indicative of the efforts of the RGC, especially in the early stages of the campaign, to encourage engagement and support for Order 01. The authors found that the gap between the survey and issuance of title varied greatly from place to place, and the time taken for titles to be issued in the six study provinces varied from ten days to six months. In some cases people had still not received a final title at the time of fieldwork in July/August 2014, despite the survey process finishing over a year ago, and a number of households still only held survey receipts or provisional titles.

¹¹ To protect the identities of research participants this report uses interviewee codes and does not provide identifying information for those involved. This also means that the report does not identify villages by name. Codes have been assigned to the participants based on the province and date of the interview. RTK is used for Ratanakiri; KRT for Kratie; KPS for Kampong Speu; PST for Pursat; KK for Koh Kong and ODM for Oddar Meanchey. The assigned interviewee codes are used throughout the report.

While satisfaction levels among those who received land titles through Order 01 were generally high, those who did not receive titles – either to all or to parts of their land – were obviously less pleased. In two case studies included in Part 2 of this report, villagers in Koh Kong explained how the process was captured by influential actors, including a private investor. In the Koh Kong case, the main stages of the process were again implemented, but here the villagers believed that a powerful local concessionaire was able to influence the survey process. Security guards working for this company also followed the research team while conducting research for this study. An important case from Oddar Meanchey is detailed in Part 9, and shows that although there had been a public announcement, land surveys and public display, the process was apparently hijacked by powerful and wealthy individuals at the expense of some local people. It was reported that in some cases the survey teams measured land for these more powerful people without them actually being present, simply taking instructions from the land claimant over the telephone – a clear departure from the proper survey process. Both cases highlight challenges encountered in disseminating information and ensuring that it was understood by people, both during the public announcement and public display periods. However, the most concerning aspect of these cases is that well-connected, powerful or wealthy people appear to have been able to influence the survey process, often at the expense of local farmers.

What Types of Land Were Targeted By Order 01?

The first official document that contained specific details on the Order 01 titling campaign was *Notification #666* from the Council of Ministers. This notification covered the geographic targeting of the Order, and stated that the titling process would be applied to areas located within forest concessions, ELCs, areas managed by the Ministry of Environment, and illegally occupied state land. Almost all the sub-national level officials interviewed for this study stated that the focus of Order 01 was land that was in or around concessions – suggesting that the local understanding of the Order’s goal was highly specific and related to land conflicts. However, statistics regarding reclassification of land through Order 01 show that ELCs and forest concessions only accounted for 55% of lands cut from state property and titled under Order 01. The remaining 45% came from state land and forest land, and it is much less clear where these areas are.¹²

For land in the target areas to be surveyed, a key requirement was that the land already be cleared and cultivated. In principle, lands that were still forested were not eligible for Order 01 titles. The same was true for forest land that had been cleared and left uncultivated, and in some cases, lands which had been cleared and cultivated only shortly before the campaign began were not eligible.

¹² MLMUPC, *Notification*, 17 December 2014.

However, it appears that there may have been some room for interpretation as to what could be considered forested and where exactly Order 01 teams could survey and where they could not. For example, in Oddar Meanchey a village chief explained that areas judged to be “thick forest” were not surveyed (ODM4, 12/07/2014), but it is not clear exactly how “thick forest” was defined. In a focus group discussion in Ratanakiri, participants explained that survey teams did not measure land in areas where there were trees “taller than an elephant”. Household questionnaires, interviews and focus group discussion provided additional clarity on the types of land targeted by Order 01. The specifics of geographic targeting and how land was evaluated as eligible for survey on the ground is detailed in Part 4 of this report.

Survey and Titling of Villagers’ Land

Various types of land were surveyed and registered in the areas visited by the research team, including rice, Chamkar¹³ and residential land. It was observed that if questionnaire respondents lived in an area where land surveys took place, they were likely to have at least some of their land surveyed and titled. Although most respondents that held land within surveyed areas were highly likely to receive a title for at least some of their land, there were also some people who were not able to have all of their land surveyed. Others who had their land surveyed received titles for some of their plots, while some surveyed areas were left untitled. The data collected shows a very high number of people (301 out of 403) did not receive titles for all the land that they had surveyed. This is an issue that has been covered in national media, and there have been several reports that many people still only hold the land survey receipt or provisional land title. Many of those people still awaiting a final title do not know if or when this will come.

There were numerous reports from survey respondents that some of their lands were not surveyed at all. Close to half of the 470 questionnaire respondents reported that they were refused land survey for at least part of their land (248 responses, 53%) while the remaining 222 people (47%) reported that all their plots had been surveyed. Various reasons were given by households and local officials as to why land was not surveyed, this include the existence (or not) of a dispute, overlap with ELCs, and overlap with protected areas, among others. However, it was observed that there were inconsistencies in how exclusions were implemented.

¹³ ‘Chamkar’ is a Khmer word referring to land used for growing crops such as mangos, durian, cashews, and so on, along with rain-fed rice (rice that does not require irrigation, often referred to as ‘upland rice’ as opposed to paddy fields).

Inclusion and Exclusion of Disputed Areas in Order 01 Surveys

A key finding of this research is that the approach to dealing with disputed land was a major area of inconsistency during Order 01's implementation. In many of the 18 districts visited for this research, state interviewees explained that the campaign targeted areas that were disputed. In several cases this meant that the surveying activities were directed to the areas in conflict, whereas in other cases undisputed land was specifically *not* included in the Order 01 process. For example, in Kravanh district of Pursat a commune chief explained that the survey teams distinguished between residents that were not involved in any land dispute and those residents located on state land and in conflict with an ELC company. The Order 01 teams focussed on the people that *were* involved in disputes (PST4, 16/07/2014). In comparison, in all three districts of Kratie the Order 01 teams avoided land that was *not* in conflict. Looking to Snoul district, a village chief said that rice or Chamkar land close to villages was not surveyed, as the focus was on land that overlapped with ELCs (KRT3, 09/07/2014). Another village in Sambo district of Kratie was not surveyed as it was an "old village" that had never had conflict with a company (KRT7, 06/07/2014). This is suggestive of a highly uneven mosaic of land titling both within villages themselves and the larger landscape where Order 01 was deployed. How these overpassed plots and areas will be treated by future land titling efforts is unclear.

Interviewees provided similar narratives in a number of areas, however, in many cases people were told that they could not have their land surveyed *because* they were involved in a dispute. This contradiction emerged in numerous areas visited by the research team and it was very difficult to find ascertain why some disputed areas were proactively targeted, whereas others were avoided all together.

Land Survey Denied Due to Overlap with ELC

There was variation in the extent to which Order 01 targeted areas where people's land overlapped with ELCs. Many officials confirmed that Order 01 targeted overlapping areas, yet numerous respondents also stated that they were denied land surveys because the land was in conflict with an ELC. This reasoning is somewhat counterintuitive to the main objective of the campaign, which was to resolve the overlaps between land claims of villagers and concessionaires by implementing the 'leopard skin' strategy. The authors attempted to develop a clearer understanding of this apparent contradiction, but without more detailed study of specific individual disputes, it is difficult to clearly ascertain why some people within ELC areas could receive title, whereas others could not. Statements from some officials suggested that ELC areas that were reclassified and granted to villagers were areas of the concession that had not been cultivated. For example, a village chief in Andoung Meas district, Ratanakiri, stated that land was cut

from ELCs through the Order 01 process if the company had failed to develop and cultivate the area in line with the concession agreement (RTK2, 02/07/2014).

This process was highly variable, and even within the same village, local people had differing experiences of access to the land survey process. For example, in one village in Chhlong district of Kratie, eight families located within the ELC of Chan Sophea Development Company received land titles, whereas 93 families within the Dau Thieng Cambodia Rubber Development concession were not granted titles (KRT4, 08/07/2014). It is not clear why the outcome was so different for these neighbouring families. It may be that the two concessions were at different stages of development, or that one concession holder had greater influence than the other, but this remains unclear. This case and others suggest that ELC companies were able to influence the implementation of the Order 01 process.

Who Received Titles Through Order 01?

Quantitative data collected for this study show no indication of bias between different ethnic groups or between female- and male-headed households in terms of their likelihood of receiving title. Of the Khmer respondents, 72% received a land title, compared to 75% of those respondents who self-identified as indigenous. Of the women-headed households that responded to the questionnaire, 74% received 01 titles, compared with 73% for male-headed households.

The review of secondary sources undertaken for this study, along with national level interviews, revealed numerous cases in which it was alleged that ‘outsiders’ (i.e. people that were unknown to local residents, or people that had only recently acquired land in the area) were able to benefit from the Order 01 process. Similar accounts were found while conducting the field research, however, quantitative data indicates that the longer an individual had lived in their village, the higher the chance was that they would receive a title. When asked to consider how land use histories were accounted for by Order 01, several officials responded that demarcation only happened on land that has been occupied or used for a long time prior to Order 01, although it was not always clear what constituted a “long time”. The household questionnaire collected data on the length of occupation of agricultural land that was then compared with the receipt of land titles. This revealed that the group most likely to receive title was people who reported having been settled on their land for 25 years or more. In this case, the 115 out of 145 households (79%) who claimed land use of 25 years or more received at least one title for their land.

When asked whether the majority of the land title recipients in the area were local people, 87% of people confirmed that the majority were indeed local to the

area. However, when viewed by province, the results to this question reveal interesting variations. In Kratie 29% of respondents believed that the *majority* of land title recipients were not local to the area. For the other areas only 8-13% of respondents believed the majority of recipients to be outsiders. The narrative of the ‘outsider’ is complex, and without more in-depth research it is difficult to assess the impacts of newcomers and how they navigated the Order 01 process.

Were Recipients of Order 01 Titles Really ‘Illegal’ Occupants

The government presented Order 01 as explicitly targeting those who were illegally occupying state land, and the process was discussed in terms of ‘legalizing’ this occupation. Due to a lack of detailed data it is difficult for outside observers to assess whether or not those targeted by the Order 01 campaign were in fact illegal occupants (and given the fact that hundreds of thousands of people received titles, this would be an impossible task). This is also complicated somewhat by the fact that state land identification and mapping has so far occurred on an *ad hoc* basis in Cambodia, and state land inventories and concession maps are not easily accessible.

Nonetheless, the authors of this report aimed to explore this issue further and looked at the extent to which people in the six study provinces were regarded as illegal occupants prior to the campaign. For those living on state public property, such as cleared forest land, it was more straightforward; while for other households it was less clear. Interviews with local officials tended to emphasize the confusion over just who would be considered ‘illegal’. As one commune councillor in Koh Kong remarked, “honestly, it was not clear to me at all” whether people were considered to be living on state land “since we all have lived on this land since we were born” (KK4, 26/07/2014). Similarly, when asked about illegal occupants, a village chief in Ratanakiri responded, “I have no ideas about this. My people have lived here their whole lives” (RTK1, 03/07/2014).

In order to get a clearer picture of land occupation histories in the study areas, the research team collected information on the length of occupation (mentioned above), and the method of land acquisition among questionnaire respondents. The majority of respondents were long term residents, with almost 70% of residents first settling there more than 10 years ago. In a large proportion of cases, land was acquired through inheritance or as a wedding gift. That such high proportions of respondents acquired their rice land through their families very much suggests that occupation of the land has been long-standing, uncontested, and known to the authorities. However, most respondents held limited documentation for their land prior to Order 01. Four-fifths of people had no documents at all for their rice or Chamkar land and three-quarters lacked papers for their residential land. A lack of documentation does not mean that occupation is illegal, but it can make it harder for households to make a case for

legal possession. Although the majority of respondents did not have strong documentation for their land, although many held letters signed by village or commune chiefs acknowledging their use and ownership, there is evidence to suggest that some may have had legitimate claims of legal possession. Of course, this is somewhat speculative given the incomplete picture that is available, but it is telling that in the past only a very small percentage of respondents had been told that they were located on state land or in any other way regarded as illegal occupants of their land, as detailed further in Part 4.

Order 01's Approach to Dealing with Land Disputes

A major issue that emerged during the implementation of the Order 01 campaign was whether or not Order 01 surveys targeted disputed areas. The fact that the campaign was active in surveying the lands of households within ELC and forest concession areas means that disputes were highly likely in many of these areas. At the same time, numerous reports emerged during the implementation of Order 01 that surveys were being denied in areas where there were disputes. The inconsistencies in Order 01's approach to disputed land can be seen in communications from the Minister of Land Management and the Prime Minister. According to a September 2012 speech by H.E. Im Chhun Lim, the Minister of Land Management, approximately 10% of the 1.8 million ha of land targeted by the campaign was "highly disputed" (Im, 2012). However, Prime Minister Hun Sen reportedly stated in an earlier speech in August 2012 that disputed areas were off limits to the survey teams (May, 2012). The picture on the ground adds further confusion to this issue. Some communities were told directly that their land claims would not be surveyed due to the existence of land disputes, while other communities that have been engaged in long-running conflicts appear to have received titles for at least parts of their land.

During the household survey, respondents reported 139 instances in which land had been in conflict prior to Order 01 commencing in their area. The most common cause of conflict was a dispute with an ELC, as reported in 79 cases. This was followed by disputes with other individuals (29 cases) and finally with protected areas or forests (14 cases). Although the household questionnaire results found a high incidence of disputed land being surveyed, the results also show that the process was only successful in resolving disputes in less than a quarter of these cases, leaving approximately 50% of cases unresolved after the conclusion of Order 01 in the study areas. However, it is important not to lose sight of the fact that Order 01 did survey some disputed areas, and in the process many titles were issued – which is no small achievement given the overall picture of land conflict in the country.

The most common types of dispute that emerged during the 01 survey process were boundary disputes between neighbours, conflicts with ELCs, or disputes

with the military or individuals associated with the military. Among these types of dispute, conflict with ELCs was most common. Mechanisms were in place to deal with disputes, and they resembled the processes put in place in the SLR process. However, while interviewees reported that these systems had success in resolving many small boundary disputes, multiple respondents said that the mechanisms were often unable to resolve complex disputes involving concessionaires or the military. Many of these disputes were raised to higher levels, where most still languished at the time the research was conducted. Left over disputes continue to simmer, and in several areas the research team were even told by local officials that disputes had worsened since the Order 01 process ended.

Mixed Results in Resolving Disputes Involving ELCs and Military

Many households were excluded from the survey process outright because their land was disputed with an ELC. However, according to MLMUPC statistics, 380,000 ha of land were cut from 134 ELC companies and registered privately to people, which clearly indicates that this type of conflict was addressed in numerous cases. Discussions with villagers and officials in the surveyed areas revealed that many people had land within ELCs and that this was surveyed. However, many were also denied title because the conflict could not be resolved. The results of investigations in the 18 studied districts, along with a review of literature and media reports, reveals that the approach of the survey teams differed from area to area and concession to concession. For example, in Kratie, some villagers living within land contested with one concessionaire received land titles, while villagers in the same district but in conflict with a different concession did not. In Pursat the research team heard that even within the same concession the process was implemented unevenly, and residents of some villages inside the huge Pheapimex concession had their land titled, while villages elsewhere in the concession did not.

The research team sought to identify the reasons why different areas were approached differently by the survey teams, but no definitive conclusions could be made. As discussed earlier, a common reason given for cancellation of concessions has been the lack of cultivation and there are many cases in which companies have cleared land but never developed it. This suggests people residing in areas of ELCs that had not yet been cultivated by the company may also have been able to have their land surveyed and registered through Order 01. However, if land had already been cultivated, it can be expected that the company would be especially reluctant to relinquish land, and that granting it to villagers would be particularly problematic. It could also be the case that during the survey process an element of negotiation occurred between concessionaires, local people and the authorities regarding the cutting of land from concessions. In Andoung Meas, Ratanakiri, a village chief explained that disputes involving

ELCs were sometimes resolved by the company purchasing the disputed land or providing a piece of land elsewhere in exchange (RTK2, 02/07/2014). The research findings suggest that the approach of Order 01 around concession areas was somewhat flexible, and could result in granting of title over previously disputed land, refusal to survey, provision of alternative land, or an agreement between the parties to sell the land to the company.

Land disputes involving the military or individuals associated with the military were also reported to have resulted in failure to issue land titles within Order 01 study areas. In one case in Oral district, Kampong Speu, villagers were denied title because divisions of the Royal Cambodian Armed Forces also claimed the land. The land had been occupied by armed forces since the war in the 1990s. After the ceasefire, previous residents returned to the area and started to farm the land. The armed forces informed them that although they would allow them to farm the land, these families could not claim ownership. As a result, when Order 01 came, the military blocked requests by people attempting to register their land (KPS4, 21/07/2014). In several other areas, disputes between villagers and military divisions or individuals connected to the military emerged, and in many cases these disputes could not be resolved. Disputes involving military actors were an issue in particular in the border province of Oddar Meanchey.

The Impacts of Order 01 on Land Disputes Nationwide

To understand how the nature of disputes impacted the likelihood of receiving title, the questionnaire sought to establish the duration of on-going disputes. The responses indicated that new incidences of dispute began to rise from the early 2000s. There was a fairly dramatic drop in 2008, a period which corresponds with both the global financial crisis and the national election. However, this lull did not last for long, and new disputes increased drastically between 2009 and the announcement of the Order 01 campaign in 2012. In the year following the implementation of Order 01, which was also an election year, the rate of new disputes dropped drastically once again. National statistics on land disputes in Cambodia gathered by NGO Forum also indicate a steep rise in new disputes leading up to 2011-2012, followed by a drop off in 2013 (NGO Forum, 2014, p.8). It should be kept in mind that the statistics discussed here only cover reported disputes, and it can be assumed that many cases go unreported. However, if these statistics are indicative of general trends, this suggests that, at least in the short term, Order 01 may have played a significant role in reducing the occurrence of new land disputes in the last two years. This is clearly an opinion held by the MLMUPC, and in the words of a Secretary of State quoted in local media in late 2014: “We have solved people’s problems and we have seen land disputes decrease sharply” (Aun, 2014b).

While Order 01 provided institutional and financial backing for an extensive campaign of land surveying, land survey teams were not legally or technically able to adjudicate disputes. Even if the survey teams had been granted special powers to do so, this would have been extra-legal and could have led to disputes being handled improperly. However, this also means that in some areas where people are involved in a conflict with powerful or well-connected actors, the disputes remain unresolved, and the affected people are left no better off than before the Order 01 campaign was implemented. It is even possible that their position has weakened, and in a number of cases the research teams heard from local officials and villagers that after that Order 01 teams left, concessionaires began to clear disputed areas. It is also important to consider how a lack of Order 01 title can be interpreted as evidence of ‘illegality’ in ongoing disputes with concessionaires, as seems to have happened in Keo Seima, Mondulhiri. In this case the district governor evoked Order 01 as part of the justification he gave to the *Cambodia Daily* for torching villagers’ homes who had claimed to be living on the land since 2009 (Aun, 2014c).

Although the statistics discussed above suggest that Order 01 led to a steep drop in new land disputes following its announcement, those disputes that are unresolved will not go away, and the resentment and frustration of those involved will continue to build. While the relatively brief and high profile Order 01 campaign apparently had an impact on the incidence of new disputes, comprehensive action is required to resolve remaining disputes and attack the root cause of land conflicts, or the incidence of new cases is likely to climb once again. Indeed, in February 2015, the local rights group LICADHO reported that in 2014 it recorded a “surge” in new disputes. The organization recorded new disputes involving 10,625 families, double the amount recorded in 2012 and triple the amount recorded in 2013 (LICADHO, 2015). It should be noted that such figures are usually strongly denied by the government, but they certainly warrant further attention. If accurate, these figures suggest that Order 01 only had a short term impact on the occurrence of new disputes.

Order 01 and Indigenous Community Land

Order 01’s treatment of indigenous land came under scrutiny from the very outset of the campaign. The 2001 Land Law recognizes the rights of indigenous communities to collective ownership of their residential and agriculture lands, including cultivated lands and lands reserved for shifting agriculture,¹⁴ and in 2009, *Sub-decree #83 on Procedures for Registration of Land of Indigenous Communities* was issued which established the process for issuing such titles. Initially the Order 01 survey teams were instructed to register land according to the principles set out in *Sub-decree #83*, but just weeks later this instruction was

¹⁴ Land Law (2001), article 26.

reversed and *Instruction #020* removed collective land from the process. However, indigenous community members could have their plots of land registered individually, provided they first signed a form agreeing to give up their rights to community land, including shifting cultivation land, spiritual land, and burial land.¹⁵ This is one of the more problematic developments of the Order 01 framework and one that may have long-term implications for indigenous communities.

While conducting the field research, the team found that many indigenous households in the study areas received private titles for at least parts of their land. A number of the local officials interviewed for the study and focus groups participants raised concerns about the implementation and impact of Order 01 on indigenous lands. One official in Voeun Sai district, Ratanakiri, stated that the granting of private land titles to indigenous people had impacted negatively on indigenous culture as well as causing the loss of control of spirit lands and forest. However, the official also explained that many indigenous people wanted to register land privately as they believed that it could then be sold and/or used to access credit more easily (RTK4, 03/07/2014). This was also observed by the research team, and many villagers in Ratanakiri were apparently frustrated that they were not able to receive individual land titles. In contrast, some indigenous communities in Kampong Speu actively opposed Order 01, seeing it as a threat to community cohesion (KPS4, 21/07/2014).

Soon after the start of the Order 01 titling campaign, reports began to emerge of indigenous communities being offered or even pressured into having communal land surveyed by 01 survey teams. For example, in 2013 the International Labour Organization (ILO) reported to the Technical Working Group on Land¹⁶ that they had documented 23 indigenous communities where members were pressured to leave their communities and accept individual titles (Müller and Zülsdorf, 2013, p.14-15). While the research team found no clear evidence that indigenous people were systematically pressured into accepting individual titles, accounts from some village and commune level officials highlighted numerous issues that are cause for concern. A rather striking example comes from a commune council chief in Ratanakiri who told interviewers that district and provincial level officials that accompanied survey teams told people that obtaining individual title can increase access to credit, whereas taking collective title would be like living in Pol Pot times, when all land belonged to the state (RTK1, 03/07/2014).

¹⁵ Council for Land Policy, *Instruction #020 on Implementation of RGC Order 01BB Dated 7 May 2012 - In Relation to Areas of Indigenous Communities* (26 July 2012).

¹⁶ In 2004, Cambodia established a series of sectoral and thematic Technical Working Groups which include representatives from government and development partners. This includes a Technical Working Group on land.

The issue of pressure or coercion to accept individual title was reported in both the literature and media reporting during the implementation of the Order 01 campaign, and as stories like these continued to emerge, criticism about the conduct of Order 01 teams in areas populated by indigenous peoples began to increase. The RGC emphasized that Order 01 land registration was in full compliance with the existing legal framework for indigenous land.¹⁷

However, in April 2013 one spokesperson from the MLMUPC caused concern after being quoted in the local media as saying: “We have to push all the minority people to register for private land titles to protect their land and stop the disputes with economic land concessions” (Aun and Peter, 2013). In apparent recognition that this issue needs to be addressed, the RGC has agreed to adopt a procedure for converting private land titles of indigenous peoples into communal land title,¹⁸ although at the time of writing this instruction was not yet adopted.

While there were reports that indigenous communities in some areas may have been coerced or pressured into accepting individual land titles through Order 01, there also appear to be numerous cases where indigenous people chose to accept individual land titling for pragmatic or economic reasons. However, the reasons why some indigenous community members may seek to obtain individual title are complex, and should not necessarily be read as a rejection of traditional practices or of communal land title. The slow pace of the communal land titling process is no doubt daunting to many communities, many of which are facing immediate threats to their land. Given the option to receive individual titles now or face the prospect of waiting years for a communal land title, it is hardly surprising that many would opt for individual titles. There is also the perception that individual titles increase access to credit and make transferring land easier, and some believe that a collective title is not strong enough to protect the land. While these aspirations and concerns are legitimate, Milne also found that in some cases inaccurate information may have been passed to villagers by ‘outsiders’ who came at the same time as the survey teams and encouraged people to register private titles in what she refers to as “a subtle scare campaign” (Milne, 2013, p.333).

Cambodia’s indigenous people have the right to self-determination, which includes the right to manage their land individually if they wish. However, the declaration that indigenous people were required to complete in order to receive Order 01 land titles is problematic for a number of reasons. Principally, it is a serious concern that indigenous community members were placed in a position

¹⁷ MLMUPC, Notification No.1177 from Senior Minister, Minister of LMUPC to H.E. Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation, Subject: Clarification on the implementation of New Actions on Existing Policies for Land Sector, in accordance with RGC’s Order #01, responding to letter of Mr. Surya P. Subedi (20 September 2012).

¹⁸ Technical Working Group on Land, *Proposed Joint Monitoring Indicators for 2014-2018*.

where they had to choose between either receiving land documentation over small private plots or holding on to their legitimate rights to traditional territories. Even if individual households were not directly pressured into signing this declaration, given the context of rampant alienation of indigenous land, it is likely that many agreed to sign this declaration out of fear that they would ultimately continue to lose what land was still left intact at the time of the Order 01 campaign.

While much of the discussion around Order 01 and indigenous land has focussed on the impacts of communities being offered (or pressured) to take individual titles, less attention has been paid to the outcomes since Order 01 passed through indigenous areas – both for those who received 01 titles and those who did not. In Thmor Bang district of Koh Kong the research team heard that indigenous community land that was under occupation or cultivation was titled, but rotational farming land that was lying fallow was excluded from the survey process. According to local officials, since Order 01 these communities were no longer allowed to rotate their land for cultivation as the boundaries have been set (KK4, 27/07/2014; KK3, 26/07/2014). Similar accounts were given in Ratanakiri. The team also heard from both villagers and officials that post-Order 01, companies apparently moved in to claim those lands that were not surveyed by the 01 teams. So, while some indigenous communities may have gained increased security over their residential, rice and Chamkar lands, at the same time they may now face the prospect of more limited access to traditional lands. The loss of access to swidden (or shifting cultivation) lands and NTFPs represents a potentially serious threat to indigenous culture and livelihoods. One focus group participant summed up the experience of securing some land but losing others, stating: “we have rice, but we don’t have soup”.

Order 01 and Community Forests

Forests are a crucial part of Cambodia’s ecosystem, and in addition to providing natural habitats for diverse species, they also support the livelihoods of communities who depend on subsistence harvesting of forest products. However, forest cover has dropped from an estimated 73% of Cambodia’s territory in 1965 (FAO, 2011, p.8) to 57% in 2010 (RGC, 2014, p.34). The RGC has created Protected Forests and Community Forests have also been created in an attempt to protect and sustainably manage forest resources. These types of forest come under the administration of the Ministry of Agriculture, Forestry and Fisheries (MAFF). Community Forests (CF) are a potentially useful tool for protecting forest resources, while also ensuring local people have sustainable access to forest resources. In July 2012, the Council on Land Policy issued *Instruction #017* which stated that Order 01 teams should avoid Community Forests and indigenous land, stating that these areas “shall be preserved in order to protect

the public interest.”¹⁹ However, information provided by questionnaire respondents, focus group participants, interviewees and the media suggest that some survey activity did in fact go on in CF areas.

Almost half of all questionnaire respondents stated that there was a Community Forest in their area prior to Order 01 land surveys. Those respondents who answered that they did have a CF in their area were asked if any community forest areas were surveyed by youth volunteers. Of the 185 people who responded to this question, 46 households (or one quarter) replied that CF areas were surveyed by the Order 01 teams.²⁰ This was verified by information provided in interviews with local officials. There was evidence of reluctance to survey land within some CF areas, and a number of households had land surveyed but not titled, or had land survey receipts taken back by the teams (KPS6, 19/07/2014). However, some people were apparently given titles within the CF areas (KPS3, 22/07/2014), and one official working on CF in Pursat stated that Order 01 survey teams “modified” CF boundaries in order to issue titles there (PST8, 17/07/2014).

While it appears that Order 01 did survey land within CF in some areas, as mentioned earlier, the Community Forest mechanism has struggled to achieve results in a number of areas, and a number of CFs had already failed prior to Order 01 becoming active. The trend of failed efforts to gain CF recognition came out very clearly in Kratie province in particular. Here, five respondents from different villages all explained that their attempts to register CF all failed. In Chhlong district one village chief stated: “we submitted the proposal for a CF but now the forest has vanished because the process takes too long” (KRT4, 08/07/2014). Even the CF areas that have been demarcated and approved face challenges, and according to RECOFTC, an international NGO that has supported CF in Cambodia: “Many communities have had agro-industrial companies take over local forest areas while they are navigating the long community forest formalization process” (RECOFTC, no date). There have also been reports of Community Forests continuing to be illegally cleared even after receiving official recognition.

There was no consensus among respondents on whether or not Order 01 had made it easier or more difficult to protect their CF areas. However, in the study areas where respondents either had Community Forest or were in the process of applying for them, a common theme was that prior to Order 01 forest resources

¹⁹ Council for Land Policy, *Instruction #017 on the implementation of RGC Order 01 dated 7th May 2012 on Strengthening and Increasing the Effectiveness of ELC Management - In relation to roads, railways, paths, lakes, rivers, beaches and public service sites* (13 July 2012).

²⁰ Due to time constraints the research team could not visit the sites in question, and as there is no comprehensive and publicly available list of recognized Community Forests the authors have no means of verifying whether or not the forest areas that the respondents referred to were in fact formal Community Forest areas that had received approval from MAFF.

were already under threat. The Forestry Administration has acknowledged at least 200 Community Forests across the country, and it is not the authors' intention to make generalizations about the program as a whole, however, during the fieldwork, the research teams came across multiple examples of failed attempts to apply for or implement CF. Order 01 may have issued titles within CF, which according to *Instruction #017* it should not have done, but it appears that many of these areas were already severely degraded prior to the start of Order 01.

Order 01 and Community Protected Areas

In 1993 Cambodia passed a royal decree creating 23 Protected Areas.²¹ Under the Protected Areas Law of 2008, PAs are to be divided into core, conservation, sustainable use zones, and community zones. Under this law, 'sustainable use zones' are considered to be areas of high value for national economic development that directly serve the purpose of management and conservation of the protected area. CPAs can be granted within sustainable use zones.²² Community Protected Areas are defined in the Protected Areas Law as areas administered with participation of local the community or indigenous ethnic minorities. These areas have the joint purpose of supporting the management and sustainable use of natural resources in a defined part of the protected area and are aimed at improving the living standards of the local community and indigenous ethnic minorities.²³

Out of a total sample of 455 household questionnaire respondents, nearly one-quarter claimed to have a CPA already granted in their area (107), with the remaining 345 respondents saying there was no CPA and no plans to apply for one. The majority of respondents that stated there was a CPA in their area were from Koh Kong Province (60), with the remaining respondents split between the five other provinces. For the most part, respondents reported that their CPA areas were not surveyed by the students. Out of 95 people who responded to this question, 93% (88) people stated that no surveying occurred in the CPA, and only six people suggested that the CPA in their area was surveyed. Only one person reported that private individuals received land titles in the Community Protected Area of their community. Respondents did not have strong opinions on whether or not the Order 01 campaign had made their CPA any more or less secure, and most answered that it was too soon to say. However, there were reports from Kampong Speu that suggest CPAs face similar challenges to Community Forests, with the land often encroached upon and picked apart before the application process can be completed. Ongoing encroachment on CPAs appears to have been an issue regardless of Order 01 implementation, but

²¹ Royal Decree on the Protection of Natural Areas (1993), articles 1 & 2.

²² Protected Areas Law (2008), article 11 & annex.

²³ Protected Areas Law (2008), annex.

the evidence gathered during the course of this study is not sufficient to say whether Order 01 has either helped or hindered the CPA program.

The Livelihoods Impact of Order 01

From the outset, the stated aim of Cambodia's land reforms has been to reduce poverty and promote development. The project appraisal document for Cambodia's donor funded Land Management and Administration Project (LMAP), which established the current land registration system stated that the overall goals of the project were "to reduce poverty, promote social stability, and stimulate economic development", and specifically to "improve land tenure security and promote the development of efficient land markets" (World Bank, 2002, p.2). Improved tenure security was also one of the major intended impacts of Order 01, with government rhetoric around the campaign referring on multiple occasions to resolution of disputes, formalization of unclear land claims, and an increase in access to credit for poor families.

Land was central to the livelihoods of people living within the study areas, and more than half of those surveyed (269 people, or 56%) reported that lowland and upland rice was the most important livelihood source. This was followed by cash-cropping (83 households, 17%). However, just over half of questionnaire respondents who received a land title thought that the title had no impact on their family life and livelihood (188 of 354 respondents, 53%). Nearly 40% of those who received a title thought their lives had improved, and just 7% thought their livelihoods had gotten worse. In Ratanakiri in particular, respondents did not link titles with livelihood improvements (less than one-quarter of people thought that their livelihoods had improved since receiving a title). As a village official put it, "the people who got a land certificate continue with their normal livelihoods. They did not earn anything from the land title" (RTK3, 02/07/2014).

In order to better appreciate the potential livelihood impacts of Order 01, the household questionnaire also asked those people who *did not* receive land titles if they had observed any impacts on their livelihoods after the completion of Order 01 in their area. Interestingly, the proportion of people who had received titles and who considered their livelihoods to have improved (40%) was almost exactly the same as the proportion for those who did not get a title (41%). The untitled questionnaire respondents are also similar to the titled group in that the majority of respondents who did not get title (58%) felt that their lives and livelihood were about the same.

The questionnaire results indicate receipt of a land title does not automatically lead to livelihood improvements. It should be kept in mind that not much time has elapsed since the Order 01 campaign and the awarding of titles and differentiation between titled and untitled households is more likely to emerge as

time passes. In the short term, more than half of the respondents may not perceive any immediate improvements in livelihood, however, as time goes on the benefits of receiving a title may become more pronounced, as may the differences between outcomes for those who received title and those who did not.

It is interesting that very few untitled survey respondents reported negative livelihood impacts, and in over 40% of cases even reported positive impacts. This could possibly be explained by the fact that Order 01 led to a more general sense of security in survey areas. The untitled households may be embedded in communities and areas where the titling project proceeded to reduce land conflict (or the risk of land conflict) and therefore improved the broader tenure security of the community such that untitled households benefited in a similar manner to titled households.

Even for those who receive land titles, there are often multiple issues that stand in the way of them improving their livelihoods. A village chief in Kampong Speu gave a particularly grim assessment of the overall livelihood situation for a community affected by ELCs operating in his area. His community, located in Phnom Sruoch district, is affected by four different ELC companies operating in the vicinity. He explained their outlook as follows:

People's livelihoods are the same as before, and for some families it is hard. Most people were able to produce charcoal for a living but now there is no forest. Now there are a few families that have survived and they collect small trees after the companies cleared land and they allowed people to get it. Soon they will lose their occupation. Some families have changed their jobs to work for companies with sugar cane and teak tree plantations and get 14,000 riels (\$3.50) per day – this is without lunch. There is no water for farming as the village dike has been damaged for three years and people's rice fields are not good. The companies took over the forest. We have no new job opportunities like people who live in market areas. Even if we had titles and used it for getting a loan, we don't know how to use the loan. We can only spend it so we will lose (KPS3, 22/07/2014).

Such an account reinforces a number of important points. Campaigns like Order 01 may be important in strengthening community's land rights via land titles in areas where ELC operations are squeezing out livelihood options. However, it also shows that on-going rural development and agricultural extension work is needed to help to support rural livelihoods and to diversify livelihood activities in communities in the vicinity of ELCs, regardless of whether or not titles were issued – titles are not necessarily a panacea.

Using Land Titles as Collateral

From the outset of the Order 01 campaign, land titles were linked to credit and to enhanced opportunities to borrow money in campaign rhetoric. During a speech to the youth volunteers in 2012 the Prime Minister stated that Order 01 titles would benefit recipients as they could be used as loan collateral and this was often repeated at titling ceremonies (Cambodia New Vision, 2012). In this context, it was surprising to find nearly three-quarters of respondents (238 of 366, 71%) responded that they had not yet used their titles as collateral for a loan.²⁴ Interviews with subnational-level officials provided more information on borrowing trends, and the importance of borrowing money was also repeated across the six different focus group discussions.

Land titles not only made it easier to borrow money, but facilitated a shift from borrowing from moneylenders and middlemen in the village and towards MFIs and banks like Acleda, Sathabna and Hathakasekor. In the observation of a village chief from Sambo district, Kratie, people are using these loans to buy ploughing machines and now almost every household in the village has one. Another popular investment is to buy the columns needed to grow pepper, with families borrowing as much as US\$3,000 to invest in this activity with the intention of paying it back after the cassava harvest (KRT7, 06/07/2014). However, not all borrowers had clear investment targets or repayment plans. A village chief in Phnom Sruoch district of Kampong Speu stated that loans were often used for wedding ceremonies and Buddhist ceremonies. Here too, the titles facilitated a shift from private moneylenders with a high interest rate towards MFIs, with the village chief commenting that nobody goes to moneylenders anymore (KPS2, 22/07/2014). In the same district, a commune chief explained that the Order 01 titles could be used as collateral with MFIs to get a loan more quickly than before (KPS1, 22/07/2014). An official in the provincial capital of Pursat explained, “people can use titles to get a big loan. If we don’t have titles we can’t get the big loans” (PST8, 17/07/2014). He suggested that as many as 70% of the land titles granted in the area are now sitting in MFI offices as collateral.

The degree to which greater debt was seen as a positive development varied among those consulted for the research. Some emphasized the role of credit in starting small businesses, buying houses, or investing in cattle or livestock (KPS4, 21/07/2014), but others expressed hesitancy to borrow money while rural livelihoods were faltering. In Oral district, Kampong Speu, drought meant that

²⁴ There was a great degree of geographic variation in the responses of who has used the title as collateral. Nearly half of respondents in Oddar Meanchey confirmed that they had used titles as collateral, whereas in Ratanakiri only about 10% had. There was also a strong tendency to use titles as collateral in Pursat (44%), while in Kratie, Kampong Speu and Koh Kong about one-quarter to one-third of respondents reported using the titles as collateral.

ploughing was several weeks delayed while the cassava supply was already exhausted. Here a community member explained that in this context people were “afraid to put land titles in the MFI, they think they won’t have the ability to get it back” (KPS5, 21/07/2014). In Snoul district, Kratie, where many families concentrate on cassava production but are struggling due to the declining fertility of the land, villagers explained that more people are falling into debt with no hope of paying back the MFIs. These fears are heightened by fluctuations in the price of cash crops like cassava and the rising costs of consumer items from the market. As one participant put it, “land titles cannot solve our problems because there is an imbalance between the price of what we can produce and the price of what we buy in the market” (KRT-FGD, 09/07/2014).

This landscape of rural indebtedness was not caused by Order 01, and rural households have been using land as collateral for loans, and in some cases losing land to creditors, for a number of years. However, the information gathered during the course of this research indicates that the possession of a land title is seen by many as being a more useful document for using as loan security, potentially accelerating the process and increasing access to larger loans. While some families are in a position that they can use these loans to invest in machinery and other items that support livelihood development, many loans are used to pay off existing debts or purchase consumable items. As land titles do become more and more prevalent in rural areas, there will be a greater need for basic livelihood support and diversification programs in order to strengthen families’ ability to service their loans and avoid losing land to creditors.

Order 01 and Land Tenure Security

Enhancing land security was a central motivation for Order 01’s titling campaign. Results from the questionnaire confirm that land titles were very much considered by respondents to improve tenure security, and 282 people (86% of 328 responses) stated that they felt more secure after receiving the title. A number of local officials also saw land titles as an effective way of making people feel secure and of putting an end to worries of land grabbing. For those that did not receive a land title from the Order 01 campaign, two-thirds confirmed that they felt *less* secure after Order 01. Among those who did not receive a land title, respondents from Oddar Meanchey (80%) most frequently associated a lack of title with feelings of insecurity, followed by Koh Kong (76%) and Kratie (68%).

Even though the number of people who reported no increase in their feelings of security after receiving a title was comparatively smaller (14%), it is still deserving of attention. Geographically, the largest cluster of respondents who reported no increase in their feelings of security was in Ratanakiri. This may be because shifting cultivation land was often not surveyed, as was reported in focus

group discussions held in the province. Discussion participants explained to the team that this oftentimes meant that families with three or four plots of shifting cultivation land were left with only the one or two plots that were in cultivation when the Order 01 survey teams arrived. The families in this community that did not receive title to their lands face on-going threats from the company since it now uses the fact that these families do not hold a title to accuse them of being illegal occupants. As a result, this group lives with even more fear and anxiety than before Order 01 (RTK-FGD, 05/07/2014).

Land tenure security appeared critical in Oddar Meanchey where participants in a focus group discussion in Samrong district explained how some land that was previously in conflict between an ELC holder and local people was in fact transferred to local army officials through the Order 01 process. Following on from the process, and observing the local gains made by powerful actors, people had limited confidence in the power of land titles to protect them, and assessed their situation as follows:

As far as we can tell, our residential lands that have already been granted a hard-copy of the land title might be OK, but we cannot be sure since our land is surrounded by the land of many high-ranking people, and especially the local army [from this area] who still use their power to extend their land claims at any time (ODM-FGD, 27/07/2014).

A village chief in the same district shared such doubts, commenting that no one in his village is 100% confident that the land won't be encroached in the future even though it is now titled (ODM3, 14/07/2014).

Examining how Order 01 has impacted tenure security has also uncovered some potential limitations to the effectiveness of the leopard skin strategy in terms of securing land tenure and land access for farmers in the midst of ELCs. Several cases highlighted in this report and elsewhere have indicated that land titles are not always adequate to secure the land of people located in close proximity to concession areas. In some cases it was reported that post-01, concessionaires exerted pressure on the title holder to sell the land to them. This shows that land title distribution should not be viewed as an 'endpoint', rather as another tool to help protect the land of rightful owners. The distribution of over half a million titles through Order 01 must also be accompanied by heightened oversight of how concessionaires and other powerful actors behave in the future, supported by meaningful action if violations are observed. Without these steps being taken, the potential for Order 01 land titles to provide land tenure security will become increasingly limited.

Perceptions of Order 01 in the Study Areas

The results of the questionnaire indicated relatively high levels of satisfaction with the campaign, with about three-quarters of respondents satisfied with the process, and over 60% stating that they were satisfied or very satisfied with the outcomes. However, it must be kept in mind that the sampling for the questionnaire was skewed towards people that received title through Order 01, which means that satisfaction levels reported through the questionnaire are likely to be more favourable.

While the results of the questionnaire are useful in indicating satisfaction levels, they are based on a simple satisfied/not satisfied question, and the qualitative data gathered in interviews and focus group discussions therefore paints a more detailed picture of why villagers and officials may have been satisfied or not with the implementation and outcomes of the campaign. For many officials, the key indicators of success were issuance of title and resolution of disputes. In cases where local officials felt that a high number of titles had been issued and long running disputes resolved, they provided positive assessments of the campaign.

In contrast, when the campaign did not survey and title land in areas in dispute with ELCs, people were reluctant to consider the campaign a success since it did not solve long-running conflicts as many had hoped. In Kampong Speu a village chief gave the following opinions of the campaign and its shortcomings:

The campaign happened because the government was afraid of people who had been in conflict with the ELC companies and they wanted votes from the people. But I still wonder why they did not survey land that had conflict with ELC companies so that now the conflicts continue ... The youth volunteers were not really independent and they were afraid of the ELC owners (KPS3, 22/07/2014).

In areas where titling proceeded unevenly, the communities were very much split between satisfied villagers who held title, and unsatisfied families who felt increasingly vulnerable. In one community in Kravanh district, Pursat, the village chief explained:

For those who got land titles through the campaign, they think it was good. The landholders whose land was excluded from the survey feel that the team was biased ... Before the land survey, the people were so happy to hear that the land titling campaign was coming to the village. Afterwards, some people's land was not surveyed and the people felt upset with the youth volunteers and team members (PST5, 16/07/2014).

One of the biggest causes of dissatisfaction with Order 01 was that people felt that the promises to resume Order 01 activities after the 2013 national election

were not kept, leading people to judge the campaign as incomplete. Considering how the implementation of Order 01 impacted his community, a village chief in Phnom Sruoch district, Kampong Speu, said:

I don't know if the campaign was effective or not because they did not complete the assignment. The survey teams only covered the rice fields and people's land in the community forest area ... Some land was not surveyed and they told people 'wait, next time we will do it'. But now, even today, we still have not seen them return ... There is no positive outcome for the campaign in this village. Land in conflict with ELC companies was not surveyed. They said they would come back, but we did not see them, and they did not reappear in other provinces either (KPS3, 22/07/2014).

This highlights the critical importance of what comes next in terms of land surveying and titling efforts in Cambodia now that the Order 01 campaign has effectively finished. Many communities face uncertainty and persistent tensions as the land surveying activities appeared at first suspended and now only partially completed in some areas.

There was also frustration that in some areas that outsiders seemed to benefit more than long-term residents. Numerous reports were made that powerful actors were able to manipulate the process to their own benefit, receiving multiple plots of land to larger areas, while many others struggled to have small plots registered. In some cases local officials reported that they were blamed by their constituents for being involved in facilitating land grabs by these powerful actors, and indeed, local people told the research team that they suspected local officials of being nepotistic or taking money to help some people secure land titles.

The rich variety of responses shows that experiences of Order 01 were hugely varied. Questionnaire responses suggested that there are generally high levels of satisfaction with the campaign, but digging deeper, semi-structured discussions with villagers uncover a number of serious concerns. Likewise, while some officials spoke of the "brilliant" campaign devised and handed down from senior levels, other officials expressed frustration that local people came second to powerful actors and companies. Although the majority of questionnaire respondents reported that they were satisfied with the process, the research team were also bombarded with negative assessments during focus group discussions, indicating that experiences differed significantly from location to location.

The Politicized Nature of the Order 01 Titling Scheme

During the implementation of the Order 01 land titling campaign, concerns and criticisms were raised by a range of individuals and groups, including NGOs and

civil society groups, the UN human rights office, and researchers in the land sector. Much of the critical discussion around Order 01 focussed on its politicization. Certainly, the Prime Minister was eager to promote his role in establishing the titling campaign, and it was surely no mistake that the campaign was implemented in the 12 months running up to the national elections. While there was clearly a large political element to the implementation and presentation of the campaign, it is overly simplistic to suggest that it was just a political tool implemented with the election in mind. Cambodia has increasingly come under pressure for its inability to resolve land disputes and reign in companies that continue to dispossess poor Cambodians. Cambodia's well publicized land problems not only harm the country's image, but may also cause alarm among the foreign investors that Cambodia is currently eager to attract. On a deeper level, the current land situation comes with a real risk of social instability, and on a number of occasions the Prime Minister has highlighted the threat posed by land conflict to the ruling party's popularity (Kuch and Willemyns, 2013).

The Prime Minister has made various declarations in the recent past that directly address disputes around ELCs and alleged illegal occupation of state land, and the legal framework for dealing with these issues has been in place for a number of years, but with limited effect. This is down to weak implementation on the part of some authorities, but also due to the fact that well-connected business interests remain beyond the reach of the law. Müller and Zülsdorf (2013, p.9) suggest that Order 01 is a means for the Prime Minister to regain credibility among parts of the electorate, but it is "most importantly a means for the PM to regain leadership internally over some centrifugal forces in his own government". Whatever the motivations behind the campaign, the Prime Minister went to great efforts to promote his role as the driving force behind it. In public speeches he discussed his financial support for the campaign and promoted the image of himself as an 'uncle' to the young volunteers (Phorn, 2013).

Prior to Khmer New Year in 2013, the Prime Minister held a party for the youth volunteers on Koh Pich island (Khuon, 2013). Earlier, in January of the same year, the Prime Minister organized another party to mark the end of phase one of the campaign. The Prime Minister promised a US\$100 bonus to all those present, including 2,150 youth volunteers, 1,757 officials, 273 soldiers, and 386 medical staff. Prime Minister Hun Sen reportedly stated that the money for these bonuses came from "uncle, auntie and the party" (Phorn, 2013), referring to himself, his wife and the CPP. During the same speech the Prime Minister said that the campaign had cost US\$600,000 so far, of which he had personally donated US\$400,000 (Phorn, 2013). As part of the personalization of the land titling campaign, in 2012 the Prime Minister embarked on a mission to travel across the country and personally distribute land titles at official ceremonies. During the

first phase the Prime Minister aimed to attend ceremonies in 20 provinces (Vong, 2013).

In order to understand the degree to which a political message may have been conveyed to villagers during the survey process, through the household questionnaire the research team asked 465 people whether or not anyone had been told to vote for the ruling party in the 2013 national elections, or if any links had been made between the election outcomes and the titling campaign. Just 24 people (5% of respondents) said that they had been told to vote for the ruling party in the 2013 elections in order to improve their chances of getting a title. The research also found that just six people out of 458 (1.3%) were told that they could lose the titles they had received based on the 2013 election results, suggesting this was not a common threat. However, it should be kept in mind that respondents may have been uncomfortable to discuss political issues with the enumerators, and as noted earlier, it is also possible that the closed nature of the questionnaire format may miss the fact that more subtle and less direct methods may have been used to influence people's voting habits.

Local government officials were more likely to make the link between the election and the titling program during interviews than were the respondents to the questionnaire. Indicative of local officials' take on the campaign are comments from a village chief in Samrong district, Oddar Meanchey who stated plainly: "I think it is very political and has little to do with land conflicts" (ODM2, 12/07/2014). In Pursat, a village chief thought that the campaign had benefited the CPP by providing them with credit for helping people (PST6, 16/07/2014). A village chief recalled hearing the provincial governor and youth team leader telling people "Don't forget who provides this gift! The gifts are from Techo Hun Sen!" (KPS7, 20/07/2014).

Use of the "Youth Volunteers" in the Order 01 Campaign

The recruitment of thousands of youth volunteers to survey land as part of Order 01 was a controversial decision. Volunteers were recruited from state universities, private universities, and from ruling-party aligned student associations. Despite being termed 'volunteers', it is estimated in the press that the youth volunteers earned a monthly stipend of US\$220 (Focus on the Global South, 2013, p.16). This amount is equivalent to, or even surpassing, the salaries of some professional civil servants in the MLMUPC.

This research asked households about their experiences with the volunteers, discussed their role with village and commune chiefs and raised the issue in village focus group discussions across the six studied provinces. For the most part, the youth volunteers were popular among the villagers surveyed, who found the volunteers helpful, respectful and competent, and appreciated their spirit of

volunteerism. However, local government officials interviewed by the team were more critical of the way in which the youth volunteers were involved in the program and the appropriateness of their tasks, and commented on the variable ease of working with the volunteers.

The vast majority of those surveyed, 81%, thought the youth volunteers were helpful and respectful. In many areas people reported that they were happy to see the arrival of the students and had good experiences hosting the teams. The involvement of the youth volunteers was highly regarded by some of the local government interviewees, who appreciated the degree to which the urbanites successfully adapted to the rural areas as well as also commenting on their compassion and volunteerism. One commune chief from Pursat noted that: “the volunteers wanted to support people and to serve their nation through volunteerism. They also helped people who had been facing conflict with ELC companies” (PST4, 16/07/2014). In addition, the vast majority of questionnaire respondents thought the youth volunteers were competent and able to do their jobs well, and nearly 95% of the respondents said that they did not feel intimidated by the youth volunteers.

As with the other findings of this research, interviews and focus group discussions paint a more complex picture of the involvement of the youth volunteers and how they were perceived at the local level. Although there were a number of positive assessments from local level officials, as set out above, there was also a recurring theme in interviews of village chiefs expressing frustration with how they felt side-lined during implementation of the campaign. There was a tendency for these complaints to centre around the role of the youth volunteers and their relations with different levels of government. A village administrator in Andong Meas, Ratanakiri, explained some of the difficulty by pointing out that the youth volunteers sometimes effectively out-ranked commune chiefs or district councils who “were afraid of the students because of the power of the Prime Minister” (RTK3, 02/07/2014). This shake up of traditional power structures and hierarchy was no doubt difficult for some officials to deal with.

Another key complaint was that powerful interests managed to manipulate the work done by the youth volunteers. Considering that the volunteers were young, inexperienced and generally unfamiliar with the particularities of long-running disputes and powerful local parties, this is unsurprising. Critical of both the role of the youth volunteers and how village chiefs were incorporated into Order 01, a village chief in Samrong district summarized his experiences with the campaign as follows:

As far as I understand, [the youth volunteers] were helpful, but I am concerned that they come here and work for the powerful people rather than working for us in the village. As a village leader, I knew nothing and was not

able to take part in any problems [that occurred] during the measurement process (ODM2, 12/07/2014).

Concerns were also raised about the issue of ‘treating’ the survey teams to food and drinks. According to a commune councillor in Samrong district in Oddar Meanchey, this became an expectation of the teams:

First [the youth volunteers] seemed to be honest and trustworthy. But later they became manipulated in the traditional way by corruption and other forms of bribery. I have cases where students complained that they did not want to measure land because the family did not prepare good food for them ... the preparation of food for students became a requirement if people wanted their lands measured (ODM1, 13/07/2014).

Many observers were alarmed by the images that emerged at the start of the Order 01 campaign of camouflage fatigue-clad youth volunteers being transported to the provinces on board military trucks. It is unclear why the decision was made to provide military fatigues as uniforms and use military vehicles for non-military volunteers conducting civilian activities. It may have been an attempt to create an image of authority, or may simply have been expedient, with the uniforms and vehicles readily available at the time the campaign was launched, or perhaps a combination of the two. The UN Special Rapporteur for Human Rights in Cambodia raised concerns about this approach and in a 2012 report stated that it created confusion among some rural communities and created the impression that the youth were part of an arm of the military (Subedi, 2012). The Minister for Land Management, H.E. Im Chhun Lim dismissed this suggestion, stating that the RGC had informed the public about the program and the use of military uniforms in order to avoid misunderstandings.²⁵

Household questionnaire respondents were asked who they thought the youth volunteers were working for. The most prevalent response was that the volunteers were working for the Prime Minister (189, 40%), followed by nearly the same number of people who were simply not sure (183, 39%). Just two people thought the volunteers worked for the MLMUPC, one identified the army, and one more thought the provincial government. Interestingly, local subnational level officials were more critical of the uniforms than villagers were. A number of interviewees from Pursat province considered that the attire was appropriate for working in forest areas where there are snakes, mosquitoes, heavy rain and varying temperatures (PST2, 15/07/2014; PST6 16/07/2014; PST7, 14/07/2014).

²⁵ MLMUPC, Notification #1177 from Senior Minister, Minister of LMUPC to H.E. Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation, Subject: Clarification on the implementation of New Actions on Existing Policies for Land Sector, in accordance with RGC's Order #01, responding to letter of Mr. Surya P. Subedi (20 September 2012).

One village chief in Oddar Meanchey suggested, “maybe they were offered the uniforms because it would look handsome and people will respect them” (ODM5, 13/07/2014). However, a cadastral officer working in Kratie commented that the army uniform worn by the youth volunteers appeared to generate concern among local people, “who expressed some level of fear, even of asking questions, while believing the student group was part of the army units” (KRT8, 17/07/2014). Officials in various study areas repeated similar sentiments (KK2, 22/07/2014; KK4, 26/07/2014; ODM7, 13/07/2014; ODM-FGD, 27/07/2014; RTK4 03/07/2014; RTK5 05/07/2014).

Oddar Meanchey was particularly sensitive to the militarized appearance of the volunteers. As one local NGO pointed out, much of the area is a military zone and the uniforms were misconstrued as being in some way connected to the military, such that some people were quite afraid of the volunteers (ODM8, 11/07/2014). Comments from a village chief in Samrong district suggest that the use of the uniforms in some areas was counter-productive: “People in my village were so scared of the army uniform used by the students. We also believed that the students were working closely with the local army to take land from this village” (ODM2, 12/07/2014). Various local government officials interviewed for the study suggested that the volunteers should have simply dressed as civilians or students (KK3, 26/07/2014; RTK1, 03/07/2014). In the views of the authors, the use of military uniforms and vehicles in the campaign was clearly a mistake. Even those officials who were otherwise happy with the conduct of the volunteers were critical. As stated by a village chief in Koh Kong who had an overall positive assessment of the youths: “it was really bad when they wore the army uniform. They come like soldiers” (KK1, 26/07/2014).

Potential for Corruption in the Order 01 Campaign

For the most part, very few people answering the questionnaire reported having to pay fees during the land registration process, with only 20 people out of 441 (4.5%) responding they had paid money at any point from the announcement of the campaign to the issuance of land titles. Eighteen of these respondents told the team how much they had paid to the survey teams, with responses ranging from as little as 3,000 riel (US\$0.75) to 500,000 riel (US\$125). However, as with a number of other topics covered by this research, the questionnaire responses painted quite a different picture to responses gathered in interviews with local officials. Considering the topic, it is rather remarkable that interviews with local government highlighted more instances of corruption than villagers did. The authors can only speculate why this pattern emerged, but it may be that villagers were reluctant to report it to the research team, that outsiders or the wealthy land owners who tended to be accused of bribery were unlikely to be questionnaire respondents, or that village chiefs were better positioned to know what was going on ‘behind the scenes’ in their village or elsewhere, and so on.

One village chief from Koh Kong mentioned, “I heard that there was some under the table payments made to Order 01 teams, but this did not happen in my village” (KK3, 26/07/2014). Another commune leader from the same district stated: “Although officially there were no fees involved, there was a good deal of anecdotal evidence of payments made under the table as part of the Order 01 process ... How much? I have no idea, but surely it happened (KK4 26/07/2014). A village chief from Snoul district, Kratie, explained that he knew people were giving the teams money, but did not know how much as the money was given at the farmland at the time of measurement and away from watchful eyes. The evidence of this practice, he suggested, could be seen in how rich people’s land was always measured first (KRT3, 09/07/2014). Also in Kratie, in Chhlong district, a village chief explained that corruption tended to facilitate land owners to get more land or expand their land holdings, or to make it easier to split plots of land within the family (KRT5, 07/07/2014). The most detailed account of how the implementation of Order 01 may have been compromised in the field came from a commune councillor in Koh Kong:

Powerful people, some were army and some were high-ranking government officials, were able to come along with the Order 01 team and pay money so their land is measured quite easily. The student teams also spent time drinking and got so drunk they cannot go to work. Through informal channels, some students did request payment [from farmers] if they wanted to get their land measured quicker. Some have told the villagers that they can only complete the measurement of land if [the villager] pays money ... In cases where two plots of land are located next to one another and one family has the money to pay, their land was measured. But, in the next plot, where the family did not have money, then there was no measurement. The family requested the student team [to measure], but they got no response ... At the same time, due to time pressure, I was requested by the provincial technical team to sign on blank forms for temporary land certificates that certify that people named in the form have land in the commune. I did it and then those forms were used without control (KK4, 26/07/2014).

As mentioned above, various reports suggest that a culture emerged around providing the survey teams with hospitality in the form of food and drink. While this may simply be an act of kindness, a cadastral officer noticed that rich families who could offer a good meal tended to get their land measured ahead of poorer families who had to wait (KRT8, 17/07/2014). In Oddar Meanchey, a village chief explained that after rich families provided a good meal “then they can drag the students around to measure their land” (ODM7, 11/07/2014). Offering lunch or hosting the survey teams appears to have been an important part of the exchange in Kampong Speu, Pursat, Kratie and Oddar Meanchey (KPS2, 22/07/2014; KPS6, 19/07/2014; PST5, 16/07/2014; PST7, 14/07/2014; ODM4, 12/07/2014; ODM7, 11/07/2014).

The data gathered in Oddar Meanchey was exceptional in the extent to which the Order 01 campaign seemed to be captured by powerful interest groups. In some cases influential outsiders were not even physically present during land measurement, and instead managed to negotiate to get their land measured over the telephone, according to one village chief. In another village of Samrong district, the village chief explained how the village land is surrounded by both an ELC company and the local army. The army's claims extend into the village such that even in cases where some villagers received a land title, the soldiers are still claiming to own the land and have not ceased farming. As a result, the village chief declared, "the people here think that the land title from Order 01 is mainly for the soldiers, but not for the people of the village" (ODM2, 12/07/2014). Elsewhere in Oddar Meanchey, focus group discussants described the slow creep of corruption as follows:

At first, the students seemed to be OK ... they treated us with respect. However, as soon as powerful people from outside started to interfere and got involved with meal preparation as an incentive to measure the land, then the students became less available for measuring the land for local people. From there, we feel that they were no longer working for us, but that they worked for the outsiders who had money to pay (ODM-FGD, 27/07/2014).

Another issue that caused frustration among the villagers concerned the limits to land size eligible for titling. Participants in the focus group discussion complained that although they understood the limit to be 5 ha, families or outsiders who had large holdings of 10-15 ha managed to get all of their land titled by using the names of multiple family members to cover their claim (ODM-FGD, 27/07/2014).

Conclusion

The implementation of the Order 01 land titling campaign commenced in June 2012. With the promise of issuing titles to thousands of people living in and around concession areas, it was initially welcomed by a range of observers, including some civil society groups. The campaign proceeded to survey land parcels and issue titles on an unprecedented scale, and between June 2012 and December 2014 reclassified around 1.2 million hectares of land and issued approximately 610,000 land titles. After facing years of mounting criticism for the lack of accountability in the granting and implementation of ELCs, Order 01 and its subsequent measures suggest that the Government has finally recognized the need to address problems associated with the ELC mechanism. Although the implementation of Order 01 did not always run smoothly, it is clear that a large amount of land was cut from concessions and granted to people who may have previously faced the risk of displacement or land conflict, and while attention has

focussed mainly on the land titling campaign, the Order also imposed a suspension on new ELCs, which is still in place.

Despite its successes, numerous concerns emerged during the implementation of the campaign. This study was conducted in order to assess the extent to which these concerns manifested (or not) in the field, and to fill crucial gaps in existing knowledge regarding Order 01 implementation. The research revealed a complex picture on the ground. Many household questionnaire respondents reported that they were pleased with the land titles that they received, but of course those who did not receive land titles for their land (or parts of it) were often critical of the process. In particular, issues emerged around the consistency with which Order 01 teams dealt with disputed areas. In some cases it was seen that land was cut from concessions and granted to people that had been involved in long running disputes with ELC holders. On the other hand, in some areas people were refused land surveys point-blank because they were involved in disputes. In this regard, a recurring theme that emerged during the course of this research was the inconsistency with which Order 01 was implemented.

Although the Order 01 suspension on new ELCs is still in place, and hundreds of thousands of households have benefited from land titles under the campaign, there are still many people who continue to live in insecure circumstances, including many who live in Order 01 survey areas but were unable to access the survey process. Questions also remain regarding how effectively Cambodia will conduct oversight of the ELCs that remain, and those that will be granted in the future if the suspension is lifted. As the implementation of Order 01 winds down, the attention of the MLMUPC will return to the systematic land registration process and further development of the state land management mechanisms. Many of the volunteers who were trained for Order 01 have since been hired as full-time staff by the Ministry. This will no doubt support on-going systematic land registration work, but it remains to be seen what the long-term impacts of Order 01 are on the established land management and administration systems, and whether this will result in more effective use of concessions in the future.

The purpose of this study was not simply to root out problems with Order 01, but to understand more deeply how exactly the campaign was implemented in the field, what went well and what did not. In the post-Order 01 environment, debates over the rights and wrongs of the campaign are less important than learning from its successes and rectifying its mistakes. With this in mind, key findings of the study are presented in Part 10, along with recommendations to the Royal Government of Cambodia, development partners and civil society.

Part 1: Introduction



Part 1: Introduction

1.1 Introduction to the Research

Since as far back as the French colonial period, the Cambodian state has granted land concessions to private actors for various purposes. The current system for granting land concessions was formalized in the 2001 *Land Law*, under which Economic Land Concessions (ELC) can be granted over state private land for the purposes of agro-industrial development. Despite the relatively strong legal framework contained in the *Land Law* and the subsequent *Sub-decree on Economic Land Concessions*, serious concerns have been raised by communities, local and international organizations, UN agencies and development partners about the granting and implementation of ELCs and the impacts that they are having on communities and the environment. For some time the Government consistently rejected many of these allegations, but also acknowledged that there were some problems concerning the way ELCs were being managed. For example, the Government's *National Strategic Development Plan* for 2009-2013 stated:

Land concentration and landless people are on a rising trend, adversely impacting on the equity and efficiency of land use. On the other hand, large areas under Economic Land Concessions have not been utilised efficiently as targeted, needing strict government measures to tackle them (Royal Government of Cambodia, 2010, p.10).

After the 2001 Land Law came into effect, the number of ELCs granted increased rapidly, as did criticism of the system. Although a number of ELCs were cancelled over the years due to breach of contract and failure to develop the land as agreed in concession agreements, no comprehensive review of ELCs was conducted. In 2012 signs emerged that this could be about to change, and Prime Minister Hun Sen announced a moratorium on new ELCs. In May 2012, the Royal Government of Cambodia (RGC) issued *Order 01 on Measures for Strengthening and Increasing the Effectiveness of the Management of Economic Land Concessions* (Order 01).²⁶ This document declared a moratorium on the granting of new ELCs and called for a review of existing concessions. This was expanded one month later when the Prime Minister formally announced a new nationwide land titling campaign (Im, 2012). This campaign was the first to survey land and issue land titles to people whom the government considered to be illegally living on state land, including protected areas, economic land concessions and forest concessions. The rapid pace at which this new titling

²⁶ Although some authors use the term "Directive" to refer to this document, in this report the Khmer term "botbangchia" is translated as "Order". MLMUPC translations of related documents for the most part use the term "Order", and for this reason and to maintain consistency, this term is also used here.

campaign was prepared and implemented took many by surprise, as did the speed at which the campaign was able to swiftly issue land titles across the country.

For the ten years prior to Order 01, a systematic land registration (SLR) program has been in place.²⁷ This program was implemented initially through the donor funded Land Management and Administration Project (LMAP) which received extensive support from the World Bank and bilateral donors including Germany, Finland and Canada. This later transitioned into the Land Administration Sub-Sector Program (LASSP), which is still in place (Grimsditch, Kol and Sherchan, 2012, p.18-19). Whereas the pre-existing SLR program focuses on converting legally possessed land into legal ownership, the Order 01 land titling campaign concentrates on alleged non-legal occupation of state land. Government speeches and documents related to the campaign speak in terms of ‘donating’ land to otherwise non-legal settlers. Land surveying activities under the Order 01 land titling campaign ran from June 2012 and ended prior to national elections in June 2013. Following the elections the campaign remained dormant for a time, after which it began to issue titles and complete survey work in some areas. However, no major new surveying has occurred since the election.

In addition to targeting areas that were theoretically not eligible for registration through the SLR program, the campaign was remarkable for a number reasons. In particular, thousands of youth volunteers, colloquially referred to as ‘the students’ or ‘the student volunteers’, were enrolled in the campaign to assist with the rapid surveying of land. Many of these volunteers had a two-day training course in how to operate a hand-held GPS system, as well as other technicalities of land surveying. Thereafter they were deployed in camouflage fatigues riding military trucks to the provinces where they would join professional cadastral teams. Their work was noticeably faster than the SLR surveying activities, a point which is expanded in detail in Part 3 of this report.

During Order 01’s implementation, the Cambodian Government and Ministry of Land Management, Urban Planning and Construction (MLMUPC), were clearly pleased with the progress of the campaign, which succeeded in issuing a large number of titles in a relatively short span of time. Yet, some critical questions remain about the approach of the campaign, and during its implementation a number of concerns emerged. Among these concerns are the extent to which the campaign was in compliance with the existing legal framework (Part 3); the degree to which it proceeded in areas with land disputes and whether it effectively resolved them (see Parts 4 and 5); handling of indigenous and

²⁷ NGO Forum has also supported research on systematic land registration, see Grimsditch, M., Kol, L. and Sherchan, D. (2012), *Access to Land Title in Cambodia: A Study of Systematic Land Registration in Three Cambodian Provinces and the Capital*, Phnom Penh: NGO Forum on Cambodia.

communally managed land (Part 6); the use of inexperienced youth volunteers kitted out in military fatigues (Part 9); and the speed of implementation and how this may have impacted the quality of the survey results (Part 10). Among various other issues, concerns were raised about access and exclusion from the land survey process, as well as the assumption that recipients of land titles were 'illegal' occupants, despite the fact that many have occupied their land for a considerable period of time (Parts 3 and 4).

Although the MLMUPC announced basic statistics on the campaign's results, such as the approximate total number of titles issued, the campaign was conducted in a manner that was viewed by many observers as non-transparent, and access to information has been limited (for example, Dwyer, 2013). Given the many unknowns about Order 01 outside of the aggregate statistics offered by the MLMUPC, cases that captured national media attention, and a small selection of case studies available in the literature on Order 01, this research fills a number of important knowledge gaps.

1.2 Objectives of the Research

While Order 01 was still ongoing in 2012-13, several studies were conducted that looked at the implementation of Order 01.²⁸ Media coverage was also extensive during this period. The aim of this research is to build on these earlier studies and investigate in more detail the implementation and impacts of Order 01, using both quantitative and qualitative methods, over a large study area. This study looks at the implementation and impacts of Order 01 in both indigenous and non-indigenous areas and seeks to address the following overarching objectives:

- To better understand how Order 01 was implemented on the ground, the degree to which it proceeded according to the guidelines for its implementation, and how different types of land and land users were targeted by the campaign and to what effect.
- To assess the impacts of Order 01 on indigenous communal land, Community Forests and Community Protected Areas.
- To evaluate the impacts of Order 01 on the livelihood and tenure security of non-indigenous, indigenous, and forest dependent communities.

²⁸ See for example: Müller and Zülsdorf (2013), Milne (2013), Focus on the Global South (2013), and Rabe (2013).

- To identify the potential adverse impacts of the campaign and draw recommendations for all concerned stakeholders on how to deal with the outcomes of the Order 01 titling campaign.

In order to address these objectives, the authors sought to address the following questions:

1. What was the background and legal process for the implementation of Order 01, was this process in compliance with the existing legal framework for land administration and management, and was it implemented according to that process? (Part 3)
2. Who were the main stakeholders involved in the implementation and decision-making processes involved in Order 01? (Part 3)
3. Who benefited from Order 01 land titles? Who was included and who was excluded from the Order 01 campaign, and to what extent were recipients of land titles in fact 'illegal' occupants of the land they were occupying and/or using? (Part 4)
4. To what extent has Order 01 contributed to the resolution of land disputes, especially those around Economic Land Concessions? (Part 5)
5. How has Order 01 impacted on indigenous communities' ability to obtain collective land title and protect community lands? (Part 6)
6. How has the Order 01 campaign impacted on the livelihoods and tenure security of affected people? (Part 7)
7. To what extent were critiques of the campaign valid? (Part 9)
8. What are the other immediate and potentially long term impacts of the titling campaign, and are affected people satisfied with the implementation and outcomes of Order 01? (Parts 8, 9 and 10)

1.3 Methodology

This research seeks to contribute to the existing literature on Order 01 through a mixed-methods study across multiple scales. To that end the team conducted a large survey of 480 households across six provinces where Order 01 was active, along with 45 interviews with key informants at village, commune, district and provincial levels; interviews with 12 members of civil society, development partners and academics; and six village-level focus group discussions.

Data collection for this research was conducted between February and August 2014 and was implemented in two main phases. The first stage of the study was conducted from February to March 2014 and involved the following steps: comprehensive review of all available literature, media reports and administrative documents related to Order 01; informal national-level interviews with key stakeholders from civil society, development partners, and academia; drafting of legal analysis of the main texts related to Order 01; design of field research tools, including sampling strategy, quantitative household questionnaire, local-level key informant interview questionnaire, focus group discussion guide, and implementation plan. Stage two of the research was conducted between June and August 2014 and involved the implementation of the fieldwork plan in 6 provinces, encompassing 18 districts (three per province), and 36 villages (six per province). The third phase of this research, consisting of both quantitative and qualitative data analysis, as well as writing, was done from September 2014 to January 2015.

1.4 Selection of Study Areas

During phase 1 consultations and design, the team chose to prioritize investigating the degree to which Order 01 operated in areas with long-running land disputes. To do this, it was decided to geographically focus on six provinces that have a high incidence of ELCs and long-standing land conflicts. In order to maintain broad diversity within the sample, provinces from the Northeast (Ratanakiri and Kratie), the Northwest (Oddar Meanchey), as well as the Central Plains (Kampong Speu and Pursat) and coastal areas (Koh Kong) were included.

The sampling strategy was based on the principle of cluster sampling²⁹ according to a multi-stage process.³⁰ Since the clusters drawn from the six provinces are not equal in population size, samples were taken with probability proportionate to size (PPS).³¹ In this case, clusters were selected according to administrative

²⁹ Cluster sampling allowed us to base the sample on geographic areas and to sample populations for which there are no convenient population lists or sampling frames (such as a census, for example). By drawing a sample from a cluster, the sampling field is narrowed from large, heterogeneous chunks of population to smaller ones that are easier to find.

³⁰ The guiding principle behind probability proportionate to size is to take as many of the biggest clusters in the sample as possible, always at the expense of the number of clusters at the bottom. This means more districts are favourable to more villages, and more villages favourable to more households. Doing so maximizes the heterogeneity of the sample, since it is more likely to have higher variation between villages than between households, for instance.

³¹ The rule of thumb here is that PPS sampling is called for under three conditions, namely “(1) when you are dealing with large, unevenly distributed populations; (2) when your sample is large enough to withstand being broken up into lots of pieces (clusters) without substantially increasing the sampling error; and (3) when you have data on the population of many small blocks in a population and can calculate their respective proportionate contributes to the total population” (Bernard 2011, p.122). In our case, we are dealing with a large unevenly distributed population, such as villages across provinces.

divisions in Cambodia, namely province, district, and village, and at each level as large a sample as possible was extracted from the larger cluster to enhance the between-group variance.

Villages close to ELCs were selected in order to better understand how the land titling campaign proceeded in areas that were (i) a form of demarcated state land, as indicated by the concession boundaries; and (ii) land that was likely to be in conflict. An approximate sampling frame was made through consultation with Open Development Cambodia's (ODC) online interactive map to display ELCs against the mapped villages listed in the 2008 population census.³²

At the district level, the data collection team cooperated with local NGO partners and community networks to help to identify villages that met the sampling criteria, with two villages chosen for each district. At this stage, consultations in the provinces helped to increase the proportion of villages in the sample that were affected by both ELCs as well as being in areas of Community Forest, Community Protected Area or Protected Areas. This process also helped to ensure that the sample villages included indigenous populations. To protect the anonymity of our sources, who at times confided highly sensitive information to the team, the villages and communes where the research was conducted are named in this report. During the course of the research information was gathered on which concessions were active in the various areas, as illustrated in Table 1.1.

³² For each of the provinces, we targeted villages that were either within the boundaries of a concession, or within approximately 1 kilometre of a concession's boundaries, in order to establish the pool from which we could draw our sample. This was then cross-checked by using the ODC map to identify districts within the study area that had ELCs that overlapped or likely overlapped with land that was also claimed by villagers' land. In provinces where more than three districts fit these conditions, three districts were selected at random.

Table 1.1: ELC companies present in sampling areas (identified by respondents during field research)³³

Province	District	ELCs operating nearby the sampled villages
Ratanakiri	Andoung Meas	Krong Pok Ratanakiri Rubber Development, Co. Ltd., Heng Brother, Co. Ltd., Veasna Investment, Co. Ltd. Hoang Anh Andoung Meas, Co. Ltd., "Company 75"
	Ou Chum	CRD, Co. Ltd.
	Voeun Sai	SK Plantation Cambodia, PTE Ltd.
Kratie	Sambo	Bin Phuoc Rubber Company, Co. Ltd., "Chinese company" with teak plantation, "Indian company", "Malaysian company", "Thunnay 1 and 2", "Kuyty"
	Chhlong	Chan Sophea Development, Co. Ltd., Dau Thieng Cambodia Rubber Development, Co. Ltd.
	Snoul	GV Development Agro Industry, Co. Ltd., Hai Yong Investment Agro Industry Company, Chan Sophea Development, Co. Ltd., Ratanak Stone Development, Co. Ltd., JPE, Co. Ltd., Best Royal Company, "Special Industrial Area"
Oddar Meanchey	Anlong Veng	Samrong Rubber Industry
	Samrong	Real Green, Co. Ltd., Crystal Agro Company, Co. Ltd.
	Banteay Ampil	Tonle Sugar Cane, Co. Ltd.
Kampong Speu	Phnom Sruoch	Master International Cooperation Group, Co. Ltd., Sanan Agriculture Development and Logistics, Co. Ltd. SovannVivath Trading, Co. Ltd., CJ Cambodia, Co. Ltd., "American company", "Chinese company"
	Thpong	City Mart, Co. Ltd., Phnom Penh Sugar, Co. Ltd.
	Oral	HLH Agriculture Cambodia, Co. Ltd.
Pursat	Krakor	Pheaphimex Group, Co. Ltd.
	Kravanh	N/A
	Sampov Meas	Pheaphimex Group, Co. Ltd.
Koh Kong	Koh Kong	N/A [Protected Area]
	Thmor Bang	N/A [Protected Area]
	Botum Sakor	Koh Kong Plantation, Co. Ltd., Heng Huy Agriculture Group, Co. Ltd.

³³ The information above was provided by interviewees and crosschecked with Open Development Cambodia's ELC database and the business registration database of Cambodia's Ministry of Commerce. In some cases respondents only knew the nationality of the company, or the colloquial name used locally, and it was therefore difficult to verify the identity of concession holders in all cases.

1.5 Quantitative and Qualitative Methods

1.5.1 Household questionnaire

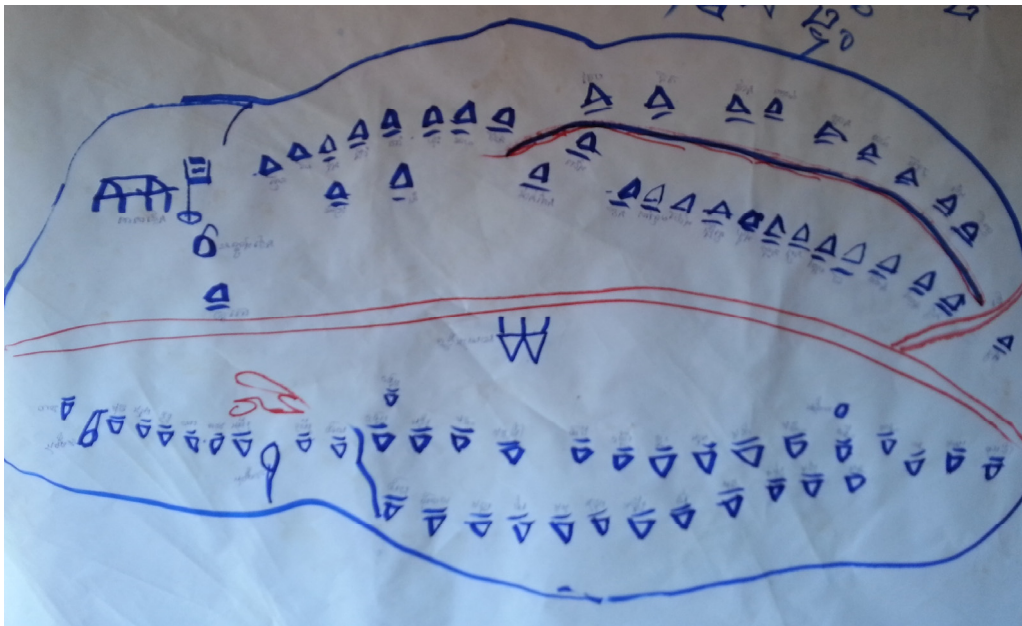
In each village the data collection teams used a mix of random and representative sampling to select approximately 12 households to survey. The team chose the households at random from different geographical clusters within the village but adjusted the sample to increase the representation of households who had received an Order 01 title so that they comprised approximately two-thirds of the sample. The team encountered limitations in some areas as large number of families are now migrating for work, and in some cases people were away from the village for extended periods to work on ELCs. This meant that in some cases snowballing was the most appropriate sampling method. The areas selected for the household questionnaire are detailed in Table 1.2.

Table 1.2: Surveyed areas

Province	Districts			HHs surveyed
Ratanakiri	Andong Meas	Ou Chum	Voeun Sai	81
Kratie	Sambo	Chhlong	Snoul	82
Oddar Meanchey	Anlong Veng	Samrong	Banteay Ampil	80
Kampong Speu	Phnom Sruoch	Thpong	Oral	78
Pursat	Krakor	Kravanh	Sampov Meas	81
Koh Kong	Thmor Bang	Koh Kong	Botum Sakor	78
Total				480

The household questionnaire consisted of 123 questions concerning demographic information; basic livelihood overviews; land use, land conflicts and land rights prior to Order 01; communally held land rights and land access; demarcation and surveying processes during land registration; titled land; land left untitled; impacts of land titles; and, perceptions of the campaign. In total, 480 people answered the questionnaire, approximately 80 in each of the six province, as shown earlier in Table 1.1.

Illustration 1.1: Map prepared by villagers to assist selection of households for interview, July 2014



1.5.2 National and provincial level interviews

There were two separate periods of interviewing, corresponding to the two phases of data collection. The first set of interviews were conducted in February and March 2014 as part of the research design phase and were held with development partners, civil society organizations working in the land sector and academics (n=12). The second set of interviews were conducted in July and August 2014 while the enumerators travelled throughout the country to implement the questionnaires. Given the politically sensitive nature of Order 01, the teams met primarily with village chiefs and commune councillors who were willing to discuss the campaign. It was much more difficult to secure meetings with higher level officials. An overview of the 45 interviewees met by the data collection team in phase 2 is presented in Table 1.3, along with the numbers of local NGOs consulted during field research. Interviews focused on understanding how land was targeted for measurement; how the campaign was implemented in the target areas; histories of conflict with ELCs and how Order 01 proceeded in disputed areas; problems encountered during land surveys; how Order 01 worked in areas where there were indigenous people with communally held land and where there was Community Forest or Community Protected Areas; people's perceptions of the campaign; and, the campaign's perceived impacts on local livelihoods.

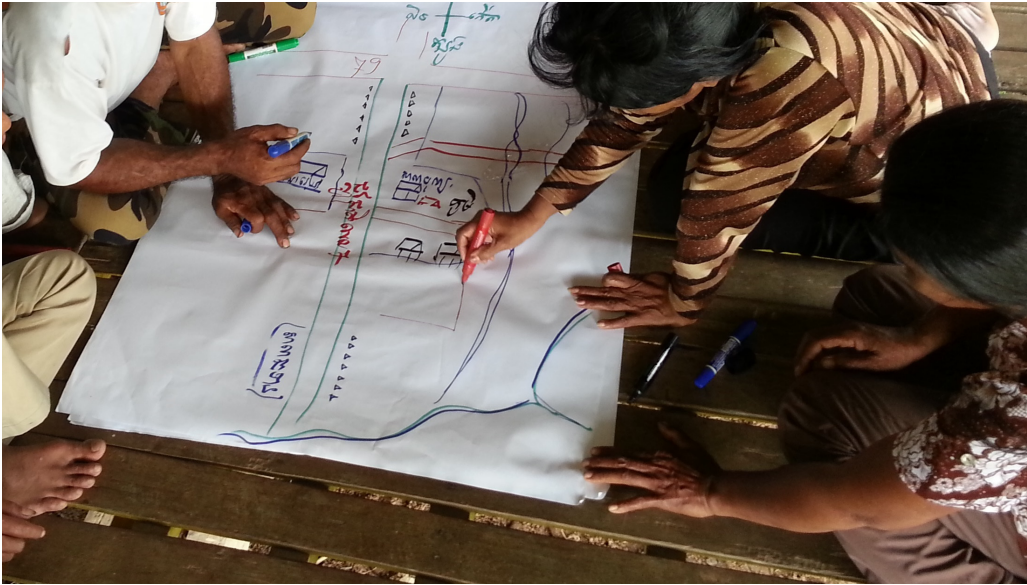
Table 1.3: Interviews conducted by province

Province	Number of Interviews						Total
	Government interviews				Civil society interviews		
	Provincial	District	Commune	Village	Villager	Local NGOs	
Ratanakiri	-	1	2	5	-	4	12
Kratie	-	1	1	6	-	2	10
Oddar Meanchey	-	-	1	6	-	1	8
Kampong Speu	-	-	4	3	1	1	9
Pursat	1	-	2	4	1	2	10
Koh Kong	-	-	1	2	1	2	6
Total	1	2	11	26	3	12	55

1.5.3 Focus Group Discussions

Focus group discussions were held in one selected village for each of the six provinces and involved 6-15 people in each discussion. The discussions centred first on a community mapping exercise to identify: land used by communities; areas of ELCs and state land; Community Forest and Community Protected Areas (if present); and, areas surveyed or excluded by the Order 01 teams. A guided discussion was then held that explored how people understood Order 01; the way in which the campaign proceeded in their village; the types of land surveyed and households that participated or were excluded; how the campaign proceeded in disputed areas; and, degrees of satisfaction with the campaign. Participants in focus group discussions were also encouraged to share the general experiences and stories regarding Order 01.

Illustration 1.2: Focus Group Discussion in Kratie, July 2014



1.6 Limitations of the Study

One of the principle limitations of the study was the lack of official information related to Order 01. Although the MLMUPC has issued notifications on the total number of plots adjudicated, titles issued, and hectares covered by the titling campaign, there is no publicly available up-to-date and detailed breakdown of these results. In addition, no comprehensive list of titling locations has been released to the public. The lack of publicly accessible data makes assessment of the national trends in Order 01 implementation impossible. This study therefore relies on the available official data and the quantitative and qualitative data gathered in the field. While this is a rich source of information, and the sampling strategy aimed to provide as broad a picture as possible, the data gathered in the field still only provides a snapshot of implementation in those geographical areas visited by the study teams.

In each of the 18 districts the team visited they attempted to meet with as many local government representatives as possible. However, at the level of provincial and district government, individual officials often went to great lengths to avoid meeting with the research team. As a result, the 40 interviews held with sub-national government tended to be with people open to discussion, and oftentimes critical of Order 01's implementation, many of whom worked at the village or commune level.

While in the field, teams ran into practical problems, such as difficulties in travelling in remote areas due to inclement weather. Many local residents were also busy planting at the time of the fieldwork and so were not available for the household survey. When the research team visited a village in Voeun Sei district of Ratanakiri, a group of police officers arrived and prevented the team from speaking with villagers or taking photographs and demanded to see a permission letter from the District Governor. As the police approached, villagers quickly left and were understandably no longer willing to talk. In the interest of their own safety and that of the villagers, the research team decided to leave this area and move on to another village. The team also ran into a problem with company representatives in Koh Kong. Here a plantation company sent a truckload of company security guards to question villagers who had met with the research team and questioned them about what they discussed.

Another significant challenge encountered was in part due to the research team under-estimating the complexity of the subject matter when designing the household survey and discussion guide. It became apparent on analysing the field data that interviewees and focus group discussants did not always have a clear understanding of the terms “Community Forest” or “Community Protected Area”. Sometimes respondents confused these categories with each other, with areas that have been traditionally used communally but not official recognized, or with other types of reserved state land on which they have been able to utilize forest resources or conduct shifting agriculture. In Koh Kong and Kampong Speu, some indigenous community members had never heard of collective land titles, and confused this legal term with their traditional interpretation of communal land use. In future, greater care needs to be taken in drafting questions on these potentially confusing legal designations that often differ from local interpretations or categories of land use.

1.7 Report Outline

The report begins by looking at the background of Order 01 and the establishment of the land titling campaign (Part 2). This includes a discussion of the origins of the order, the approach of the Government to promoting its implementation, and the results as of the time of writing. To place Order 01 in a legal context, Part 3 considers the legal process for the implementation of the titling campaign, supported by observations from the field. This is accompanied by an analysis of the Order 01 process and the extent to which it was in compliance with pre-existing legislation on land administration and management. The following section, Part 4, considers inclusion and exclusion from the titling campaign, drawing on literature and media review, as well as quantitative and qualitative data gathered in the field. The section seeks to establish what types of land were included and excluded (Part 4.1) and who received titles in the study areas (Part 4.2). Part 5 explores the extent to which

disputes were addressed by the campaign. In Part 6, the report turns to examine communally held and managed land, specifically indigenous community land, Community Forest, and Community Protected Areas and how Order 01 proceeded in these areas.

Order 01 was subject to sometimes fierce criticism during its implementation. How the campaign may have impacted people's livelihoods and tenure security is taken up in Part 7 of the report, after which it turns in Part 8 to consider the degree to which people were satisfied with the campaign. Part 9 of the report draws upon the field research to address some of the critiques of Order 01 and examines the extent to which they manifested (or not) in the field. The report concludes in Part 10 by considering the likely medium to long-term consequences of Order 01, and presents an overview of key findings and recommendations to the Government, development partners, and civil society.

A photograph of a forest clearing. In the foreground, there is a field of young plants, including corn and squash, growing in rows. The plants are green and healthy. In the background, there is a dense forest of tall trees with thin trunks. The ground is covered with dry leaves and twigs. The overall scene is a natural, rural setting.

Part 2: The Background and Results of Order 01

Part 2: The Background and Results of Order 01

The amount of land granted through large-scale Economic Land Concessions (ELCs) climbed steadily after the legal framework for granting concessions was formalized in the 2001 Land Law. Since then at least 1.3 million hectares (ha) of land have been granted as ELCs by the Ministry of Agriculture, Forestry and Fisheries (MAFF) – the only body of the RGC that has made ELC figures public. As will be discussed below, this figure is contested, and concessions have also been granted by the Ministry of Environment (MoE), which are not counted in the MAFF figures. As ELCs have spread across Cambodia, so have conflicts and accusations of improper conduct against concession holders. For a number of years concerns have been raised by communities, local and international organizations, UN agencies and development partners about the granting and implementation of ELCs and the impacts that they are having on communities and the environment.

While some measures were taken in the past to confiscate a number of uncultivated ELCs, this effort was piecemeal and land conflicts around many concessions have dragged on for years. In a large number of cases this has led to public demonstrations and unrest, and in a handful of serious cases, protesting villagers have been killed by security forces. With pressure building, the Government finally took a decisive step in May 2012, issuing Order 01 calling for a suspension on the granting of new concessions and an investigation of existing ELCs. The following section of the report traces the origins of Order 01, beginning with a look at the growth of ELCs in Cambodia, before moving on to discuss the issuance of Order 01, the conditions of its implementation, and the quantitative results of the titling campaign.

2.1 The Growth of Economic Land Concessions in Cambodia

ELCs have been granted across Cambodia for various agro-industrial purposes, including raising animals, building agricultural processing plants, and establishing plantations for the cultivation of monoculture crops including rubber, sugar, cassava, palm, cashews, teak and acacia. The ELC mechanism is elaborated in *Sub-decree #146 on Economic Land Concessions*, which states that the objective of granting ELCs is to:

- develop industrial-agricultural activities requiring a high rate of initial capital investment;
- reach agreements with investors for developing land in an appropriate and long-term manner;
- increase employment in rural areas and stimulate diversification of livelihood opportunities;

- encourage investments in Economic Land Concession projects; and
- generate state revenues through land use fees, taxation and related services charges.³⁴

Key regulations for ELCs are expanded further in Textbox 2.1, later in this part of the report.

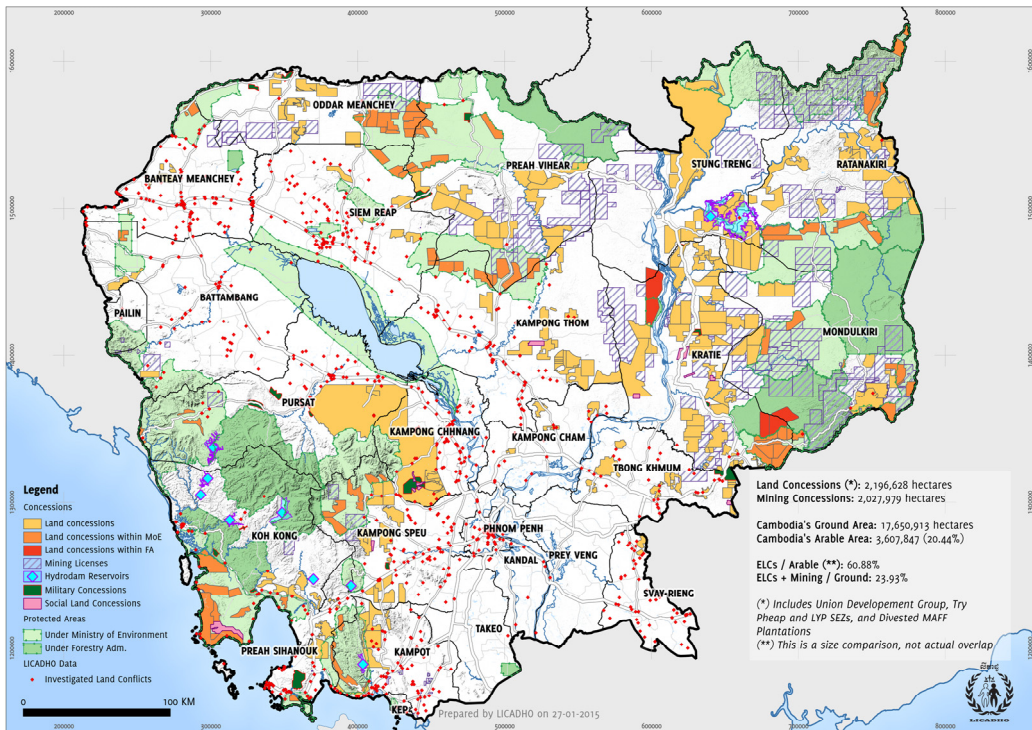
There is no comprehensive and definitive dataset that compiles information from each relevant ministry on all concessions in Cambodia, and this lack of transparency has been a cause for concern for a number of years. Statistics from MAFF's 2014 annual report state that the ministry has granted ELCs to a total of 122 companies covering a total land area of 1,316,396 hectares (MAFF, 2014, p.64). However, it should be noted that there are also inconsistencies between the figures issued by the government. Information displayed on the MAFF website differs slightly and states that 118 concessions have been granted over 1,204,750 ha. Confusingly, the former Minister of Agriculture, Forestry and Fisheries reported to the National Assembly in May 2013 that the figure for ELCs granted between 1996 and 2012 was 1.5 million hectares to 117 companies (Trach, 2013).

Some reports have claimed the true figure for areas under concession may in fact be closer to 2 million hectares (Subedi, 2012, p.9). This is because MAFF statistics do not include concession granted in protected areas by the MoE, in addition to a number of other concessions that have not been well publicized. Initiatives such as Open Development Cambodia³⁵ and human rights organizations including Licadho have documented concessions covering areas far in excess of 1.3 million hectares. As shown in Illustration 2.1, below, Licadho has recorded over 2.2 million hectares of ELCs, including those granted by the MoE.

³⁴ RGC, *Sub-Decree #146 on Economic Land Concessions* (27 December 2005), article 3.

³⁵ See Open Development Cambodia website, <http://www.opendevdevelopmentcambodia.net/maps/>.

Illustration 2.1: Concessions and other developments mapped by Licadho³⁶



Despite the fact that MAFF statistics do not cover all ELCs, data from the ministry's ELC webpage indicate a steady rise in the amount of land granted as concession between 2001 and 2012. There was a steep rise in the number of concessions granted in 2011, although this dropped abruptly in 2012 as the granting of new ELCs was suspended by Order 01. Figure 2.1 shows the rising amount of land granted as ELCs, while Figure 2.2 plots the fluctuations in the number of ELC contracts granted between 1996 and June 2012.

³⁶ As will be discussed later, since the Order 01 campaign commenced, many concessions have been cancelled or had their boundaries adjusted. This map therefore shows the original concession shapes, but many have since changed.

Figure 2.1: Cumulative land area granted as ELCs by MAFF, 1996 - June 2012

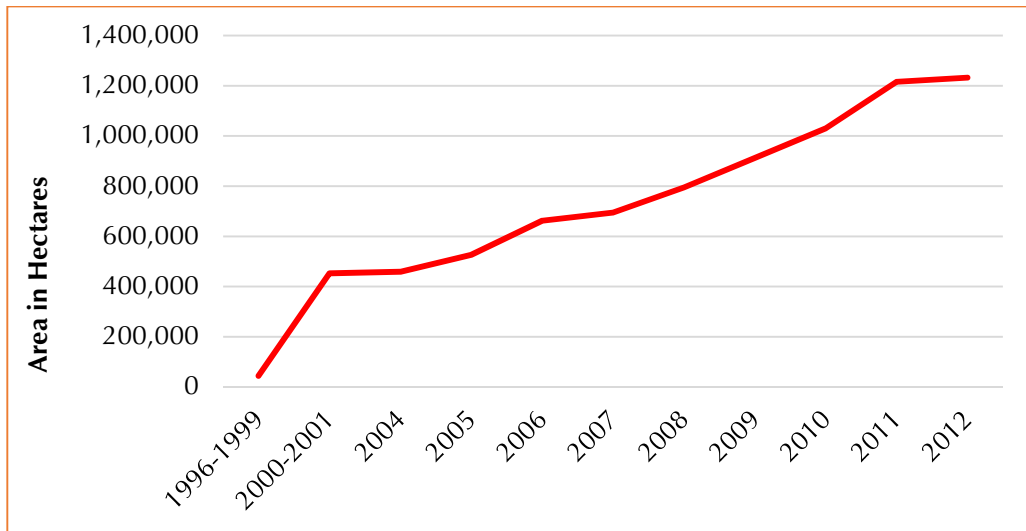
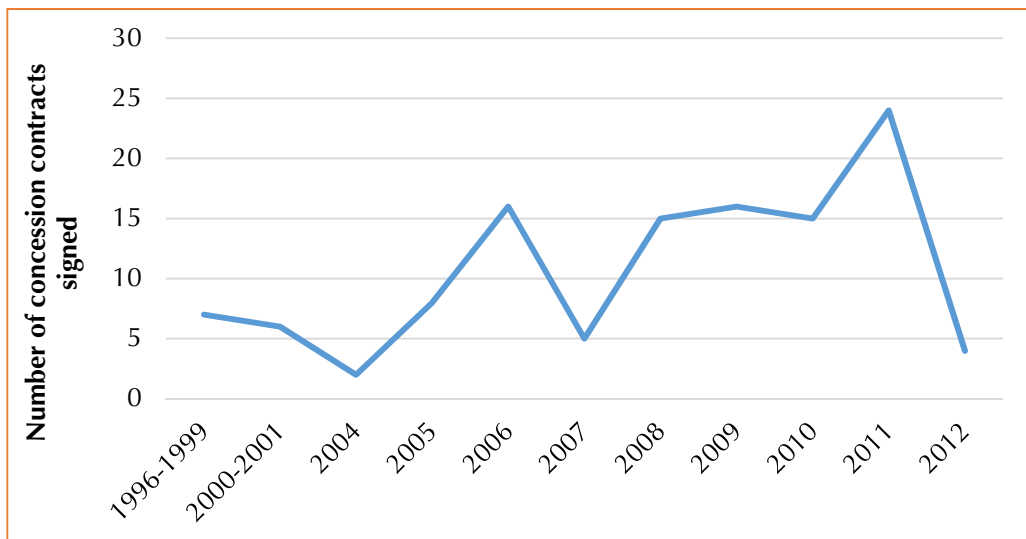


Figure 2.2: Number of ELCs contracts signed by MAFF, 1996 - June 2012

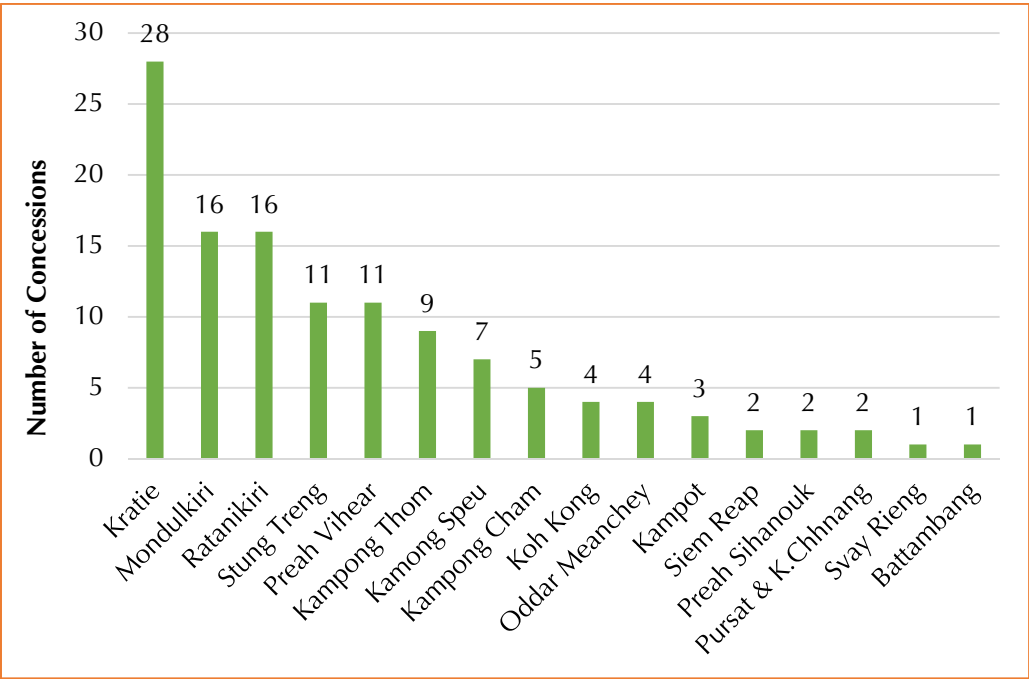


Source: Data from MAFF website, <http://www.maff.gov.kh/elc/> (accessed January 2015)

ELCs have been granted to both domestic and foreign firms, and according to MAFF's 2014 annual report the vast majority of foreign firms holding ELCs are from Vietnam and China (MAFF, 2014, p.64). The ELCs granted by MAFF have a strong tendency to be concentrated in Cambodia's four north-eastern provinces (Kratie, Mondulakiri, Ratanakiri and Stung Treng), with just under 60% of the ELC contracts signed by MAFF located in this area. Of note, Kratie, one of the study

areas for this research, has the highest concentration of MAFF-granted ELCs, accounting for almost one quarter of ELCs. Figure 2.3 charts the number of ELCs granted by MAFF by province (MAFF, 2014, pp.64-65).

Figure 2.3: Geographical distribution of ELCS granted by MAFF



Source: Data from MAFF 2014 Annual Report

Text Box 2.1: Key regulations relating to ELCs

ELCs can only be granted on state private land.³⁷ Under the 2001 *Land Law*, state land is divided into two categories: state public and state private. State public land is land of natural origin (rivers, lakes, forests, etc.), land that provides a general public use or service (schools, hospitals, roads, etc.) and archaeological and cultural heritage sites.³⁸ State private land is any land that is the property of the state but which does not provide a public service or come under any of the other categories of state public land.

ELCs cannot exceed 10,000 hectares and the same person or legal entity cannot hold several concessions that total over 10,000 hectares. This also applies to several legal entities controlled by the same person.³⁹ Under the *Land Law* ELCs could be granted for up to 99 years (although in 2014 this was reduced to 50 years) and operations must begin within one year of the concession being granted.⁴⁰ If a concessionaire fails to comply with the legal requirements the concession can be cancelled.⁴¹ All ELCs require a contract setting out its purpose, duration and geographical area.⁴²

Before approval of an ELC, an environmental and social impact assessment must be completed and approved according to the law in force. *Sub-decree #46 on Economic Land Concessions* requires that “solutions for resettlement issues” must be in place before an ELC is granted, and also states that there must not be involuntary resettlement of lawful land holders and that access to private land must be respected.⁴³

Despite the legal requirements and protections for people and the environment set out in the legal framework, as noted earlier, and documented extensively elsewhere,⁴⁴ the ELC system has come under sustained criticism. Numerous reports have documented how a large number of ELCs have been linked to serious land conflicts, destruction of indigenous community land, and blocking of access to natural resources. A number of concessions have also been found to be in breach of their concession agreement, either failing to develop the land in

³⁷ Land Law (2001), article 58; RGC, *Sub-Decree #146 on Economic Land Concessions* (27 December 2005), article 4(1).

³⁸ Land Law (2001), article 15.

³⁹ Land Law (2001), article 59.

⁴⁰ Land Law (2001), article 62.

⁴¹ Land Law (2001), article 58.

⁴² Land Law (2001), article 54.

⁴³ RGC, *Sub-Decree #146 on Economic Land Concessions* (27 December 2005), article 3.

⁴⁴ See for example: Cambodian Human Rights Action Committee (2009), Subedi, (2012), Equitable Cambodia & Inclusive Development International (2013), and Global Witness (2013).

good time or using the land for purposes other than stated in the contract. Some companies failed to commence operations at all, while there is also evidence to suggest that some companies used the concession simply to conduct logging in the concession area. With pressure mounting and many long-running land conflicts remaining unresolved, the landscape changed significantly with the issuance of Order 01.

2.2 What is Order 01 and Where Did it Come From?

In May 2012, the Cambodian Government adopted *Order 01BB on Measures for Strengthening and Increasing the Effectiveness of the Management of Economic Land Concessions* (the full text of Order 01 is included in Appendix). This Order announced a suspension on the granting of new ELCs and called for a review of existing concessions. Order 01 also states that the Government shall seize ELCs if concessionaires have failed to comply with their contract or the relevant legal procedures. This includes concessionaires that have:

- used the concession to cut trees but have failed to cultivate the land;
- encroached on land beyond concession boundaries;
- left parts of the concession vacant in order to sell to third parties;
- undertaken business activities that violate the ELC contract; and
- taken land from local people or indigenous communities.

Order 01 states that any seized concession areas shall return to the direct management of the state. It also called on the relevant ministries, institutions and authorities to follow the “leopard skin” strategy when implementing the Government’s ELC policy. The leopard skin strategy refers to the practice of demarcating concessions in a way that avoids existing residential and agricultural land, and therefore in theory reduces the risk of land conflicts emerging. While the Order suspended the granting of new concessions, those that had already received approval in principal at the time of the Order were not affected by the suspension. According to an MoE spokesperson, 32 new concessions were issued in the six months following the suspension because they were already “in the pipeline” at the time Order 01 was issued (Aun, 2014a). It is not clear if this refers only to MoE concessions, or to ELCs in general.

Despite being extremely brief and only one-page long, Order 01 set in motion a chain of events that led to the creation of a new nationwide campaign for surveying land and issuing land titles to people living on state land, including forest land, ELCs and forest concessions. The Prime Minister formally announced the new land titling campaign in June 2012, one-month after Order 01 was issued (Im, 2012). Implementation of Order 01 land surveys began later that month and continued for a year until being put on hold during the run up to the national elections of July 2013. After the election, major land surveying did not

recommence, but some areas that were surveyed prior to the election were returned to and land titles issued. A timeline of events related to Order 01 is provided later in Table 2.1.

While Order 01 created the foundation for this titling campaign, the process utilized by the land titling teams was guided by pre-existing laws and regulations, which were supplemented by various administrative documents issued by the Council of Ministers, Ministry of Land Management, Urban Planning and Construction (MLMUPC), and Council for Land Policy (CLP). For the sake of convenience, this paper uses the term “Order 01 land titling campaign” to cover all activities conducted under the land titling campaign that commenced in June 2012. A more detailed analysis of the Order 01 guidelines and implementation process is developed in Part 3.

This ambitious program initially aimed to cover a total area of 1.2 million hectares (ha), including 400,000 land parcels, and aimed to issue land titles to an estimated 350,000 households. However, in September 2012 these targets were revised upwards to 1.8 million ha, 700,000 land parcels, and 470,000 land titles (Im, 2012). According to statistics from the MLMUPC, as of mid-December 2014 the Order 01 campaign surveyed over 710,000 plots in 357 communes and issued 610,000 titles – indicating that Order 01 exceeded the revised and higher targets of titles issued.⁴⁵

At the time of its announcement, many observers were struck by the suddenness of the campaign as well as its ambitious goals, and the motivations behind it were subject to much debate. During data collection, the research team solicited opinions from local government officials, interviewees and focus group discussion participants as to what they considered the motives for the campaign to be. Textbox 2.2 shows the broad range of responses provided by local government officials. Many of the respondents explained that the Order came from “the top” or “higher levels”, but their thoughts on the exact reasons *why* the Order was issued differ significantly. A selection of interesting responses are provided below, and the diversity in responses indicates that at the grassroots level of the state there was a lack of certainty among some officials as to why exactly the Order was being implemented. However, in many instances officials’ own interpretations emphasized the role of on-going conflicts with ELCs, along with political aims, as likely motivations of the Order.

⁴⁵ MLMUPC, *Notification*, 17 December 2014.

Text Box 2.2: Insights from local officials on the origins of Order 01

During the course of the fieldwork, sub-national-level officials were asked: “In your opinion, what were the motivations behind the Order 01 land titling campaign?” Below is a selection of responses with emphasis added by the authors.

Village chief, Kampong Speu: “The Order 01 campaign happened **because land conflicts have happened for years without resolution**, so the Prime Minister requested to develop Order 01” (KPS2, 22/07/2014).⁴⁶

Village chief, Kampong Speu: “The campaign **happened because the Government was afraid that people have been in conflict with ELC companies and they wanted to get votes from the people**” (KPS3, 22/07/2014).

Commune council chief, Kampong Speu: “The Government requested a campaign in order **to give people secure tenure**. If the government doesn’t provide land titles to the people, **ELC Companies might grab the people’s land. As long as people have titles, ELC owners who are powerful men cannot affiliate with government officers and use maps to take land from the people**. We cannot live without land, even if we can live on someone else’s land, we might face eviction someday” (KPS4, 21/07/2014).

Commune council member, Kampong Speu: “Many land conflicts have happened in the country, so **the Government developed a plan to reduce the conflict**. Most ELC land conflicts were not solved because ELC company owners are powerful men. As long as people get land titles, no one can take their land” (KPS6, 19/07/2014).

Village chief, Kratie: “The campaign **focuses on the company land in order to prevent the people grabbing the company land**” (KRT5, 07/07/2014).

Commune council chief, Pursat: “This campaign happened because of **the brilliant idea of Prime Minister Samdech Hun Sen**” (PST2, 15/07/2014).

Village chief, Pursat: “This campaign happened because people have cleared forest land and currently there are still clearing land activities in some villages with remaining forest land. Even though they were ordered to stop, they don’t

⁴⁶ To protect the identities of interviewees, codes have been assigned to the participants based on the province and date of the interview. RTK is used for Ratanakiri ; KRT for Kratie; KPS for Kampong Speu; PST for Pursat; KK for Koh Kong and ODM for Oddar Meanchey. The assigned interviewee codes are used throughout the report.

listen. ***This campaign can therefore be a deadline for clearing land***" (PST6, 16/07/2014).

Village chief, Pursat: *"People have conflict with ELC companies and the Government want to deal with the conflict and provide people with tenure security for farming. After people have titles, it can be used as capital to support family livelihood. **People can be free from concern that ELC companies will grab their land. This reduces land conflict and complaints to the commune office.** After we have clear commune and state land boundaries it is easier to raise funds for road development projects"* (PST9, 17/07/2014).

Village chief, Ratanakiri : *"**Honestly, I have no idea** [about the motivation of Order 01], **but if the reason was dealing with land conflict, then it is useless,** as land conflicts have now increased and my community are not happy"* (RTK2, 02/07/2014).

Village chief, Ratanakiri : *"I do not know what was behind [Order 01]. **It was the national policy that we have to follow**"* (RTK7, 03/07/2014).

Village Chief, Ratanakiri : *"It was the **pilot for the volunteer students to rehearse their knowledge and skills before they were selected to work as civil servants**"* (RTK6, 04/07/2014).

Village Chief, Oddar Meanchey: *"**I am not very sure about anything behind the land titling campaign under 01.** I just saw the students come to the areas"* (OMC4, 12/07/2014).

To chart the important developments and key events of Order 01, Table 2.1 outlines the timeline of Order 01 from its first announcement, through its implementation up to the national election, and activities that occurred thereafter. The timeline includes key events and highlights the development of the administrative framework for implementation of the 01 titling campaign. It also provides a useful orientation to the development of guidelines and instructions for the implementation of the Order, the topic of Part 3 of this report.

Table 2.1: Timeline of key events related to Order 01

DATE	EVENT	IMPLICATIONS
7 May 2012	RGC adopts Order 01	Order 01 suspends new ELCs and calls for a review on existing concessions.
14 June 2012	Prime Minister Hun Sen announces the new land titling campaign	The Prime Minister announces that a new land titling campaign will soon commence. The program initially aims to cover a total area of 1.2 million ha, including 400,000 land parcels, and issue land titles to an estimated 350,000 households.
26 June 2012	Council of Ministers issues <i>Notification #666 from Deputy PM Minister in charge of Council of Ministers to the Senior Minister of LMUJPC</i>	Approves request for land titling campaign in support of Order 01 implementation. Instructs MLMUJPC to move forward with implementation. Sets out basic process for the titling campaign.
29 June 2012	Phase 1 of titling campaign begins	Youth Volunteers travel to the provinces. Phase 1 of the campaign starts and quickly begins to survey land across the country.
2 July 2012	Council of Ministers issues <i>Notification #684 from Deputy PM in charge of Council of Ministers to the Senior Minister of LMUJPC</i>	States that maximum amount of land that can be donated as ownership under Order 01 is 200 hectares.
4 July 2012	Council for Land Policy issues <i>Instruction #015 in relation to indigenous minority areas, jungle, semi-jungle, Prey Lang forest areas, national defence bases and historical and cultural areas</i>	Clarifies that land registration in indigenous areas should be implemented in accordance with the spirit of the 2009 sub-decree on registration of indigenous community land and 2002 sub-decree on establishing cadastral index map and land register. <i>Instruction #15</i> also states that land within “jungle, semi-jungle, Prey Lang forest, national defence areas and historical and cultural zones” should not be registered through Order 01.
13 July 2012	Council for Land Policy issues <i>Instruction #017 in relation to Roads, Railways, Paths, Lakes, Rivers, Beaches and Public Service Sites</i>	Provides additional instructions prohibiting granting of ownership in public road reserves; on natural lakes, beaches, riverbanks, canals and other waterways; and community forests and indigenous minority land. In areas where occupation is concentrated enough to constitute a village, reserves shall be organized for the public interest.

20 July 2012	Council for Land Policy issues <i>Instruction #018 on Land Identification, People Identification and Issuance of Primary Land Title</i>	Provides a more detailed explanation of the Order 01 titling process.
26 July 2012	Council for Land Policy issues <i>Instruction #019 on Strengthening of the Effectiveness of the Implementation of the Existing Policy by New Actions of the RGC with Regard to Land Reform</i>	Details relationship between youth volunteers, technical survey teams, field managers, and higher authorities. Sets out basic reporting requirements for survey teams and managers.
26 July 2012	Council for Land Policy issues <i>Instruction #020 in Relation to Areas of Indigenous Communities</i>	Overrules previous <i>Instruction #015</i> and states that titling of collective indigenous land under Order 01 shall be postponed and implemented later under the framework of 2009 sub-decree on registration of indigenous community land. Members of indigenous communities who wish to register their land privately through Order 01 may still do so, but must thumbprint a contract acknowledging that they voluntarily wish to live as private individuals.
5 Sept 2012	Council for Land Policy issues <i>Notification #024 on the Issuance of Final Ownership Title to Citizens on Land Surveyed During the Campaign Implementing Existing Policies by New Actions with Regard to Land Reform, Following the RGC Order 01</i>	States that due to the high-level performance by the Order 01 land survey teams, provisional land titles are no longer necessary and landholders may be issued with final land titles under the Order 01 campaign. Also states that from this stage on, when individuals complete their declaration form they will be given a letter informing them to install solid boundary markers on their land.
6 Sept 2012	Campaign targets are revised	The RGC revises the program targets up to 1.8 million ha of land surveyed (up from 1.2 million ha), including 700,000 land parcels (up from 400,000), and issuance of land titles to an estimated 470,000 households (up from 350,000).
7 Sept 2012	Council of Ministers issues <i>Notification #997 from Deputy Prime Minister in charge of Council of Ministers to Minister of LMUPC</i>	Council of Ministers confirms that those people whose land had already been surveyed under Order 01 can receive full land titles, without the need for provisional titles.

20 Sept 2012	MLMUPC issues Notification #1177 from Senior Minister, Minister of LMUPC to Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation	In response to comments on the Order 01 titling campaign by UN Special Rapporteur for Human Rights, Surya P. Subedi, the Minister for Land Management issues a letter addressing specific concerns.
Dec 2012	End of phase 1 of the titling campaign	Youth volunteers return to Phnom Penh.
28 Dec 2012	Exam held for full time civil-service positions at MLMUPC	MLMUPC holds exams in order to select 600 new full-time staff. Many of those sitting the exam are from the ranks of the youth volunteers.
Jan 2013	Start of phase 2 of the titling campaign	With numbers rising to over 2,000, the youth volunteers return to the countryside to support the second phase of the campaign.
21 May 2013	MLMUPC issues Notification on cumulative results of titling campaign	322 communes surveyed; 640,000 declarations made; 620,000 parcels surveyed; 260,000 titles issued; and 540,000 ha of land reclassified.
11 June 2013	MLMUPC issues Notification on cumulative results of titling campaign	322 communes surveyed; 670,000 declarations made; 660,000 parcels surveyed; 280,000 titles issued; and 600,000 ha of land reclassified.
20 June 2013	Order 01 Titling Program put on hold during run up to national election	Order 01 land survey placed on hold. Large scale land surveys under Order 01 did not re-commence after the election.
30 June 2013	MLMUPC issues Notification on cumulative results of titling campaign	357 communes surveyed; 710,000 declarations made; 700,000 parcels surveyed; 380,000 titles issued; and 830,000 ha of land reclassified.
28 July 2013	National elections held	Order 01 land registration remains on hold.
Dec 2013	Order 01 Titling program re-commences	Order 01 teams begin to complete registration of parcels that were surveyed prior to the election.
16 Jan 2014	MLMUPC issues Notification on cumulative results of titling campaign	357 communes surveyed; 710,000 declarations made; 710,000 parcels surveyed; 400,000 titles issued; and 930,000 ha of land reclassified.

31 March 2014	MLMUPC issues Notification on cumulative results of titling campaign	357 communes surveyed; 710,000 declarations made; 710,000 parcels surveyed; 500,000 titles issued; and 1,020,000 ha of land reclassified.
20 Aug 2014	MLMUPC issues Notification on cumulative results of titling campaign	357 communes surveyed; 710,000 declarations made; 710,000 parcels surveyed; 550,000 titles issued; and 1,100,000 ha of land reclassified.
13 Oct 2014	MLMUPC issues Notification on cumulative results of titling campaign	357 communes surveyed; 710,000 declarations made; 710,000 parcels surveyed; 560,000 titles issued; and 1,140,000 ha of land reclassified.
9 May 2014	Ministry of Agriculture, Forestry and Fisheries and Ministry of Environment issue <i>Inter-ministerial Prakas #177 / #206 on Strengthening Economic Land Concession Management</i>	Prakas calls on concessionaires to follow the 'leopard skin' strategy, and urges all companies that have received ELC approval to move forward with development of master plans, complete environmental and social impact assessments, and commence paying appropriate fees and royalties. The prakas also includes provisions related to dealing with community conflicts and forest clearance.
8 Aug 2014	RGC passes <i>Decision #125 on the Creation of the Inter-Ministerial Commission to Inspect, Demarcate and Assess Economic Land Concessions</i>	Inter-ministerial commission established to assess the implementation of existing ELCs. The commission's role is to inspect, demarcate and assess ELCs that have already been granted and withdraw approval from any concessions that are not in compliance with the obligations set forth in the contract.
Aug – Dec 2014	RGC cancels a number of concessions	Between August and December several batches of concessions are cancelled. At press conferences, officials from MAFF and MoE explain that cancellations are justified as concession holders have not honoured their contractual agreements.
26 Dec 2014	Secretary of State from MLMUPC announces that youth volunteers will be retired	At an NGO organized event on land issues, the Secretary of State announces that although the MLMUPC plans to survey 2 million hectares of land in 2015, the youth volunteers are no longer needed.

2.3 Approach of the Order 01 Land Titling Campaign

The Order 01 land titling campaign was presented by the Royal Government of Cambodia (RGC) as “new actions” implementing “existing policies” (Im, 2012). An analysis of the Order 01 process shows that, on paper at least, the process mirrors the existing legal framework for land registration. However, in order to survey and register such a large number of parcels in a limited timeframe, the Order 01 process was inevitably faster and less precise than the more thorough process that was already in place for systematic land registration (SLR). The legal basis and procedure utilized in the titling campaign is returned to and expanded in Part 3 of this report.

Government speeches and documents related to the Order 01 campaign used the terminology of “donating” land to non-legal settlers on state land. This distinguishes Order 01 titling from Cambodia’s systematic land registration process, which seeks to acknowledge and formalize existing legal land rights. In the words of H.E. Im Chhun Lim (2012), Minister for Land Management:

[T]he campaign to carry out the New Actions on Existing Policies on Land Sector is another new step of the in-depth land reform to *resolve and strongly legalize the unclear land occupation* with safety through the donation of complete land ownership rights, granting of small-scale economic land concessions or social land concessions in order to ensure tenure security; to resolve land conflicts; to promote national economy through the use and management of small, medium and large landholdings in an effective way; and to maintain environmental sustainability and natural resources. [emphasis added]

Media reports on the implementation of the campaign have focussed on the issuance of land ownership titles, however, as can be seen in the above statement, the Order 01 process also included provisions for granting “small-scale economic land concessions” and social land concessions. However, while conducting the fieldwork for this study, no evidence was found that Order 01 granted any of these concessions in the 18 studied districts, and the campaign appeared to focus on issuance of private land ownership titles.⁴⁷

The titling campaign was implemented by the MLMUPC through its provincial departments and technical land surveying teams, but campaign targets required that land registration teams double the annual output of the pre-existing SLR program. Due to the ambitious nature of these targets and the narrow timeframe

⁴⁷ The authors decided to focus on private land titles as early reports of SLCs in national media and from local NGOs appeared unclear and at times conflicting in terms of how SLCs configured in Order 01. However, the government reported an increase in SLCs granted during this period. This is certainly an area for future research.

for implementation, ‘youth volunteers’ were recruited to provide the workforce necessary to make the campaign feasible. The enrolment of youth volunteers in the campaign was highly visible, as elaborated in Part 9. Often referred to as ‘the students’ or ‘the student volunteers’ both in everyday conversation in the village and in published reports, according to a the Minister for Land Management, the Prime Minister named the youths the ‘Samdech Techo Volunteering Youth Heroes’ (May, 2013a). Textbox 2.3 outlines the training and deployment of the volunteers as well as the role they played in the campaign.

Text Box 2.3: The “Youth Volunteers”

At the beginning of the campaign, youth volunteers were first given a two-day crash-course at the MLMUPC on surveying with hand-held GPS equipment and completing personal data forms for land title applicants. After training in Phnom Penh they were dispatched to the provinces, with the first groups setting out on 29 June 2012 (Müller and Zülsdorf, 2013, p.9). The first phase of the project ran from June to December 2012 and according to a speech by the Prime Minister involved over 1,000 youth volunteers (Cambodia New Vision, 2012). This first wave of volunteers were recruited from land management departments and other technical training programs at universities and likely had between one to three years of training.⁴⁸ These volunteers returned to Phnom Penh for a break in December, before travelling back to the provinces to commence phase 2 in January 2013. By this time, their numbers had risen to over 2,000, or about half of the workforce responsible for campaign implementation (Müller and Zülsdorf, 2013, p.9).

During the early stages of implementation, the Minister for Land Management explained that the youth volunteers played the role of supporting the survey work of professional survey teams in the field and operated under the supervision and responsibility of professional cadastral officers. The Minister stated in a Notification from 2012 that in addition to their initial training, the youth volunteers “learn by doing” and also receive on-going training in the field.⁴⁹ Despite the title of ‘volunteer’, the youths were paid in the region of US\$200 per month according to various media reports (May, 2012). The use of youths to support the implementation of the survey work proved to be a controversial aspect of the campaign, this is returned to later in Part 9 of the report.

⁴⁸ According to personal communication with academic researcher focusing on the Cambodian land sector (21 December 2014).

⁴⁹ MLMUPC, Notification #1177 from Senior Minister, Minister of LMUPC to H.E. Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation, Subject: Clarification on the implementation of New Actions on Existing Policies for Land Sector, in accordance with RGC’s Order 01, responding to letter of Mr. Surya P. Subedi, (20 September 2012).

In a speech delivered in December 2006, a Secretary of State from the MLMUPC said that the youth volunteers were to be retired. As quoted in the *Cambodia Daily*: “We plan to measure 2 million more hectares next year and we will not use student volunteers for the program because we have enough expert officials to do it” (Aun, 2014b). Indeed, as many as 600 of the volunteers were recruited by the Ministry of Land as civil servants during the land titling campaign’s implementation (Kaing and Phorm, 2012).

Müller and Zülsdorf (2013) estimated that by early 2013 the total workforce responsible for campaign implementation had exceeded 4,000. This included:

- 1,000 land registration staff from the SLR program;
- 700 additional staff from the MLMUPC;
- 300 staff from other ministries; and
- 2,015 youth volunteers.

At the time Müller and Zülsdorf (2013, p. 9) conducted their research 2013, a total of 168 survey teams had been established, each comprising up to 12 government staff and 12 youth volunteers.

The targets for Order 01 titling required that teams survey a massive 700,000 land parcels in 12 months. This works out at almost 2,000 parcels per day, which is double the rate of the SLR program (Müller and Zülsdorf, 2013, p.16). Inevitably this required that the campaign emphasized speed over precision, and both the technical and administrative aspects of the survey and adjudication process were streamlined. The survey teams were equipped with hand-held GPS devices, which are cheaper and easier to use than the equipment normally used by SLR teams, but may have a 1.5 to 3 metre discrepancy (Müller and Zülsdorf, 2013, p.13).

The Prime Minister assigned his son, Brigadier General Hun Manith, to oversee the land titling campaign. One civil society report quoted the Prime Minister as saying that the Minister for Land Management was the campaign’s chief of staff, while Hun Manith was in charge of equipment and logistics (Focus on the Global South, 2013, p.18). In addition to appointing his son to a senior position in the campaign, the Prime Minister also said publicly that he and his wife provided a large portion of the funding for the campaign from their own personal finances (Focus on the Global South, 2013, p.16). During its implementation, the Prime Minister observed progress closely and was often seen on television or quoted in other media speaking highly of the land titling teams and the progress being made. The Prime Minister’s role in promoting the campaign led to accusations from some that the campaign was politicized and potentially a strategy to garner

votes in the 12 months running up to the election. This is returned to in Part 9 where the politicization of the campaign is considered.

2.4 Results of the Order 01 Land Titling Campaign

According to statistics from the MLMUPC, up to mid-December 2014, the campaign surveyed over 710,000 plots in 357 communes and issued 610,000 titles – meaning that the campaign exceeded two of its three targets, even after these targets had been revised upwards.⁵⁰ The *Cambodia Daily* quoted a Secretary of State from the MLMUPC as saying that 01 titles had been issued to 400,000 families (Aun, 2014b). As stated earlier, the revised target of the Government was to survey 1.8 million ha, including 700,000 land parcels, and issue 470,000 land titles. It is not clear exactly how many hectares were surveyed in total, and therefore it is not possible to assess whether or not the target of 1.8 million ha was achieved.

Under Order 01, land had to be re-classified before private ownership could be formalized. This was done through 102 royal decrees, 732 sub-decrees and 796 decisions of the Royal Government, as of December 2014.⁵¹ This enormous body of paper work was required since, in principle, the Order 01 campaign was active within areas of state public land, such as forest land, protected areas, and areas regarded as state private land that had been leased to companies under concessions. As of 17 December 2014, the campaign had resulted in the reclassification of approximately 1.2 million hectares of land that was previously regarded by the Government as state land. This included 270,000 ha from 17 forest concessionaires, 380,000 ha from 134 ELC companies, and 530,000 ha from other types of state land and forest areas.⁵²

If the reclassified area of 1.2 million hectares is divided by 610,000 – the number of titles reportedly issued by Order 01 – the average plot size is 1.98 hectares, however this assumes that all reclassified land was granted as private ownership, which may not be the case. This is a crude calculation, and obscures that fact that some people may have had very small plots, some larger, and some people broke their plots into numerous parts in order to have them registered by the Order 01 teams. However, it does indicate that for the most part, titles issued through Order 01 are likely to cover fairly small land parcels.

The MLMUPC published a fairly detailed statistical provincial breakdown of the program's results up to 21 May 2013, which among other things included figures for the areas demarcated, parcels surveyed and titles issued. This data indicates

⁵⁰ MLMUPC, *Notification*, 17 December 2014.

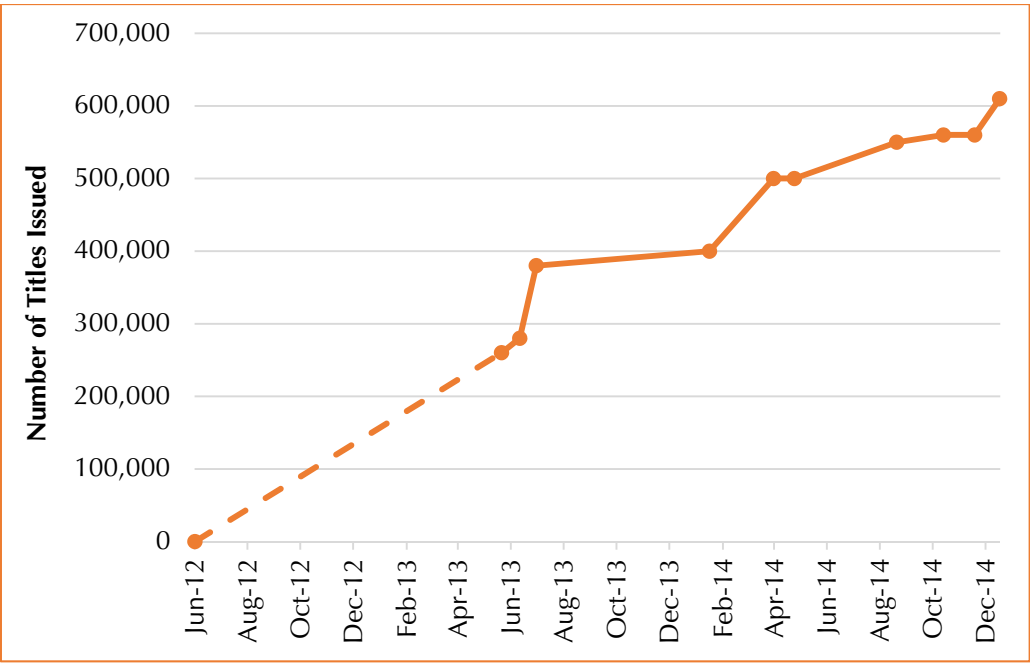
⁵¹ *ibid.*

⁵² *ibid.*

that the program was active in 20 of Cambodia’s provinces, excluding Prey Veng, Kandal, Pailin and the capital Phnom Penh.⁵³ However, updates to this detailed dataset have not been made available since May 2013. The MLMUPC has instead issued at least 10 notifications summarizing the achievements of the Order 01 titling campaign (an example is provided in the Appendix). At the time of writing, these statistics run up to December 2014. These figures are all approximate, and no up to date breakdown by province is currently publicly available.

Figure 2.4 compiles the Order 01 results currently available from MLMUPC. It is important to note that between the start of implementation in June 2012 and May 2013 – nearly one year – there were no publicly available reports on the figures by MLMUPC and so the graph best depicts the period since the land surveying campaign was put on hold and the MLMUPC began to publish basic statistics. The spike in issued titles in June 2013 suggests that there was a push to issue as many titles as possible prior to the national election period.

Figure 2.4: Cumulative number of land titles issued under Order 01, June 2012-December 2014

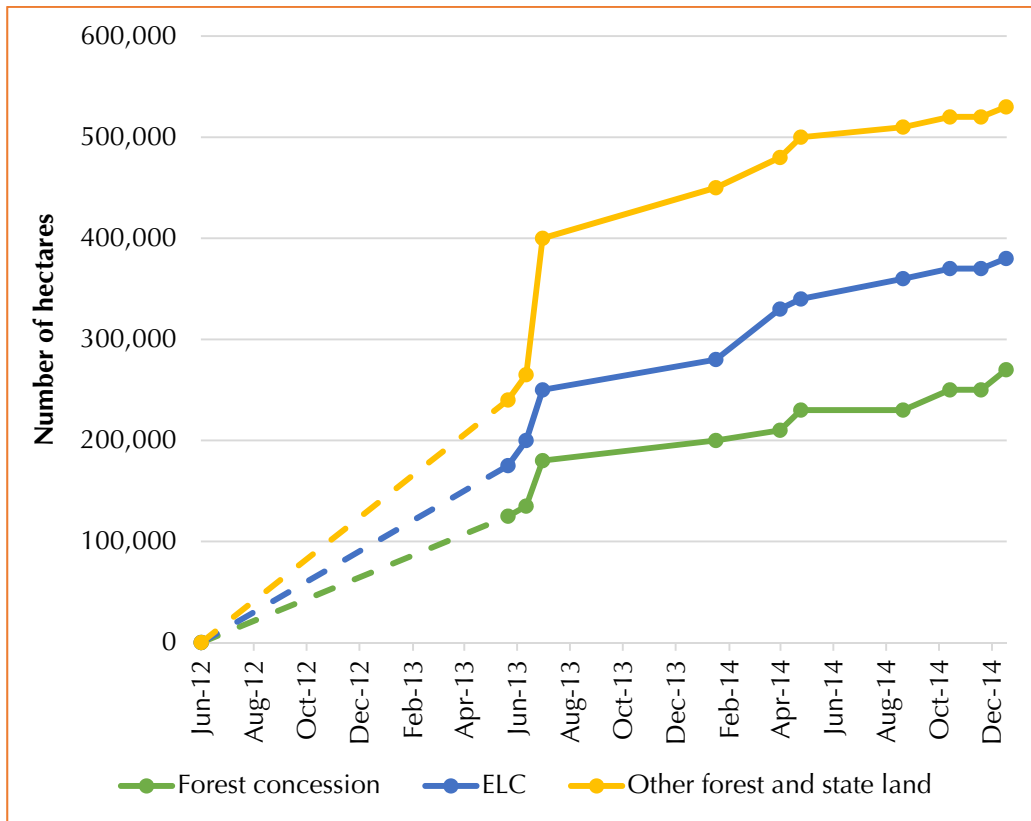


Source: Data from MLMUPC notifications (no data available for the June 2012-May 2013 period)

⁵³ MLMUPC, *Report of the implementation of the Order 01 by province and region from the beginning until 21 May, 2013*.

Figure 2.5 breaks down the reported results according to the type of land concerned, namely forest concessions, ELCs, and other state and forest land that was reclassified under the Order. The same statistical gap between June 2012 and May 2013 also applies to Figure 2.5. This figure also illustrates a spike in the amount of land re-classified in the run up to the general election. Figure 2.6 plots this same data proportionally.

Figure 2.5: Cumulative area of land re-classified under Order 01, June 2012 - December 2014

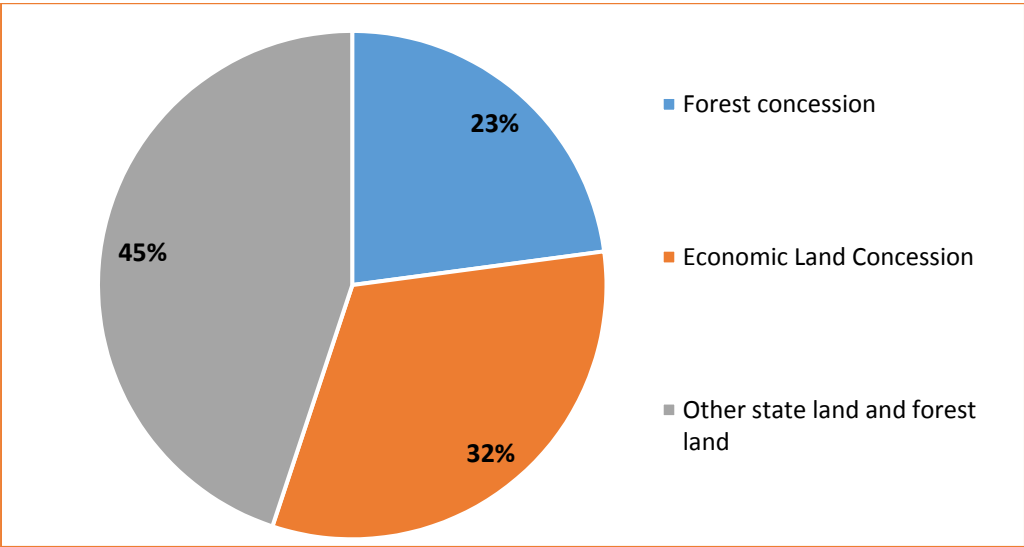


Source: Data from MLMUPC notifications (no data available for the June 2012-May 2013 period)

Interestingly, although Order 01 itself only discusses ELCs, the titling campaign also targeted forest concessions and other types of state land. In fact, ELC land only accounted for 32% of the land that was reclassified through the 01 titling process. It is notable that the category of 'other forest and state land' emerges as most affected by Order 01. This may be due to the blurry nature of 'forest and

state land’ on the ground and that in practice it functions as a more flexible category of land.

Figure 2.6: Breakdown of land types reclassified under Order 01 up to December 2014



Source: Data from MLMUPC notifications

Table 2.2 below compiles the 10 notifications issued by the MLMUPC and breaks down Order 01 results according to areas surveyed, titles issued and type of land subject to reclassification. Two issues emerge from this statistical breakdown that are worthy of further examination.

- First, as indicated by an asterisk (*), up to 24 April 2014, 357 communes were adjudicated but only 314 had been subject to public display. This indicates that 43 communes that were surveyed through Order 01 never proceeded past the public display stage, and this presumably resulted in no titles being issued – unless titles were issued without any public display taking place, which would be a departure from the formal adjudication process. The last four Notifications issued by the MLMUPC have omitted details on the number of communes that have had results publicly displayed. It is important that this discrepancy be clarified by the MLMUPC.
- Second, there is inconsistency regarding the number of forest concessions that have had land cut (see the row marked † in table). As of 30 June 2013, the MLMUPC was reporting that land had been cut from 18 ELC companies. This continued until March 2014. However, in statistics from 4 April 2014, the number of companies dropped to 16. In the most recent

Notification this was back up to 17. The reason for this statistical anomaly is unclear, and it should be clarified whether this was a mistake in reporting, or if a decision to cut land from two concessions was reversed.

No detailed information has been compiled and made publicly available on precisely which ELCs and forest concessions have been cut. However, data published in Cambodia's Royal Gazette⁵⁴ indicates that a number of major companies have had land cut from their concession, including several companies that have been involved in well publicized conflicts with local people.

⁵⁴ The Royal Gazette is published bi-monthly by the Council of Ministers and compiles all recently passed legislation and important decrees.

Table 2.2: Cumulative results of the Order 01 land titling campaign, May 2013 to December 2014

	21 May 2013	11 June 2013	30 June 2013	National Elections held 28 July 2013							16 Jan 2014	31 March 2014	24 April 2014	20 Aug 2014	13 Oct 2014	18 Nov 2014	17 Dec 2014
Communes adjudicated	322	322	357								357	357	357	357	357	357	357
Number of which have been publicly displayed *	240	293	314								314	314	314	No info	No info	No info	No info
Declaration forms completed	640,000	670,000	710,000								710,000	710,000	710,000	710,000	710,000	710,000	710,000
Parcels surveyed	620,000	660,000	700,000								710,000	710,000	710,000	710,000	710,000	710,000	710,000
Parcels publicly displayed	440,000	510,000	660,000								680,000	700,000	700,000	710,000	710,000	710,000	710,000
Titles delivered	260,000	280,000	380,000								400,000	500,000	500,000	550,000	560,000	560,000	610,000
Area cut from forest concessions (ha) †	125,000 (16 companies)	135,000 (17 companies)	180,000 (18 companies)								200,000 (18 companies)	210,000 (18 companies)	230,000 (16 companies)	230,000 (16 companies)	250,000 (17 companies)	250,000 (17 companies)	270,000 (17 companies)
Area cut from ELCs (ha)	175,000 (88 companies)	200,000 (88 companies)	250,000 (107 companies)								280,000 (116 companies)	330,000 (124 companies)	340,000 (128 companies)	360,000 (129 companies)	370,000 (134 companies)	370,000 (134 companies)	380,000 (134 companies)
Area cut from state land and forest land (ha)	240,000	265,000	400,000								450,000	480,000	500,000	510,000	520,000	520,000	530,000
Total area of land reclassified (ha)	540,000	600,000	830,000								930,000	1,020,000	1,070,000	1,100,000	1,140,000	1,140,000	1,180,000

Note: All figures are approximate.

Source: Official notifications posted on the website of the MLMUPC, <http://mlmupc.gov.kh/>.

2.5 Cancellation of Economic Land Concessions

The text of Order 01 states that ELCs that have not been implemented in accordance with the law or the concession contract shall be seized. This was emphasized in March 2014 when, at MAFF's annual meeting, the Prime Minister called on relevant ministries and institutions to take strict measures against investment projects that do not abide by their contracts, including by cancelling incentives or withdrawing concessions in cases where breaches are serious. The Prime Minister stated that ELCs that are withdrawn should be used as social land concessions (Chey, 2014).

In order to assess the implementation of existing ELCs, an inter-ministerial commission was established in August 2014 – more than two years after Order 01 was issued. Chaired by the head of the National Authority for Resolution of Land Disputes (NARLD), the commission also includes representatives of Cambodia's ministries, armed forces, police, and local governors from areas where the assessed ELCs are located. The commission's role is to inspect, demarcate and assess ELCs that have already been granted and withdraw approval from any concessions that are not in compliance with the obligations set forth in the contract. The decision states that the commission must meet every 15 days and reports to the Prime Minister.⁵⁵

In addition to those concessions that have had land cut during the Order 01 campaign, since the commission was established a considerable number of ELCs have been cancelled outright. Several of these major cancellations were announced at press conferences, and after the September cancellation, H.E. Sok Sam Al, Minister of Environment, told the media:

We have seized the land, because they have had it for such a long time but they have not developed [it]. Some land is occupied by people. We do not [revoke concessions] without any reasons ... All the land will be transferred into preservation areas again because the forest has not been cut yet in those areas (May, 2014a).

Following on from the cancellation of five concessions in late December, an under-secretary of state at MAFF told the *Phnom Penh Post*: "there will be more ELC companies [to lose their land] if they do not respect the Government's regulation" (Vong, 2014). Talking to local press in January 2015, an official from the MoE stated that there are three reasons for the cancellations:

First, the company was not following legal procedures. For example, before development they need to do an [environmental impact assessment] and a

⁵⁵ RGC, *Decision #125 on the Creation of the Inter-Ministerial Commission to Inspect, Demarcate and Assess Economic Land Concessions* (8 August 2014).

master plan ... Second, there was no resolution with affected villagers. And third, the company did not have the ability to develop the land (Khuon, 2015).

MAFF and MoE have been conducting separate press conferences to announce ELC cancellations and are generating separate data for these efforts. In January 2015 the local media reported that the Ministry of Environment announced at a press conference that the RGC had revoked ELCS covering a total area of 90,682 hectares from 23 companies and returned the areas to the management of the MoE. An additional three companies voluntarily handed over a total of 28,855 hectares of ELC land and two other ELCs were reduced (Khan, 2015). MAFF announced in late January 2015 that a further three ELCs had been cancelled and four more reduced in Stung Treng province. The massive 100,000 hectare Green Sea ELC was included in the companies that were reduced, and has apparently been drastically reduced. At the MAFF press conference the ministry spokesman stated that the confiscated areas will be put under the management of MAFF. According to this official, up to 21 January 2015, 71 ELCs covering a total land area of 656,380 ha have been cancelled or reduced (Lim, 2015b). However, at present a consolidated and comprehensive list of all concessions that have been reduced or cancelled under Order 01 has not been made available to the public.

At present there is no information on how the land within cancelled ELCs is going to be utilized or managed. Once cancelled, the land is supposed to return to the management of the relevant authority, for example, MAFF or the MoE. However, it is not clear if the land will be made available for new concessions in the future. During an interview and subsequent communications with a human rights worker in Phnom Penh, the interviewee informed the authors that on visiting a cancelled concession in Mondulhiri, it was clear that the ELC company was still actively utilizing the land and the cancellation was not being enforced. No further updates are available on activities at other cancelled concessions.

For those concessions that remain active, the RGC has issued additional instructions in an apparent attempt to improve implementation. In May, MAFF and MoE issued a joint prakas which again called on concessionaires to follow the 'leopard skin' strategy, and urged all companies that have received ELC approval to move forward with development master plans, complete environmental and social impact assessments, and commence paying the appropriate fees and royalties. The prakas also includes provisions related to dealing with community conflicts and forest clearance.⁵⁶

⁵⁶ MAFF and MoE, *Inter-ministerial Prakas #177/#206 on Strengthening Economic Land Concession Management* (9 May 2014).

2.6 Conclusion: Background of the Order 01 Land Titling Campaign

During the implementation of the titling campaign, print, radio and television media all ran extensive coverage of Order 01 activities, and senior government officials were very vocal in publicizing the positive impacts of the initiative. When speaking about the Order 01 campaign in 2012, the Minister for Land Management, H.E. Im Chhun Lim (2012), stated that the campaign resolves and legalizes unclear land occupation, promotes the national economy, and maintains environmental sustainability and natural resources. Conflicts between concessionaires and local people have been widely recognized as a nationwide problem, and for this reason the suspension on granting new ELCs was welcomed by many civil society organizations. Additionally, the fact that many thousands of Cambodians live in areas bordering or within state land means that the legality of their occupation can be easily challenged. Efforts to resolve these issues were long overdue, and Order 01 has apparently gone some way to addressing them. In addition to cutting land from ELCs, forest concessions and other types of state land, Order 01 led to the establishment of a commission to inspect all existing concessions. This has resulted in the cancellation of a large number of concessions.

According to figures published by the MLMUPC, the campaign succeeded in issuing an incredibly large number of titles in a very short period of time, but critical questions remain about the approach of the campaign, and during its implementation a number of concerns emerged. Critical voices raised concerns about the politicization of the campaign as well as its military overtones, as the youth volunteers wore army fatigues and travelled in armed forces vehicles. Media reports also highlighted cases where some households were allegedly denied land surveys because their land was disputed. A number of cases emerged in which people had their land surveyed and were told that they would receive land titles, but the certificates were never delivered. Concerns also emerged regarding the implementation of the Order in areas populated by indigenous people, with suggestions that in some areas people were persuaded to take private titles rather than wait for collective land registration. There has also been only limited transparency in the process of inspection and cancellation of ELCs which have breached contracts and legal procedures.

This report seeks to assess the performance of the Order 01 campaign and in doing so considers the critiques that were raised throughout its implementation, and looks at the extent to which they were present in the fieldwork sites. Before examining the implementation and impact of the campaign, it is first important to look at the legal and administrative process that applied to Order 01 and how this was implemented in practice.

Part 3: The Legal Basis for the Order 01 Land Titling Campaign



Part 3: The Legal Basis for the Order 01 Land Titling Campaign

Although Order 01 itself makes no reference to land titling, it nonetheless created the impetus for the new land titling campaign. Approximately five weeks after Order 01 was issued, the Prime Minister announced a new land titling campaign in support of the Order during a public speech on 14 June 2012. Soon after, a notification supporting this announcement was issued by the Deputy Prime Minister in charge of the Council of Ministers in the form of *Notification #666* which officially approved the campaign and instructed the Ministry of Land Management, Urban Planning and Construction (MLMUPC) to arrange for its implementation.⁵⁷

Order 01 and *Notification #666* were supplemented by a number of additional Instructions and Notifications issued by the Council on Land Policy (CLP) and the Council of Ministers. This part of the report deals with the administrative process established for the implementation of the Order 01 land titling campaign. As referred to in Part 2 and elaborated below, the process for the most part mirrors Cambodia's pre-existing structure for systematic land registration (SLR). This section of the report begins with a discussion of the legal basis of Order 01 and its compliance with the pre-existing legal framework for land administration and management. This is followed by a breakdown of the administrative structure and process for Order 01 land titling activities, supported by observations gathered in the areas visited during the field research phase of this study.

3.1 Order 01 and Compliance with Pre-existing Legislation

The Royal Government of Cambodia (RGC) presented the Order 01 titling as a tool that supports the implementation of existing land policy, rather than one that overrides or exists outside of the legal framework. Official documents referring to the campaign often used the slogan "New Actions on Existing Policies". However, a number of observers have suggested otherwise, including Human Rights Watch (2013) and the Cambodian Centre on Human Rights (2013, p.20), who both referred to the campaign as "extra-legal". The government dismissed such accusations, and Minister for Land Management, H.E. Im Chhun Lim stated in 2012 that the campaign "is based on the existing policies, laws and regulations which have been adopted and put in force for several years already", including, among others:

⁵⁷ Council of Ministers, *Notification #666 from Deputy PM Minister in charge of Council of Ministers to The Senior Minister of LMUPC, Subject: Request in principle for land registration in target areas to implement Order 01BB dated 07 May 2012 on Measures Strengthening and Increasing Effectiveness of ELC Management* (26 June 2012).

- Sub-decree #46 on Establishing the Land Register and Cadastral Index Map, 2002
- Sub-decree #118 on State Land Management, 2006
- Circular #02 on Illegal Occupation of State Land, 2007
- Sub-decree #197 on the Management of Rights of Way Along National Roads, 2009
- Other regulatory frameworks associated with public roads, public space, forest, national defence areas, historical and cultural heritage sites, etc.⁵⁸

A 2013 paper co-authored by Dr. Franz-Volker Müller and Günter Zülsdorf suggests that the campaign fundamentally followed the existing legal and policy framework for land management and administration, including the procedure for SLR (p.16). This is significant in that Dr. Müller is the team leader of the Land Rights Program of the German technical agency, GIZ, which has for a number of years supported the development of Cambodia's legal framework for land management and administration.

The following sub-sections present an overview of some of the key elements of the existing legal process that have relevance to the Order 01 land titling campaign evaluates the extent to which Order 01 followed the existing legal and policy framework for land management and administration.

3.1.1 The 2001 Land Law

Cambodia's 2001 Land Law states that the Cadastral Administration under the MLMUPC has the responsibility to identify properties, establish cadastral index maps, and issue ownership titles.⁵⁹ The Cadastral Administration is also responsible for conducting SLR and for producing and maintaining the official land register for all areas that have been systematically registered.⁶⁰ As discussed later in Part 3, although the Prime Minister promoted the campaign at every step, the MLMUPC and its provincial departments were responsible for the technical implementation of Order 01.

⁵⁸ MLMUPC, Notification #1177 from Senior Minister, Minister of LMUPC to H.E. Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation, Subject: Clarification on the implementation of New Actions on Existing Policies for Land Sector, in accordance with RGC's Order #01, responding to letter of Mr. Surya P. Subedi (20 September 2012).

⁵⁹ Land Law (2001), article 226.

⁶⁰ Land Law (2001), article 222.

The Land Law defines the various categories of land, including state property. State land is divided into state private and state public.⁶¹ The Land Law expressly forbids the private acquisition of state public land,⁶² although in cases where the land loses its public interest value it may be transferred to state private land.⁶³ Reclassification from state public to state private can only take place if the land has lost its public interest purpose. State private land may be subject to sale, exchange, distribution or transfer of rights, and may also be leased – this is the basis for granting ELCs.⁶⁴ The law also states that land may be donated to people for social reasons in order to allow them to reside there or carry out subsistence agriculture.⁶⁵

In cases where land is classified as state private, under certain circumstances the RGC has the authority to distribute it to the people. The law forbids the private acquisition of state public land, but as mentioned above, if land loses its public interest value it can be reclassified as state private land, which can create the conditions for it to be legally granted to individuals or to investors. This suggests that there was a legal basis for the granting of land through Order 01.

A key issue that arises here is the extent to which state land had lost its public interest before being granted to people for private ownership as part of Order 01. Areas that were still forested were not supposed to be surveyed through Order 01, but areas that were previously forested but had since been cleared and cultivated were eligible for survey (this is considered further in Part 4). This could be said to follow the principle of land being eligible for reclassification in cases in which its public interest value has been lost. Yet this is a difficult evaluation to make without further evidence and a clearer understanding of how judgments about what constitutes a ‘loss of public interest’ would be made under Order 01 or what qualities would necessarily have to be present for land to be deemed no longer functioning in the public interest. Without access to comprehensive data on the areas where the Order was implemented, it is not possible to assess the extent to which this principle was followed.

Another key issue that arises from this analysis is the pre-existing legal tenure status of those who were targeted by Order 01. For the Order to be in line with its own guiding principles it should have only been implemented in areas that

⁶¹ State *public* property includes property of natural origin, including forests, rivers and riverbanks, natural lakes, and beaches. It also includes property that is available for public use, such as roads, pathways, gardens and public parks, as well as natural reserves (Land Law, article 15). State *private* property is property owned by the state but which does not fall under any category of state public land (Land Law, article 14).

⁶² Land Law (2001), article 18.

⁶³ Land Law (2001), article 16. According to article 16 of the Land Law, the reclassification process requires a specific law – no such law exists at present.

⁶⁴ Land Law (2001), article 17.

⁶⁵ Land Law (2001), article 83.

meet the legal definitions of state land, as set out in the existing legal framework, since it was purportedly meant to target people living on state land without legal recognition. In theory, those households whose occupation meets the requirements of legal possession should be able to convert their legitimate possession into ownership through the normal systematic or sporadic land registration process, rather than receiving a “donation” of land from the state. In other words, legal possessors do not need a donation of land, as they are already the legal holders of their land – they simply need their possession to be formally recognized and converted into ownership.

From a pragmatic perspective, this distinction may not be a concern to those who receive a title for their land. However, this issue requires critical examination, as legal possessors are, in theory at least, in a much stronger position under the law and should not have to accept recognition on the terms of the authorities. This distinction is important as it switches the balance of power, re-framing people from being rightful occupants who are deserving of recognition of their legal ownership rights, to being *de facto* ‘illegal’ and the passive recipients of government benevolence via a ‘donation’ of title.

3.1.2 Sub-decree #118 on State Land Management

The legal framework for state land management is elaborated in *Sub-decree #118 on State Land Management* from 2006, and according to the Minister for Land Management, this was the basis used for the identification of state land in the Order 01 campaign.⁶⁶ This sub-decree sets out the composition and the role of the Provincial State Land Management Committees (PSLMC). As discussed below, the PSLMCs were responsible for the identification and selection of adjudication areas under Order 01. Officials interviewed in the study areas stated that the selection of adjudication areas was conducted at the provincial level based on existing state land inventories. However, although a detailed legal framework exists, to date no coordinated and transparent system has been put in place for state land mapping, and state land maps are not publicly available. It is therefore impossible to assess the extent to which the state land maps used by the PSLMC actually conform with the legal requirements for identification of state land.

As mentioned earlier, according to the Land Law it is not possible for private individuals to acquire ownership of state public land, and therefore, before such land could be granted as private land through the Order 01 campaign it first had to be re-classified as state private land. As mentioned in Part 2, sub-decrees,

⁶⁶ MLMUPC, Notification #1177 from Senior Minister, Minister of LMUPC to H.E. Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation, Subject: Clarification on the implementation of New Actions on Existing Policies for Land Sector, in accordance with RGC’s Order #01, responding to letter of Mr. Surya P. Subedi (20 September 2012).

royal decrees and Government decisions were utilized in order to reclassify areas before granting ownership under Order 01. Land has been granted through the Order 01 which was previously forested, as have protected areas under the administration of MoE. It may be that such lands had already been degraded, but this is hard to verify due to the lack of detailed data on the locations where Order 01 was implemented. *Sub-decree #118* sets out the process for reclassifying state land, and the process requires multiple steps. Given the pace at which Order 01 was implemented, it is unlikely that the various stages were implemented in full.

3.1.3 Circular #02 on Illegal Occupation of State Land

The Minister for Land Management has stated that the legitimacy for Order 01 land 'donation' and titling came from the RGC's 2007 *Circular #02 on Illegal Occupation of State Land*,⁶⁷ which sets out a process for seizing illegally occupied state land from its occupants. It reiterates that those who illegally occupy state land are not entitled to compensation, but that landless and vulnerable families may be granted land in order to support their livelihoods. Donation of land through this mechanism is subject to negotiation with local authorities and the claimants. In case the land in question is state public it must first be reclassified according to the appropriate legal procedure. This Circular appears to provide some legitimacy for the action of donating land through Order 01, however, it again raises the issue of the legality of affected households' occupation. This document provides a basis for providing land to those illegally settled on state land, but should not apply to legal possessors.

3.1.4 Sub-decree #46 on the Procedure to Establish the Cadastral Index Map and Land Register

Passed in 2002, *Sub-decree #46* sets out the procedure for Cambodia's systematic land registration process. The process involves five main steps: preparation, survey and fieldwork, public display, decision, and registration and issuance of title (Grimsditch et al, 2012, pp.22-25). In 2012, in response to concerns raised by the UN Special Rapporteur for Human Rights in Cambodia, the Minister for Land Management emphasized that *Sub-decree #46* was the basis for the Order 01 land titling campaign.⁶⁸ In a speech delivered around the same time, the Minister (Im, 2012) stated that in line with *Sub-decree #46*, the campaign:

involves community participation in the entire process, namely from the demarcation and survey of relevant areas, demarcation and survey of parcels, data collection, up to the public display of adjudication data in each area for a period of 30 days, in order for the land owners and those concerned to

⁶⁷ *ibid.*

⁶⁸ *ibid.*

verify, rectify the data or to complain and to make a resolution ... During the process, if a conflict on the demarcation of the state land area and the area of the not-yet-legal occupied land exists, it will be resolved by Provincial State Land Management Committee, while the conflict related to the parcel will be reconciled by Administrative Committee, based on the Sub-decree 46 on systematic land registration.

3.1.5 Reflections on the legality of Order 01

The assertions of the Minister indicate that the RGC was eager to emphasize that the Order 01 campaign was in line with existing legal procedure, and therefore a legitimate process. Accordingly, the above quote from the Minister highlights key aspects of the SLR process as defined by *Sub-decree #46*, including public participation, public display, hearing complaints and resolving disputes. In order to test the extent to which Order 01 really did follow the process already established for SLR, the authors conducted an analysis comparing the publicly available Order 01 documents to *Sub-decree #46*. To assess how this process was actually implemented on the ground, the research team also asked interviewees and questionnaire respondents specific questions focused on the survey process.

The analysis of the legal documents is set out in Table 3.2, which is included at the end of this part of the report, provides a detailed comparison of the SLR process and the approach used in the Order 01 campaign. The analysis found that the key stages of the SLR process were replicated in the Order 01 process. The major steps of the SLR survey and fieldwork process were also a feature of Order 01, although evidence suggests that the process was conducted more quickly than under SLR. Crucially, the process included a public display period during which survey results were posted and concerned parties allowed to raise complaints. In line with the SLR process, Order 01 documentation stated that the public display should last 30 days, but as discussed later, this did not happen in all of the areas visited by the research team.

Some issues were not elaborated in the Order 01 documentation, for example, the selection and functions of the Administrative Committee (AC) is not discussed in detail.⁶⁹ However, as mentioned above and as reflected in responses from sub-national interviewees, ACs were apparently established and played a similar role to that of ACs in the SLR process. In addition, the documentation does not discuss dispute resolution, but as discussed later in this part of the report, a dispute resolution mechanism was in place. In a number of cases the dispute

⁶⁹ The AC is the body responsible for arranging the public display and hearing complaints about the adjudication record. It is the first level of the dispute resolution process, with powers to facilitate the conciliation of disputes that emerge during the survey process.

resolution mechanisms proved unable to resolve complex disputes and disputes involving powerful parties, this is elaborated in Part 5.

In general the legal analysis revealed that the Order 01 process, on paper at least, mirrored the main stages of SLR, although the process was often implemented at a much faster pace. The analysis referred to here and in Table 3.2 is used as the foundation for the remainder of this part of the report, which looks more closely at the systems and process utilized by the Order 01 land titling campaign, based on both analysis of the Order 01 documents and observations gathered in the six study areas.

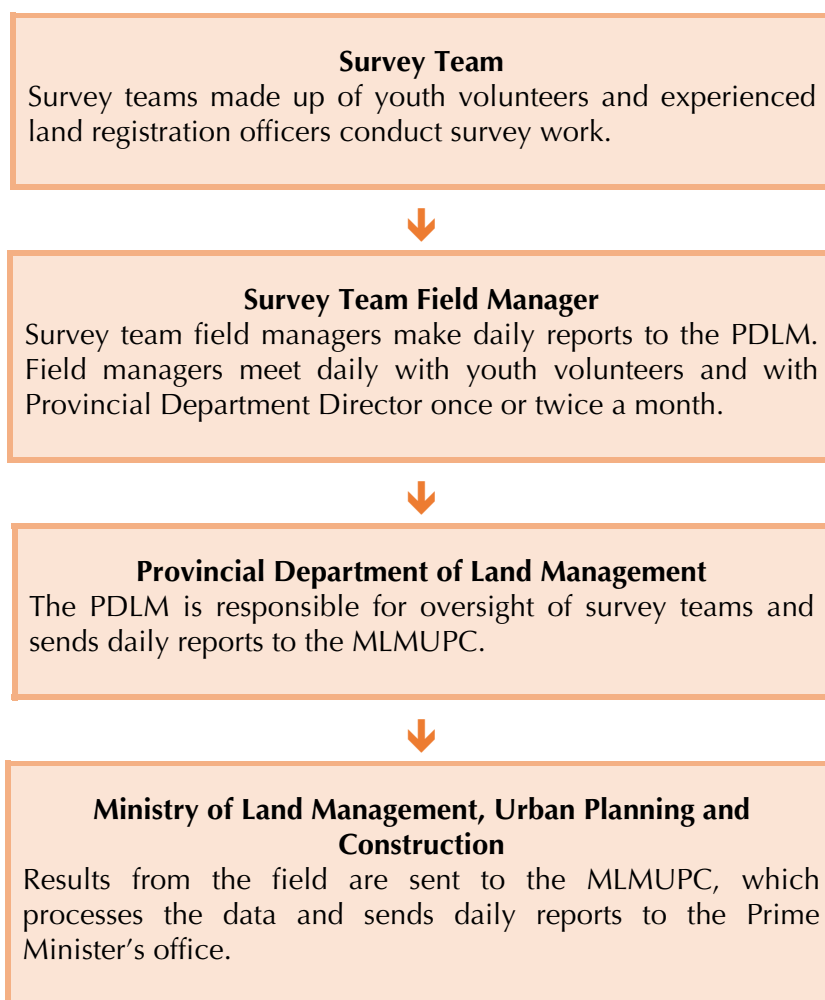
3.2 The Administrative Structure of the Order 01 Titling Campaign

The administrative structure of the titling campaign was developed through a series of Notifications and Instructions that supplemented Order 01 and *Notification #666* and that were issued by the Council on Land Policy (CLP) and the Council of Ministers. Between 26 June and 5 December 2012, as Order 01 land surveys were underway, at least 11 administrative documents were issued related to the implementation of Order 01. This caused some observers to suggest that the campaign was being implemented in a somewhat *ad hoc* manner. In 2012, a report by the United Nation's Special Rapporteur on the situation of human rights in Cambodia stated: "Indeed, the progressive nature of the instructions and announcements issued in the aftermath of the deployment of youth to demarcate suggests a lack of comprehensive planning and harmonization with the existing legal framework and land titling system" (Subedi, 2012, p.37). The evolution of this administrative framework and how it sits in the timeline of Order 01 implementation is presented in Table 2.1 in Part 2 of this report.

The basic administrative structure of the Order 01 campaign is elaborated in *Instruction #019* issued by the CLP on 26 July 2012. This document sheds light on the way that the land survey process was organized, but it is telling that the Instruction was issued almost a month after the 01 campaign began. The structure laid out by this Instruction (depicted in Figure 3.1) required the Field Managers of technical survey teams to supervise and make daily records of results, achievements and challenges encountered and to report this information to the directors of the Provincial Department of Land Management (PDLM). The PDLM were then required to transmit the results to regional working groups. Field Managers were also required to meet with teams of youth volunteers every evening in order to exchange information, discuss plans for the following day, and address problems that emerged during the survey process. Under the Instruction, Provincial Department Directors were required to meet with the heads of the youth volunteers once every two weeks in order to exchange

information and resolve emerging problems.⁷⁰ As mentioned earlier in the report, the Prime Minister was known to have paid close attention to the progress of the campaign, and daily reports were sent to his office. According to Müller and Zülsdorf (2013, p.14), reports were sent from the provincial level to the MLMUPC in the late evening before being processed and forwarded to the Prime Minister's office by midnight.

Figure 3.1: Administrative structure of the Order 01 land survey process



Source: Drafted by the authors based on available Order 01 documentation

⁷⁰ Council for Land Policy, *Instruction #019 on Strengthening of the Effectiveness of the Implementation of the Existing Policy by New Actions of the RGC with Regard to Land Reform* (26 July 2012).

Figure 3.1 presents a rather neat overview of the roles of different agencies in Order 01, while the research findings suggest this was more complex and variable on the ground. Field research confirmed that in practice the field teams were made up of youth volunteers and technical staff from the district land department. For the most part, interviewees' responses suggested that the youth volunteers acted under the supervision of land department technical staff. For example, a village chief in Sambo district of Kratie explained that the work was driven by officers from the land department while the youth volunteers acted as "assistants" (KRT6, 07/07/2014).

The figure above is useful in illustrating how the survey process was supposed to proceed in targeted areas, but does not capture the role of a number of other government departments and agencies. Information gathered from sub-national level interviews revealed that the survey teams were accompanied and assisted by commune and village officials, and in some cases by officers from district halls. Sometimes officers from the provincial level government were present, including members from the Provincial Hall, Provincial Department of Agriculture, Forest and Fisheries, and the Provincial Department of Environmental Protection (for example, PST7, 14/07/2014; RTK6 04/07/2014; KPS6, 19/07/2014).

On occasions the police or military police accompanied the survey teams. Three officials in Kampong Speu reported that military police escorted the teams (for example, KPS7, 20/07/2014). In Pursat, provincial and/or district police sometimes accompanied survey teams as they were concerned that conflicts may arise during the process, according to one commune council chief (PST2, 15/07/2014). Another commune chief and village chief from Pursat town also reported that military police were sometimes present (PST7, 14/07/2014; PST9, 17/07/2014). In Oddar Meanchey, one village chief told interviewers that the Order 01 team operated in his village "surrounded by the company and local army, who also had land in the village" (ODM2, 12/07/2014). The presence of police and military during the survey process raises cause for concern. As discussed elsewhere in the report, in some cases this had the effect of intimidating villagers residing within survey areas.

The Order 01 guidelines did not provide a detailed breakdown of the roles and responsibilities of the actors involved in the process of identifying adjudication areas and facilitating the land survey process. However, information gathered during this research indicates that the process required cooperation of a diverse range of state actors. The mobilization of actors from various arms of the state, including the various sub-national levels and ministries with different mandates, is a clear indication that the Order 01 campaign had strong centralized support. The remaining content of this part of the report now turns to look in more detail at the Order 01 survey process, from selection of survey areas to issuance of title.

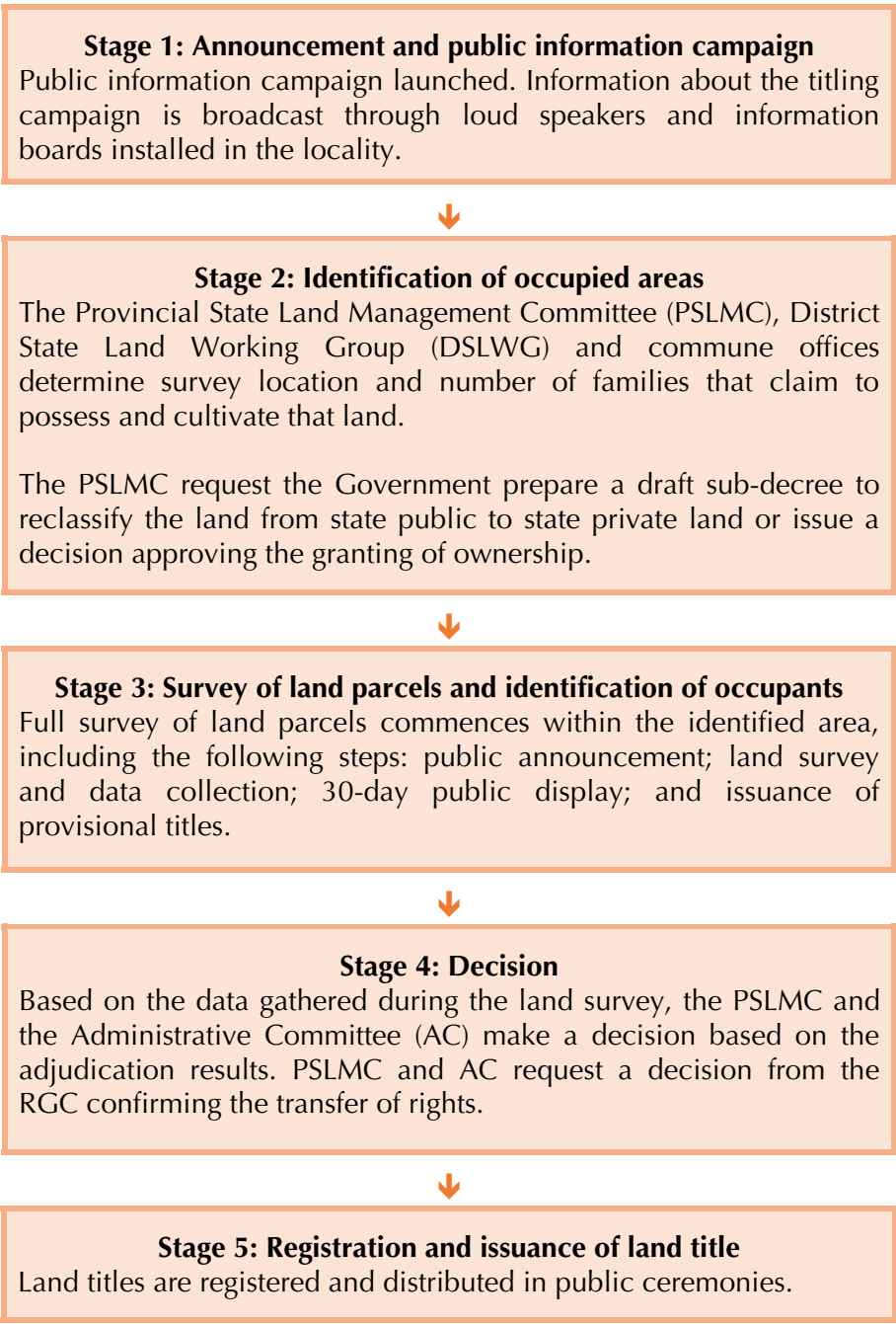
This draws on both the official documents as well as accounts from villagers and sub-national level officials.

3.3 Breakdown of the Order 01 Land Tilting Process

The actual process for Order 01 land surveys was set out in July 2012, when the Council on Land Policy issued *Instruction #018*. It is notable that this Instruction was issued three weeks after the survey teams departed from Phnom Penh on 28 June, and 6 days before the above mentioned *Instruction #019* was issued which defined the administrative structure of the 01 process (refer to Table 2.1 in Part 2 for a time line of events). The fact that Order 01 implementation guidelines were only issued after survey teams were deployed indicates that there was a strong sense of urgency to commence the campaign quickly, and suggests that planning was not as comprehensive as it should have been. This is supported by the fact that further instructions continued to be issued over the following months. The gap between deployment and *Instruction #018* also raises the question of what exactly guided the activities of the survey teams in the interim. Figure 3.2 outlines the basic steps of the land titling process. Unless otherwise indicated by a footnote, the following description of the stages of the Order 01 process is taken from *Instruction #018*.⁷¹

⁷¹ Council for Land Policy, *Instruction #018 on the implementation of Royal Government Order 01 dated 7th May 2012 on Reinforcing and Increasing the Effectiveness of ELC Management - Land Identification, People Identification and Issuance of Primary Land Title* (20 July 2012).

Figure 3.2: The Order 01 land titling process



Source: Drafted by the authors based on available Order 01 documentation

As mentioned above and set out in Table 3.2, these steps correspond generally to those used in the SLR process. This point was emphasized in public announcements by the RGC and confirmed by an official from the PDLM in Pursat who was interviewed for this research. This official informed interviewers that the Order 01 process followed the same steps as the SLR process, including selection of the Administrative Committee, selection of target areas, announcement, training of the AC, land survey, completion of the adjudication form, public display, decision and issuance of land titles (PST1, 17/07/2014). The following sub-sections set out these stages in more detail, supported by findings from the field.

3.3.1 Selection of adjudication areas

Prior to the survey process commencing, adjudication areas need to be selected by officials at the provincial level. The Order 01 documentation states that the Provincial State Land Management Committee (PSLMC) and District State Land Working Group (DSLWG) are responsible for identification of adjudication areas. PSLMC's are chaired by the Provincial Governor and include members from all the key provincial departments, including the departments of land management; economy and finance; agriculture, forestry and fisheries; environment, and so on.⁷² The DSLWG operate under the supervision of the PSLMC.

Documents related to Order 01 titling do not specify detailed criteria for selection of survey areas, however, it was apparent from meetings with local officials and from public statements of the RGC that the selection process was guided by the Order 01 priorities of surveying land in ELCs, forest concessions, and other types of state land. Part 4 delves into the types of land targeted by Order 01 in more detail.

Information gathered from sub-national officials provided more detail on the mechanisms used to identify specific survey areas. The PDLM official interviewed in Pursat explained that identification of state land was conducted at the provincial level, where target areas were broken into various types of state public and state private land. This information was then handed over to the technical teams to guide survey implementation (PST1, 17/07/2014). A commune chief in Krakor district also stated that the PDLM and technical teams had the authority to select specific survey areas, but that this required approval from the Provincial Hall prior to implementation (PST2, 15/07/2014). In Kampong Speu, a similar process was followed and village and commune officials explained to the research team that decisions were made at the provincial level and by technical teams based on existing maps of ELCs and state land areas (KPS8, 19/07/2014). Several interviewees at the commune and village level stated that when survey

⁷² RGC, *Sub-decree #118 on State Land Management* (7 October 2005), article 24.

teams arrived in their area they were already equipped with maps showing the boundaries of ELCs and protected areas.

In many cases, interviewees explained that below the provincial level, the role of local authorities was to guide the survey teams on the ground and to facilitate the connection between survey teams and the villagers. This was the case in two districts in Koh Kong, namely Koh Kong district, as confirmed by commune chief (KK1, 26/07/2014) and community leaders (KK2, 27/07/2014), as well as in Thmor Bang district (KK3 26/07/2014). This was also the case in Oddar Meanchey (ODM1, 31/07/2014), where one village chief emphasized that he had “no authority to influence” the provincial technical teams (ODM7, 11/07/2014). In terms of who *could* actually influence the survey teams, one local NGO in Oddar Meanchey suggested that “powerful people, either from the army or rich families” had more authority to direct student teams to measure their land than did local authorities (ODM8, 11/07/2014).

In Ratanakiri in particular, village chiefs did not appear to be involved in decision-making related to Order 01 or to have fully understood the process for selecting areas for survey. Indeed a village chief from Andoung Meas district simply stated “I do not know”, when asked who had the authority to select and approve survey areas, stating that the orders came from “the senior level” (RTK2, 02/07/2014). The village chief’s lack of understanding about the process could be due to weak transfers of information between different levels of government as well as the lack of input in the process from local level government officials. As was observed in other areas, village and commune officials in Ratanakiri stated that the provincial technical team made the decisions on target areas and local officials only played the role of facilitation. A commune council chief in Andoung Meas confirmed that his role was to inform the community and escort the survey teams to land that needed to be measured (RTK1, 03/07/2014). This was echoed by a district official in Voeun Sai district (RTK4, 03/07/2014) and various other interviewees.

In contrast, in Kratie there was a suggestion that local government had a greater level of involvement in the selection of specific survey areas. This was pronounced in Snoul district, a site of many long-running and intense land conflicts with ELCs, where an assistant commune chief indicated that the commune had a more hands-on role in electing specific areas for adjudication: “Although the program was initiated at the top level, the overall decisions about where to title took place at the provincial level, and the commune level were the ones to identify the areas to submit to the provincial authorities” (KRT1, 09/07/2014). The role of commune officials in identifying the specific areas for measurement was also confirmed by a village chief in the same district (KRT2, 09/07/2014). However, for the most part, commune and village level officials

interviewed across the six provinces said they had a passive role in the selection of survey areas.

The qualitative information gathered in sub-national interviews and discussed above is useful in understanding how survey areas were selected in practice. It is clear that the main authority responsible for selecting survey areas was at the provincial level and included input from various provincial level departments, including land management, environment and agriculture, forests and fisheries. However, it still remains unclear how exactly provincial authorities prioritized areas within each province and why, for example, land within some ELCs was eligible for survey and in others was not (an issue returned to in Part 4).

Following on from the selection of a survey area, the various stages of the survey process may commence (see Figure 3.2 above). This is the focus of the remainder of this part of the report.

Stage 1: Announcement and public information campaign

Following on from the selection of a study area, *Instruction #018* states that the Provincial Governor, in his/her capacity as Chair of the PSLMC and the Administrative Commission (AC) is responsible for organizing an initial public information campaign. The Instruction states that Governors shall instruct District Working Groups, with assistance from technical survey teams and youth volunteer groups, to disseminate information about the titling campaign through loud speakers within the target districts, communes and villages. It also states that information boards should be installed in the area.

The household questionnaire conducted for this research asked respondents how they heard about the campaign and what types of announcement reached them. The most common ways that people heard about Order 01 was via their village chief or commune council officers, followed by friends, neighbours or relatives, and relatively through heard about it through mass media such as radio or television.

Table 3.1: Main ways in which questionnaire respondents heard about Order 01 adjudication

Source of information	Number of cases	Percent of cases
Village chief	379	80%
Commune council officer	120	25%
Friend, neighbour or relative	76	16%
Radio	22	5%
Television	12	3%
Land Department	8	1%
Public meeting	5	1%
Public notice	2	<1%
NGO	2	<1%
Letter	1	<1%
Newspaper	1	<1%
Other	49	10%

Note: Respondents were able to provide more than one answer from a list of 12 options, n=677

The questionnaire also asked whether people attended any meetings about Order 01's implementation. The majority, 75% of 480 respondents confirmed that they did attend a meeting, while for the 111 respondents that did not attend any meetings, most did not participate because they were unaware this meeting was being held (62 responses), or they were busy (32 responses).

Information gathered from questionnaire respondents indicates that generally there was an adequate level of dissemination regarding the fact that Order 01 surveys were going to take place in a given area. Village chiefs and commune councillors clearly worked hard to inform people within their locality, as indicated by the fact that most respondents heard about the campaign from their local officials. However, as detailed below, dissemination of more detailed information regarding how the survey would proceed was more limited.

Stage 2: Identification of occupied areas

The next stage in the process set out in *Instruction #018* is to identify occupied areas; to determine land to be cut from forest concessions, ELCs or state land; and to gather information about those occupying the land. *Instruction #018* set out a two-step process which required the Provincial State Land Management Committee (PSLMC), District State Land Working Group and commune offices to first determine (a) the location and size of the land that will be cut from the forest concession, ELC, or other state land; and then (b) the number of families that

claim to possess and cultivate that land. After determining these two factors, the PSLMC had two options, to request that the RGC either:

- prepare a draft sub-decree to reclassify the land from state public to state private land (if the land is state public), or
- issue a decision approving the granting of ownership (if the land is state private land).

The resulting decree or decision should include the location and size of the land area, its coordinates, the number of families claiming land, and the categories of land use. According to the MLMUPC, up to 17 December 2014, land had been re-classified and granted to occupants through 102 royal decrees, 732 sub-decrees and 796 decisions.⁷³

Legally it is potentially problematic for cadastral teams to survey land for private landholders if that land is regarded as state property. However, *Instruction #018* states that in order to expedite the process and assist the PSLMC in its work, technical survey teams can commence the survey of land parcels prior to the formal reclassification of the land.

Stage 3: Survey of land parcels and identification of occupants

The next stage in the process defined in *Instruction #018* is to commence the full survey of land parcels within the identified area. This includes the following four steps:

1. *Public announcement:* One week prior to the survey, technical survey teams inform local people that surveying will soon commence. This announcement of the pending arrival of the survey teams was in addition to the initial general announcement that Order 01 surveys will take place (discussed in Stage 1 above). After receiving the announcement that the start of the survey was near, households were required to fill in a declaration form including details of their land claim, and were instructed to install solid markers at the corners of their parcels in order to aid the survey process.⁷⁴
2. *Land survey and data collection:* Land survey teams survey parcels under occupation or cultivation and gather personal data. Claimant information

⁷³ MLMUPC, *Notification*, 17 December 2014.

⁷⁴ Council for Land Policy, *Notification #024 on the Issuance of Final Ownership Title to Citizens on Land Surveyed During the Campaign Implementing Existing Policies by New Actions with Regard to Land Reform, Following the RGC Order 01* (5 September 2012).

is collected, including names, photographs, thumbprints, family book, ID card, as well as information about family members.

3. *Public display:* The survey data is put on public display for 30 days. The date of public display should be announced at least 7 days before it takes place. At the time of the public display, community meetings should be held and the public should be able to check the list of citizens and parcel data and raise objections if they have any.
4. *Issuance of titles:* Under *Instruction #018*, after the public display and community meeting, the PSLMC was initially required to issue provisional ownership titles to occupants for all parcels that are not disputed while awaiting the issuance of final title. The requirement for provisional titles was later removed.

During interviews and focus group discussions the research team sought to assess the extent to which this process was implemented in practice. Information gathered during interviews with officials indicated that the process was for the most part followed. An overview of these responses is included below. The case study included later in this part of the report provides an account from villagers in Koh Kong province, detailing some of the challenges faced in implementation.

Stage 4: Decision

Instruction #018 states that based on the data gathered during the land survey, the PSLMC and the AC shall make a decision on the rights that will be granted over surveyed plots. After reaching a decision, the PSLMC request a decision from the RGC confirming the transfer of rights. This decision is confirmed in the sub-decree or royal decree reclassifying the land.

Stage 5: Registration and issuance of land title

The final stage in the process is the registration of ownership and issuance of land ownership titles. Titles are distributed in public ceremonies, which in the early stages of the campaign were attended by the Prime Minister, and later by other senior officials. According to a commune council chief in Krakor district of Pursat, if people could not collect their land titles during the distribution ceremony, the title was held for a month at the local level after which it was forwarded to the PDLM for recipients to collect later (PST2, 15/07/2014). One village chief from Kampong Speu reported that at the first ceremony held in his district, land title recipients were also given 20,000 riels (US\$5) transportation money, one sarong and a cotton scarf by the PDLM, although this did not happen at subsequent ceremonies (KPS2, 22/07/2014). It is unclear who provided the funds for these gifts, but this is indicative of the efforts that the RGC

went to, especially in the early stages of the campaign, to encourage engagement and support for Order 01.

According to Müller and Zülsdorf (2013, p.13), the steps of decision making, registration and issuance of title have to be completed within one week to ten days from the end of the public display. This is much faster than under the standard SLR system, but it took much longer than 10 days to issue land titles in some areas visited by the research team. The gap between public display and issuance of title varied from place to place, for example, in Pursat, a community forest leader stated that it took up to three months from the end of the survey process before land titles were distributed (PST8, 17/07/2014). A village chief from the same area stated that it took one month in his area (PST9, 17/07/2014). A village chief from Phnom Sruoch district, Kampong Speu, stated that the waiting period was only ten days (KPS2, 22/07/2014), whereas a village chief in Oral district said that the gap between survey and title issuance was six months (KPS7, 20/07/2014).

Everyone interviewed for this study – both officials and villagers – said that land title recipients were not required to pay for their land titles, but many responded that villagers provided food and drinks to the survey teams during the land survey process. Several respondents suggested that people tried to persuade students using food, drink or cash payments to survey their plots first. It appears in some cases that this became cemented as an expectation of the survey teams. One respondent from a local NGO in Oddar Meanchey stated: “This practice became quite common and it was not clear whether this is corruption or just a culture of exchanging help. To me it is hard to justify” (OM8, 11/07/2014). In comparison to the meals provided by villagers, wealthy outsiders were apparently more likely than villagers to try to push the teams to give their lands priority via cash payments. This issue is critically examined in Part 9 of this report.

3.4 Observations on Survey Implementation from the Field

While conducting field research for this study the team sought to assess the extent to which the land survey process in particular was implemented on the ground. The following reflections are based on feedback from sub-national officials and villagers.

3.4.1 Public announcement

Data collected by the research team confirmed that people within adjudication areas were generally informed in advance that the Order 01 process was going to take place. In several areas, respondents explained that a formal public meeting was called by the survey teams to discuss the survey process, and land registration request forms were distributed at this meeting. In Sambo district of

Kratie province one village chief explained that the time spent on raising local awareness about the process was longer than the actual survey process, with the youth volunteers spending 10 days on public awareness and 7-10 days on surveying (KRT6, 07/07/2014).

There were exceptions though, and in some cases information about the survey process was not understood by the intended recipients. The process of disseminating information proved particularly challenging in Ratanakiri . Participants in a focus group discussion in Andoung Meas district said that there was no public announcement and that they were not informed about Order 01 by the village chief. This community only found out about the process when youth volunteers came to the village and announced by loudspeaker that they would be measuring land in the village (RTK-FGD, 05/07/2014). A commune council chief from the same district explained that the information was disseminated and people were given instructions on how to apply for title, but in this case a written announcement was made at the commune office and many people did not see it. Even if they had seen it, many villagers in the area were unable to read Khmer. Such constraints to effective communication were not helped by the fact that, according to the village chief, no coordinated system for public education was carried out in the villages prior to the survey process (RTK1, 03/07/2014).

Public Awareness and Community Participation (PACP) has been a major element of the systematic land titling program since 2002, and the MLMUPC has dedicated resources, staff and materials for this purpose. However, it can be challenging to ensure that potential land title beneficiaries have a clear understanding of the implications of the process, even when funds and time are dedicated towards this goal. PACP efforts were much more limited under Order 01, and it can therefore be assumed that understanding and awareness levels of people in the target areas were also much lower. The ways that this limited understanding may have impacted the process and outcomes of Order 01 are impossible to measure, but it is clear that the risk of harm is higher when people in affected areas are unaware of their rights and responsibilities under such programs.

As mentioned earlier, most households who were surveyed for this study found out about the process through their local officials, but in some areas key informants stated that the land survey teams also posted notices about the process at the village, commune and municipal offices (PST7, 14/07/2014). Yet, in spite of the generally high levels of awareness that the campaign was coming, a number of interview respondents found that the process was too fast for them to prepare and compile all the necessary documentation.

3.4.2 Land survey and data collection

When survey teams arrived in targeted villages, the technical teams met with village and commune officials to discuss local land use and occupation and then divided into smaller groups to survey eligible land. Local people were required to complete a form detailing their land claims and submit this to the survey team field office, which was then verified by the commune office (PST7, 14/07/2014). Following verification, landholders were required to show the boundaries of their land to the teams and to present documents such as their identification card, family book, and land transfer documents. A village chief in Kampong Speu stated that if people did not have such documents they first had to apply for them at the commune office (KPS2, 22/07/2014). The survey teams then took GPS points with hand held devices and took photographs of the family claiming the land, and the landholders then thumb-printed a record of the survey. After this process was complete, applicants were issued a land survey receipt.

As is often the case during the land titling process, in some areas boundary disputes emerged between competing claimants. Based on discussions with local level officials, these were resolved case by case in the field. In some cases where people's land overlapped with land claimed by the state, for example, public footpaths or rights of way, those parts of the land were not included in the land title awarded to the family (KRT4, 08/07/2014). As is the case during the SLR process, when possible, border disputes were conciliated by the Administrative Committee, which includes village and commune officials, with support from the technical teams. According to a commune council officer in Oral district, Kampong Speu, if no resolution was possible, a dispute report was sent to the district for resolution, and if this was unsuccessful it was forwarded to the Provincial Hall (KPS4, 21/07/2014).

The dispute resolution process was not always able to solve disputes during the period of the 01 survey and adjudication. A commune councillor from Oral district stated that in his area 10 families were in dispute with a division of the Royal Cambodian Armed Forces, and as no resolution was possible the land remained untitled (KPS4, 21/07/2014). An official from the Pursat PDLM stated that 285 disputes remained unresolved in his province at the time this research was conducted, and that these will be resolved later by a mobile dispute resolution committee (PST1, 17/07/2014). However, in Krakor district of Pursat, a village chief was highly critical of the dispute resolution authorities and claimed that while there were no conflicts between villagers, many people remain stuck in unresolved disputes with ELC companies. He said that the dispute resolution committee was not helpful and did not have a clear understanding of the history of land use in the area. Although complaints were submitted during the 01 process, the ELC company continued to clear disputed areas (PST3, 15/07/2014). Issues around 01 and dispute resolution are dealt with in more detail in Part 5.

3.4.3 Public display

According to interviewed officials, public displays were held in all the areas visited by the research team. In most cases interviewees stated people were given a one-month period to raise complaints about the adjudication record before it was finalized. However, in a few areas officials stated that the public display was shorter. For example, village chiefs in Phnom Sruoch and Thpong districts of Kampong Speu stated that public display lasted only two weeks (KPS2, 22/07/2014; KPS, 19/07/2014).

During the public display, issues emerged regarding the levels of understanding among local people, and in some cases people were unable to fully comprehend the content of the adjudication record that was on display. For example, focus group discussants from a village in Andoung Meas, Ratanakiri, stated that a public display was held for 30 days, but that many villagers could not understand the results as they were illiterate. They explained that many people in their village had objections to the adjudication result as they felt that the true size of their land was not accurately reflected in the document, but did not feel comfortable to raise objections publicly. When the focus group was asked if they felt that villagers understood the survey process, they said that most did not and that they simply followed the orders of the survey teams and local officials (RTK-FGD, 05/07/2014). This example raises concern about awareness and understanding of the process, but also suggests that when not done well, land administration activities can be potentially disempowering. In this case villagers simply did as they were told and when given the opportunity to comment on the result were too afraid to do so.

3.5 Villagers' Perspectives on the Survey Process

Much of the discussion above focuses on the Order 01 process as set out on paper. This is supplemented by testimony from sub-national level officials, which provides valuable detail, but it is also important to consider how the above processes were experienced by local people. As will be discussed later in this report, many of the household questionnaire respondents received titles for at least some of their land, and satisfaction with the process was generally high. However, the survey sample was skewed towards people that received land titles, and focus group discussions with people in the six study areas revealed that even where the main stages of the Order 01 process were implemented in accordance with the procedure set out above, problems emerged.

In the case from Koh Kong, the main stages of the process were implemented, but here a powerful local concession holder was reportedly able to influence the survey process. Both cases highlight challenges encountered in disseminating information and ensuring that it was understood by people, both during the

public announcement and public display periods. The most concerning aspect of these cases is that well-connected, powerful or wealthy people appear to have been able to influence the process, often at the expense of local farmers. Other case studies included in the report also indicate challenges that emerged during the implementation of the survey report, particularly in Oddar Meanchey, discussed in detail in Part 9.

Case Study 3.1: A concessionaire influences the land survey process in Koh Kong

As told by participants in a focus group discussion in Botum Sakor district of Koh Kong, 25 July 2014.⁷⁵

In a village in the Botum Sakor district of Koh Kong, land was contested between villagers and a well-known concession holder, who in the eyes of the villagers was able to exert influence over the survey process.

The residents of the village were informed about Order 01 around one month prior to the arrival of the survey teams and were instructed to prepare their documents. However, the announcement was only made at the commune office, and many people were not able to see it. Instead people heard about the process by word of mouth and through the village chief. When the process commenced, villagers were called to a station that was set up to review documents and receive applications. The youth volunteers completed the application form for the villagers, but after submitting this form the applicants were not given an appointment for land survey.

Land measurements were conducted, but this was done without appointment and with limited prior warning, and in many cases took place while the men were busy on their farmland, and only women and children were present. Some people returned to find concrete posts had been erected by the ELC holder on land that was also claimed by the villagers. Very few villagers who were in conflict with the ELC holder were called to take part in the land measurement process. However, they stated that the concessionaire accompanied the survey teams everywhere – often holding a map in his hand.

Although the land in question was contested, the villagers that told their story said that they were never approached by anyone involved in the dispute resolution mechanisms, and the authorities only communicated with the concessionaire. People protested, but according to the focus group participants, this led to threats from the ELC holder who said that he would bulldoze the home of anyone that he saw leading a demonstration.

⁷⁵ Participants included 12 people, five of which were women. All were of Khmer ethnicity.

A public display was held at the commune office and lasted for around a month. However, many of the villagers did not know how to read the documents. The public display revealed that many villagers' land was marked as being within the ELC and therefore could not be registered. People became angry and gathered at the commune office, and were told that they would have to wait as the government needed to deal with the case. The people refused to sign off on the public display document, but since then they have heard nothing about their land claims and have started to consider setting up a system to guard their land so that the concession holder cannot take it.

The public display also revealed many cases in which people had land surveyed for areas larger than the 5 ha maximum that people were told was in effect. This was especially the case for landholders from outside the village.

Focus group participants also stated that after the public display was held they received provisional titles for the lands that were not contested with the ELC holder. They still held these provisional titles at the time this research was conducted. However, they also reported that they had heard rumours that the concession holder had already received final land titles for the contested land that he claimed. If this is accurate, it raises concerns, as the law makes clear that disputed land should not be titled. Indeed, as discussed elsewhere in the report, this was a common reason for villagers to be denied land surveys or titles through Order 01.

3.6 Conclusion: Implementation of the Order 01 Process

Overall, despite the alleged irregularities noted above, the authors found that the Order 01 process for the most part mirrored the existing framework for land survey and titling. The main steps of the SLR process were implemented, although often at a greatly expedited pace. The authors do not agree with suggestions that the process was "extra-legal" as such, but the context for its implementation meant that it took place in a manner that was parallel to the pre-existing mechanisms for land administration, rather than part of them. Although pre-existing systems were utilized, and trained land administration staff were deployed, the speed of the process and the lack of transparency in which it was implemented raise concerns that become apparent throughout the remainder of this report.

Most household questionnaire respondents were informed in advance one way or another that their area was going to be subject to Order 01 land surveys, and

the majority joined public information meetings prior to the process commencing. While efforts were made in most places to disseminate information, the research team also heard that this information was sometimes difficult to understand, and comprehensive public education campaigns were not implemented, perhaps due to the swift pace of the campaign. A number of villagers expressed that they did not have a full understanding of the process and simply did what they were told to do by local officials and the survey teams. This is problematic for numerous reasons, not least that the land survey recipients will most likely not have had a comprehensive understanding of their rights.

The crucial stage of public display was held in the six study areas, but in some cases this lasted less than the full 30-day period. In one area of Ratanakiri, people reported that they could not understand the information included in the adjudication documents, and those villagers that had objections to the survey results were not comfortable to raise objections. This is worrying, as the public display represents the last opportunity for landholders to have input before the record is finalized and titles issued. The dispute resolution process used to resolve boundary disputes resembled that used in the SLR process, although challenges were encountered in resolving some types of dispute – which has also been an issue in the SLR system (see for example Grimsditch and Henderson, 2009).

Finally, a major concern that emerged during interviews with sub-national officials and villagers was the presence of military, police and concessionaires during the land survey process in some of the study areas. Participants in focus group discussions explained that in some cases concession holders used their influence to direct the survey process, and similar suggestions were made about military officers with personal interests in land within adjudication areas. The presence of police and military during the adjudication process was justified by one local official as being a necessary security measure. However, the impact of a uniformed presence during the process is likely to have been significant, especially in cases where local people had previously been involved in land conflicts that may have at times resulted in deployment of the security forces. A number of local people stated that they were too nervous to speak up and raise objections during the Order 01 survey process, even when they objected to the results. The presence of armed security forces and police may well have exacerbated such fears.

Illustration 3.1: Farmland in Pursat, July 2014



Table 3.2: Comparison of the systematic land registration process and Order 01 land titling campaign process

According to MLMUPC, the Order 01 campaign issued 400,000 titles in its first year, and at the time of writing this figure had reached 610,000 titles. This necessitated a much faster process than previously utilized in the SLR program. However, a comparison of the Order 01 process for the most part follows the basic steps of the existing SLR process, on paper at least. The table below provides a comparison of the two systems. It should be noted that this analysis is based on a review of available documents, and some variations may have emerged in actual implementation.

Systematic Land Registration ⁷⁶	Order 01 Land Titling Campaign ⁷⁷	Comments
PREPARATION		
<i>Declaration of adjudication area</i> Provincial or Municipal Governor announces that an adjudication area has been selected for SLR. <i>Sub-decree #46</i> does not detail how exactly adjudication areas should be selected.	<i>Declaration of adjudication area</i> The Provincial Governor instructs District Working Groups, with assistance from technical survey teams and youth volunteer groups, to disseminate information about the titling campaign. Order 01 documents do not specify a process for selection of adjudication areas.	Similar to SLR, the Order 01 process includes public announcement in advance of the survey process, but includes no detail on how survey areas should be selected.
<i>Preparation of village profiles</i> Registration teams work with local officials to prepare profiles for each village in the area.	<i>Identification of occupied areas</i> The PSLMC, District State Land Working Group and commune offices determine (a) location and size of the land that will be cut from the forest concession, ELC, or other state land, and (b) the number of	The initial identification of occupied areas of state land appears to mirror the preparation of village profiles that takes place in the SLR process.

⁷⁶ Based on a summary of the SLR process taken from: Grimsditch et al (2012, p.22-25).

⁷⁷ Based on available legal and administrative documents related to Order 01 implementation.

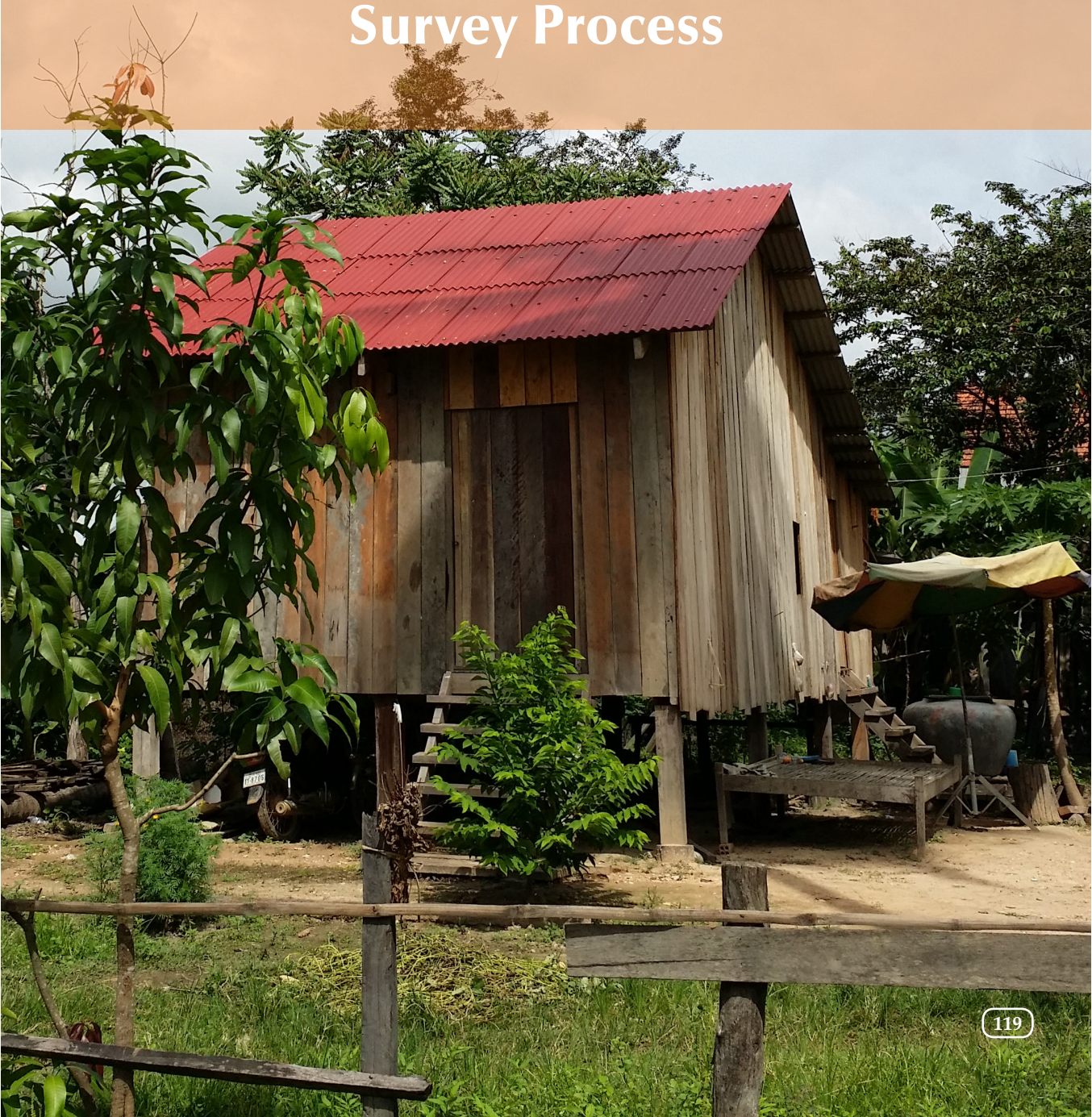
	families that claim to possess and cultivate that land. PSLMC then requests that the RGC either: prepare a draft sub-decree to reclassify (if the land is state public land), or issue a decision approving the granting of ownership (if the land is state private land). Technical survey teams can simultaneously commence the survey of land parcels that are not subject to any dispute.	
Appointment of Administrative Committee The Provincial or Municipal Governor appoints an Administrative Committee (AC). The AC is chaired by a representative of the Governor, and includes members from the local Department of Land Management, local officials and community elders from each village. The AC has the responsibility to arrange the public display of the adjudication record and receive any complaints made against the record. If complaints are made, the AC should attempt to conciliate disputes and help the disputing parties to resolve the conflict.	Appointment of Administrative Committee No information available regarding the selection of AC during the Order 01 titling process.	Order 01 documents do not refer to the selection of the AC, but ACs are active in the process. H.E. Im Chhun Lim has stated on a number of occasions that ACs play a role in the Order 01 process, and Order 01 documents indicate that ACs play a role in public announcements and information campaigns, dispute resolution and the final decision on adjudication results.
Public announcement and opening meeting Provincial/Municipal Governor publishes official letter announcing the adjudication area. An 'opening meeting' must be held for residents	Public announcement One week prior to the survey, technical survey teams inform local people that surveying will soon commence.	The Order 01 process includes a public announcement regarding the commencement of land surveys, but it is not clear from the available

of each area that is going to be adjudicated. At these meetings the leader of the land registration team or a representative of the AC explain the adjudication process, clarify the rights and responsibilities of those living in the adjudication area, and take questions.		documents if any 'opening meeting' must be held.
FIELDWORK		
<p>Land survey and data collection</p> <p>The land survey teams visit each household in the adjudication area and record ownership claims, check documents, demarcate and survey land parcels and confirm the boundaries with holders of neighbouring plots. Results are recorded at the cadastral office and a Cadastral Index Map and List of Owners prepared.</p>	<p>Land survey and data collection</p> <p>Land survey teams composed of professional cadastral officers and youth volunteers work together to survey parcels that are under occupation or cultivation and gather data. Data concerning the boundaries of the occupied parcels is gathered, along with personal data on the claimants.</p>	<p>The Order 01 survey process appears to mirror the SLR process, although it was often conducted at a much faster pace.</p>
<p>Dispute resolution</p> <p>If disputes arise during the process of adjudication, land survey officers will invite the disputing parties to conciliate their conflict. If this fails, the AC has the duty to attempt to conciliate the dispute. If the dispute cannot be resolved, the parcel will be recorded as disputed and cannot be registered. The dispute will then pass to the Cadastral Commission (dispute resolution body responsible for disputes over unregistered land). Disputed plots</p>	<p>Dispute resolution</p> <p>The Order 01 documents do not discuss dispute resolution in detail.</p>	<p>While the Order 01 documents do not discuss dispute resolution, Minister for Land H.E. Im Chhun Lim has stated that if disputes arise during the demarcation of state land they will be resolved by the PSLMC, and disputes related to individual land parcels will be conciliated by the Administrative Committees based on <i>Sub-decree #46</i>.</p>

cannot be registered until such time as the dispute is resolved.		
<p>Public display</p> <p>The results of the land survey are displayed in a public place within the adjudication area for 30 days. Concerned parties can view the documents to check accuracy of data and lodge complaints if they are not satisfied. During this period the registration team may correct errors and omissions. During the public display, there should be an officer present every day in order to explain or clarify any data contained in the adjudication record.</p>	<p>Public display</p> <p>The survey data is put on public display for 30 days. The date of public display should be announced at least 7 days before it takes place. At the time of the public display, community meetings should be held and the public should be able to check the list of citizens and parcel data.</p>	<p>Public display is a crucial step in the land survey process. According to Order 01 documents this is part of the land registration process and as in the SLR process should last for a 30 day period.</p>
<p>Dispute resolution</p> <p>During the period of public display, any person who is named or claims an interest in any parcel referred to in the adjudication record may raise objections if they consider the information to be inaccurate or incomplete. Objections should be raised to the AC, who should attempt to conciliate the dispute. Any disputes that cannot be resolved should be submitted to the Cadastral Commission.</p>	<p>Dispute resolution</p> <p>As above, the Order 01 documents do not discuss dispute resolution in detail.</p>	<p>See above note on dispute resolution.</p>
DECISION		
<p>Confirmation of adjudication record</p> <p>After the 30 days display period the AC should confirm the adjudication record for all parcels that are not subject to disputes. The record is</p>	<p>Confirmation of adjudication record</p> <p>Following the public display, the PSLMC and AC shall confirm the survey data. Initially, occupants of any land not</p>	<p>In both the SLR and Order 01 processes, after the public display the adjudication record is regarded as</p>

delivered to the Provincial/Municipal Department of Land Management for technical inspection and then to Provincial/Municipal Governor to be signed. The adjudication record is then regarded as being final for all parcels not subject to disputes.	subject to dispute were issued with a provisional ownership title at this stage while awaiting the issuance of final title.	final for all plots that are not under dispute. The Order 01 process originally contained provisions for the issuance of a provisional title at this stage, which is not a requirement of the pre-existing SLR system.
REGISTRATION AND ISSUANCE OF TITLE		
Registration of adjudication record Following the finalization of the adjudication record, the results are entered in the Land Register and cadastral index maps. Each parcel is given an individual unique parcel number.	Registration of adjudication record The Order 01 documents do not mention the process for recording 01 titles in the land register.	Although the Order 01 documents are silent on this issue, interviews with development partners in Phnom Penh suggest that Order 01 titles are being entered in the land register alongside SLR titles.
Land title issued After being entered into the Land Register, parcel owners are issued with an individual land title certificate. Recipients are required to pay a fee for the title, depending on the type, size and value of the land. The fee structure is set out in an official document issued by the MLMUPC.	Land title issued The titles are distributed in public ceremonies. Interviews conducted in the field suggest that recipients are not required to pay a fee for the title.	According to Müller and Zülsdorf (2013), in Order 01 land titling, the steps of decision making, registration and issuance of title have to be completed within one week to ten days from the end of the public display. This is much faster than under the standard SLR system. Results from this study indicated that this target was achieved in some places, but others took much longer.

Part 4: Access to the Order 01 Survey Process



Part 4: Access to the Order 01 Survey Process

A key goal of this study was to assess the circumstances under which households had access to the Order 01 process. The assessment below is based on the available official documents related to Order 01, statements of the Royal Government of Cambodia (RGC), along with data gathered from the field research, as well as existing literature and media reports. This part of the report answers key questions about the Order's implementation such as: What type of land was targeted by the campaign? What factors determined people's access to the survey process and what reasons were given for denial of land survey or title? How were the size limits to Order 01 titling understood on the ground? Who received land titles? Are people still waiting for titles who had their land surveyed? This part of the report is divided into two subsections; Part 4.1, which deals with what types of land were covered by Order 01; and Part 4.2, which deals with who had access to the land survey process.

Part 4.1 answers the over-arching question of 'what types of land were surveyed and titled by Order 01?' from a number of angles. The section first outlines what categories of land were technically eligible for land titling and how these categories were locally interpreted. It also takes up the issue of disputed land, and how disputed areas were selectively included and excluded when determining where Order 01 would proceed. The analysis then scales down to the village level in order to understand the smaller-scale geographic targeting by looking at surveying activities and awarding of title for rice, Chamkar⁷⁸ and residential land. Having addressed what types of land were targeted in the Order 01 campaign, the next section explores the question, 'what reasons were given for not surveying land?' This section first outlines policy developments that occurred during Order 01's implementation that sought to clarify ineligible areas, then turns to see how these instructions were interpreted at the village level. Next, it describes the most commonly given reasons for exclusion, namely, ongoing conflicts with ELCs, overlapping claims with protected areas and forests, and land claimed by the state. It also explores other reasons for exclusion that were provided by research participants.

Part 4.2 looks at the people-side of 01 titling outcomes and takes up the question 'who received land titles?', again from a number of different perspectives. This section looks at access to Order 01 based on demographics such as ethnicity and indigeneity, gender of the household head, and the length of time people had occupied the land. It also gives attention to insider-outsider dynamics in the study areas. The question of 'were those targeted really illegal settlers?' is then posed. Answering it includes examination of the data on people's duration of

⁷⁸ 'Chamkar' is a Khmer word referring to land used for growing crops such as mangos, durian, cashews, and so on, along with rain-fed rice (rice that does not require irrigation, often referred to as 'upland rice' as opposed to paddy fields).

land use, how they acquired their land, what documentation they held prior to Order 01, and whether or not people had been provided with any prior information on their legal status. Local perceptions of what constituted illegality are also discussed and the role of 'outsiders' in clearing land for titling is expanded further, after which the conclusion to Part 4 outlines key findings of what determined access to the Order 01 titling process.

4.1. What Types of Land Were Surveyed and Titled By Order 01?

4.1.1 ELCs, forest concessions and other types of state land

The specific geographic targeting of Order 01 has remained relatively opaque, with the tendency to refer to broad land categories or aggregate statistics. As such, this research attempted to contribute to filling this knowledge gap by generating data on what kinds of land were targeted at the village level through data collection via the household questionnaire and village and commune level interviews.

The first official document that contained specific details on the Order 01 titling campaign was *Notification #666* from the Council of Ministers. This included details regarding the geographic targeting of the Order, and stated that the titling process would be applied to areas located within forest concessions, Economic Land Concessions (ELCs), areas managed by the Ministry of Environment, and state land previously confiscated from illegal occupants by provincial authorities.⁷⁹ As elaborated in Part 2, the MLMUPC has broken down the results of Order 01 according to the categories of "forest concession", "ELC", and "state land and forest land".

Almost all officials that were interviewed for this study stated that the focus of Order 01 was land that was in conflict with concessionaires – suggesting that the local understanding of the Order's goal was highly specific and related to land conflicts. One village chief from Snoul district in Kratie stated that the border areas of ELCs were a particular focus (KRT3, 09/07/2014). Another interpretation was offered by a commune council member from Thpong district, Kampong Speu, who stated that in his area the campaign focussed on agricultural lands which were close to forested areas in order to define the boundaries and prevent further forest clearance (KPS6, 19/07/2014). Forests, and the identification of what constitutes a forest, emerged as a particularly discretionary category of land.

⁷⁹ Under the 2007 *Circular #02 on Illegal Occupation of State Land*, provincial authorities may issue a *Deika* (a provincial ordinance) to confiscate state land and forest land that is illegally occupied.

4.1.2 How order 01 approached forested land

In principle, areas that were still forested were not eligible for Order 01 titles. This seems to conflict with the fact that Order 01 titling results refer to land reclassified within forest concessions and forest land. However, many of these areas had already been deforested.⁸⁰ Interviews with officials and villagers suggested that, generally speaking, areas that were previously forested but had long since been cleared and cultivated were eligible for 01 land surveys. However, land that had been cleared and left uncultivated and land which had been cleared only shortly before the campaign began were not eligible. It appears that there may have been some room for interpretation as to where exactly Order 01 teams could survey and where they could not. In Oddar Meanchey a village chief explained that areas judged to be “thick forest” were not surveyed (ODM4, 12/07/2014), but it is not clear exactly how “thick forest” was defined. In a focus group discussion in Ratanakiri, participants explained that survey teams did not measure land in areas where there were trees “taller than an elephant”. Again, vague criteria for determining whether or not land could be considered forested.

Although in principle still forested land was not to be surveyed through Order 01, lands that were once forested were considered eligible for titling if they had already been cleared and cultivated (PST8, 17/07/2014). A Village Chief in Samrong District of Oddar Meanchey explained that state forest land in the area had been encroached and degraded by villagers for a number of years, with people clearing land to grow rice, corn and sweet potato. In this case land titles were issued for all those lands that had been cleared and cultivated (ODM3, 14/07/2014).

Elsewhere, cleared but uncultivated forest land and recently cleared forest land were excluded from 01 land measurement. This was observed in both Krakor district and Kravanh district, Pursat (PST3, 15/07/2014; PST5, 16/07/2014), where land had been cleared from formerly forested areas but was not surveyed as it had not been put to agricultural use. In Kravanh, the land had been cleared for 2-3 years but the survey teams chose to exclude it from titling as it had only been planted a few months before the team came to the village (PST5, 16/07/2014). That people had planted the land shortly prior to the arrival of the survey team is indicative of the various strategies people adopted to try and make their land claims eligible for Order 01. Several interviewees stated that the survey teams regarded occupants of previously forested areas as living illegally on state land, but provided they had utilized the land they could receive title. This process appears to have the function of both legalizing what was previously precarious

⁸⁰ Without clear data about the location of areas excised from forest concessions and forest land this is not possible to verify. Collecting and publicizing such data is part of the recommendations detailed in Part 10.

occupation of areas regarded as state property, but may also have served the purpose of clarifying the current boundaries of state land.

An issue that emerged in some study areas was the complex matter of surveying rotational agriculture lands located in forest areas. Rotational agriculture is generally associated with indigenous communities, and controversy emerged regarding Order 01 survey of indigenous lands (as returned to in Part 6). Due to the exclusion of forested areas, rotational farming areas that were left fallow at the time of 01 surveys were not measured. This was a particular concern for some respondents in indigenous areas, who were unhappy that their swidden (shifting cultivation) lands were left untitled. The same concerns applied to reserved land of indigenous communities. This includes areas of forest that are regarded as indigenous land, but are reserved for future generations. Some interviewees expressed frustration that these areas were left untitled.

Despite the supposed exclusion of uncultivated and still forested areas, in several study areas local officials said that Order 01 actually encouraged land clearance, a topic returned to later in Part 4.2. In Samrong district, Oddar Meanchey a deputy commune chief stated that land was cleared by villagers and outsiders in anticipation of the Order 01 land surveys as people expected that clearance would make it eligible for registration. When people were subsequently denied land titles they became angry (ODM1, 31/07/2014). In the Andoung Meas district of Ratanakiri, a village official stated that after people were told they could get up to 5 ha of land registered through Order 01, families farming only 2-3ha of land began to clear additional land as they wanted to receive the greatest possible benefit from the campaign (RTK3, 02/07/2014). It should also be noted that the authors also heard from some national level interviewees that in some areas land titles were in fact issued for still forested areas, especially in still forested areas of Kratie and Mondulkiri. However, the research team were unable to find any definitive evidence of this in the field. Without clear data and maps detailing the areas where Order 01 was active, it is not possible to fully assess the scope to which additional clearance occurred in the run up to land surveys, but this is certainly an area worthy of further examination.

4.1.3 The inclusion and exclusion of disputed areas

The approach to dealing with disputed land emerged as a major area of inconsistency during Order 01's implementation. In many of the areas visited for this research, interviewees stated that the campaign focussed on areas that were disputed. In Krakor district, Pursat, a village chief explained that his village was selected for Order 01 survey *because* there were widespread conflicts with ELCs in the area (PST3, 15/07/2014). Also in Pursat, in Kravanh district, a commune chief explained that in his area the survey team distinguished between residents that were not involved in any land dispute and residents located on state land

and in conflict with an ELC company. The Order 01 teams focussed on the people involved in the dispute (PST4, 16/07/2014).

In some areas, land that was *not* in conflict was specifically excluded from the Order 01 survey process. This was the case in all three of the districts surveyed in Kratie. In Snoul district a village chief said that forested land and rice or Chamkar land close to villages was not surveyed, as the focus was on land that overlapped with ELCs (KRT3, 09/07/2014). Likewise in Chhlong district a village chief told interviewers that residential land and land that had been farmed for many years was not titled as it was not in conflict with ELC land or any other state land (KRT5, 07/07/2014). Another village in Sambo district of Kratie was not surveyed as it was an “old village” that had never had conflict with a company (KRT7, 06/07/2014). This likely resulted in a highly uneven mosaic of titled land at the village level, as some households had some or all of their holdings surveyed and titled, while others were excluded from the process. How this uneven patchwork of titles will be managed by the state in the future remains to be seen.

The focus on land in conflict and the exclusion of plots that were not in dispute was also the case in the study areas located in Ratanakiri . A village chief in Andoung Meas district stated that only land close to or overlapping with land claimed by a company was measured and residential land was not measured in his village since it was an old village with well-known borders and no land conflicts. In this same village, the chief explained that rice land close to the village was not surveyed as it was already recognized by a letter from the village and commune level (RTK2, 02/07/2014). A village chief in Ou Chum district confirmed the same practice took place there (RTK7, 03/07/2014). In several of these areas, local people lobbied the government to include them in the Order 01 process, but they were told to wait for “the next phase” (RTK8, 03/08/2014).

Similar narratives about the exclusion of undisputed land were provided by interviewees in a number of areas. However, in many cases people were told that they could not have their land surveyed *because* they were involved in a dispute. This apparent contradiction emerged in numerous areas visited by the research team and is discussed in greater detail in Part 5 of this report.

4.2 Targeting of Order 01 at the Village Level: Land Surveys and Titling

Rice paddy land, Chamkar and residential property all eligible for land surveys

In most study areas, interviews with officials revealed that residential, rice paddy and Chamkar land were eligible for 01 land survey, provided that they had already been cultivated. Household questionnaire respondents were asked to list all the types of land that was measured in their area. The most common type of

land to be measured was Chamkar land (401 responses, 86% of cases). This was followed by rice land (399 responses, 85% of cases), and residential land was the third most common (283, 61% of cases). In some areas shifting cultivation lands were also registered through Order 01, including in Oral district, Kampong Speu (KPS5, 21/07/2014), although as discussed in Part 6, this was not always the case.

Figures 4.1, 4.2 and 4.3 provide a break-down by province of whether or not questionnaire respondents personally had their rice land, Chamkar land and residential land surveyed. These figures highlight important geographic variations in terms of which land was the focus of survey activities in each area. Of note, Figure 4.1 indicates that Kratie was rather exceptional for the low levels of rice land surveyed, while 4.2 highlights the limited focus of Order 01 on Chamkar land in Oddar Meanchey, Pursat, and Kampong Speu. Figure 4.3 makes clear the striking disparity between Ratanakiri, and to a lesser extent Kratie, in terms of the extremely limited attention paid to residential land.

Figure 4.1: Percentage of questionnaire respondents who had rice land surveyed

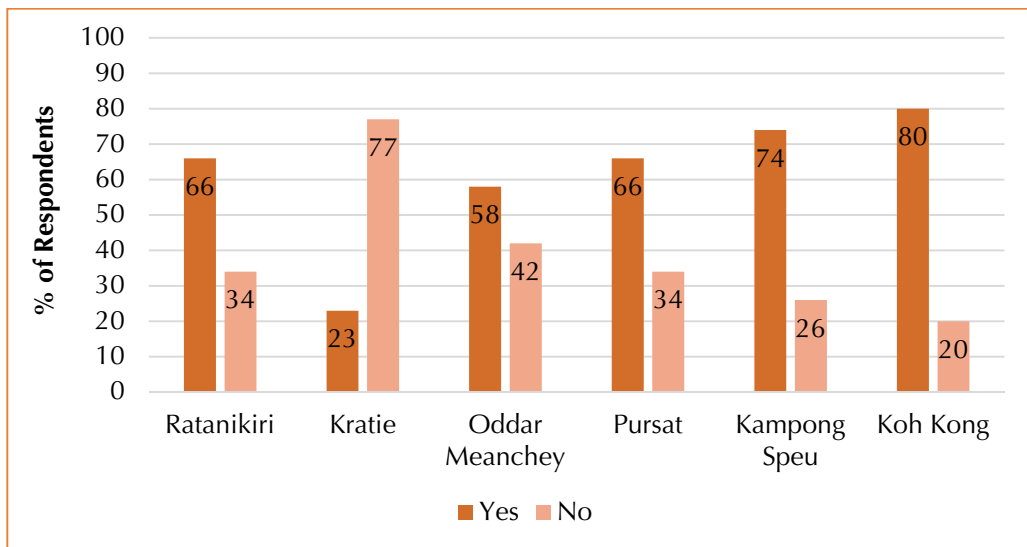


Figure 4.2: Percentage of questionnaire respondents who had Chamkar land surveyed

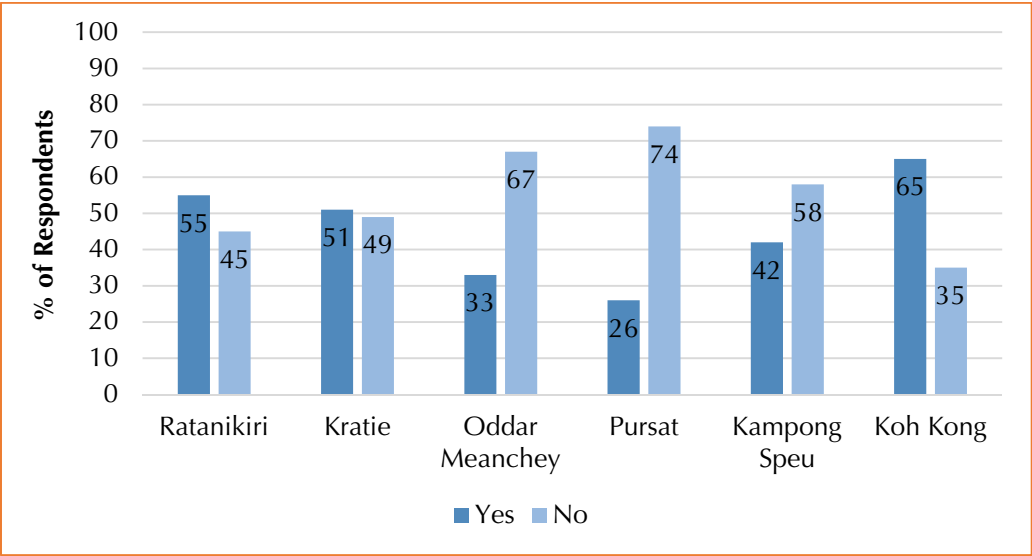
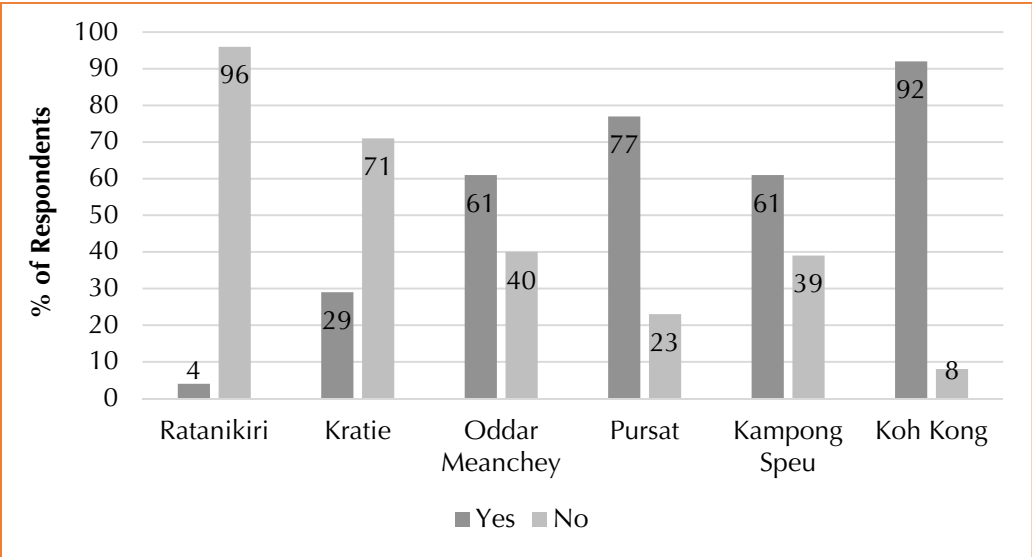


Figure 4.3: Percentage of questionnaire respondents who had residential land surveyed

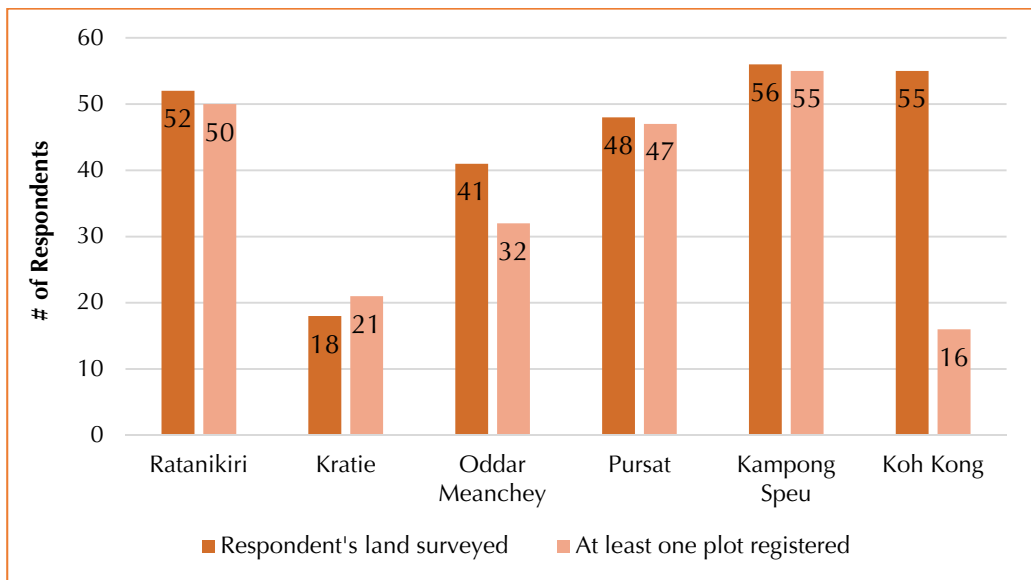


It is striking that in Kratie only 23% of respondents had rice land surveyed compared to 80% in Koh Kong, and while only 4% of respondents in Ratanakiri had residential land surveyed, the figure was over 90% in Koh Kong. Without a more detailed comparison of local land uses and classifications, it is difficult to account for these strong variations. However, they may in part be explained by

the varied nature of land use from area to area. For example, in some villages there is a focus on rice farming, whereas in others the land is better suited for Chamkar. Additionally, as discussed here and later in the report, the proximity of the land to concessions or state land was more likely to be a persuasive factor in whether or not the land was surveyed, and the nature of individual's land use does not appear to have influenced access to the Order 01 process.

Turning to consider the likelihood that land surveys resulted in issuance of a land title, figures 4.4, 4.5 and 4.6 suggest that for the most part, there was a high tendency for those respondents that had their land surveyed in five of the six provinces to eventually receive a land title for at least one plot of land. Of note, Koh Kong tends to be exceptional in the extent that land surveying did not result in a final title for questionnaire respondents. In this case, some respondents were denied title as the land was in dispute with an ELC, and some held receipts or provisional titles but had not been issued with final titles.

Figure 4.4: Comparison of land survey activity with land title outcomes for rice land⁸¹



⁸¹ Note, there are data irregularities for Kratie province where 18 respondents reported their land was surveyed while a higher number, 21, reported receiving a land title for their rice land.

Figure 4.5: Comparison of land survey activity with land title outcomes for Chamkar land⁸²

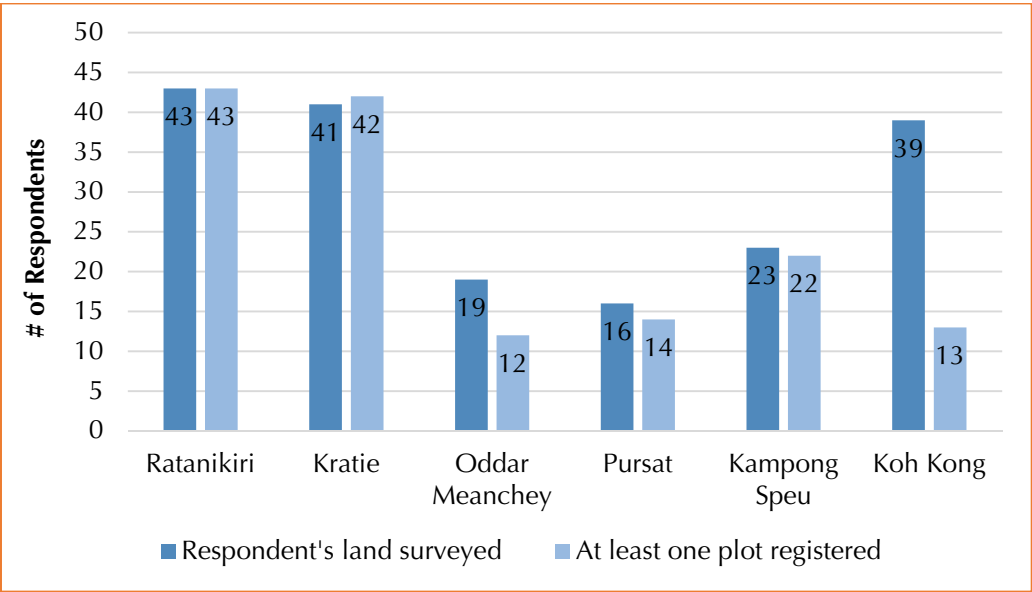
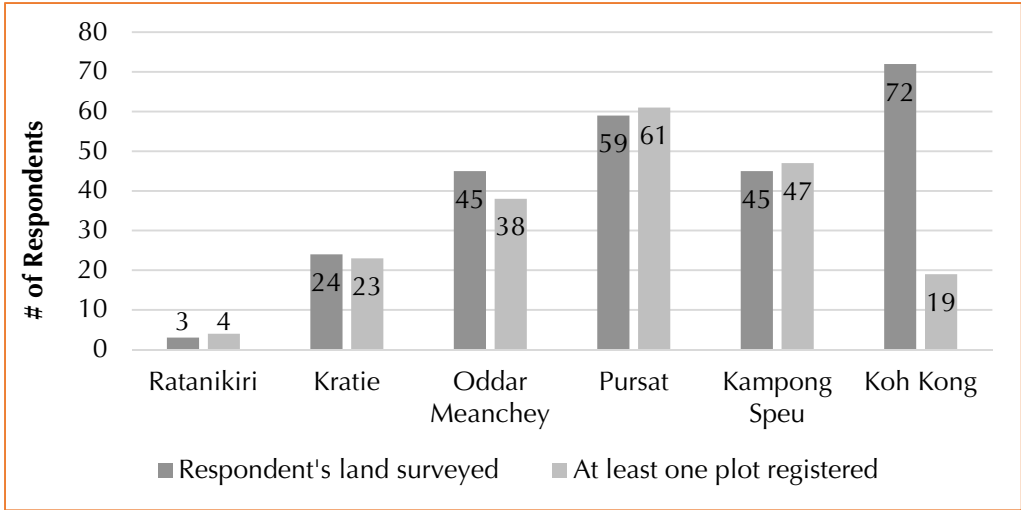


Figure 4.6: Comparison of land survey activity with land title outcomes for residential land⁸³

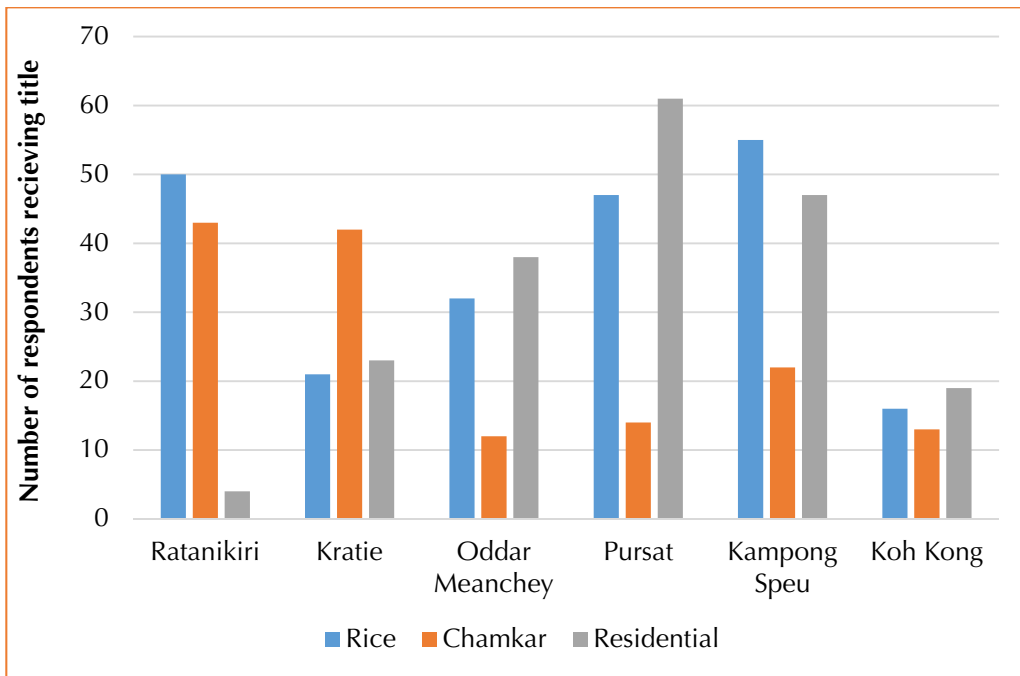


⁸² A data irregularity re-occurs for Kratie, as 41 people reported their chamkar land was surveyed and 42 reported receiving a title to their chamkar land.

⁸³ There were data irregularities for residential land in both Ratanakiri, where 3 reported having their residential land surveyed yet 4 reported receiving a final title, in Pursat a similar inconsistency occurred with 59 confirming their land was surveyed and 61 reporting a residential land title.

To provide a clearer overview of land titling outcomes by province, Figure 4.7 depicts the types of land registered, as reported by the household questionnaire respondents. This is broken down by province and disaggregated by land type. In total, 221 respondents received title for rice land, 146 for Chamkar and 192 for their residential land. When disaggregated by province, as shown in Figure 4.7, it quickly becomes apparent that there was a great degree of variation in what types of land were eventually titled from one province to another. It should also be kept in mind that a number of respondents received no land titles, whereas some respondents received several titles to different plots of land. Examination of Figure 4.7 shows that the different study areas yielded very different results in terms of the type of registered land. For example, 61 respondents in Pursat received title for their residential land, whereas just 4 respondents in Ratanakiri received such titles.

Figure 4.7: Types of land registered in the six provinces studied



4.3 Untitled Land

Although most respondents within surveyed areas were highly likely to receive a title for at least some of their land, there were also some people who had certain parts of their land surveyed and others not. Additionally some people who had their land surveyed received titles over some plots, while some surveyed areas were left untitled. This issue was raised in several media reports during the and

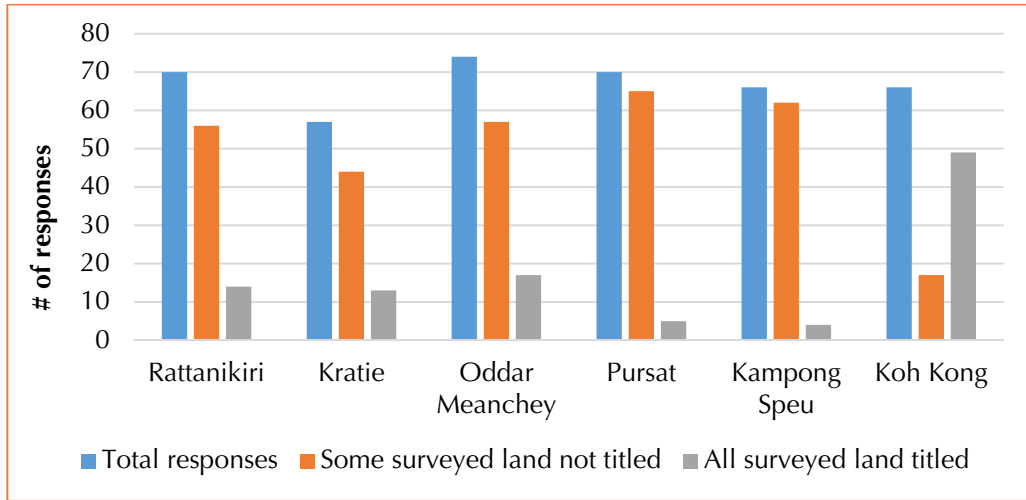
after the implementation of Order 01. For example, in one case in Kratie reported by the *Cambodia Daily* in late 2013 after Order 01 was suspended, 200 villagers protested at commune offices as they had still not received their 01 titles seven months after going through the survey process (Kuch, 2013a).

In order to generate further data on the extent to which land may have been surveyed but not titled, household questionnaire respondents were asked if they had any plots of land that had been surveyed but for which they had yet to receive title. The data collected shows a very high number of people did not receive titles for all the land that they had surveyed, 301 out of 403 responses. There was a large degree of variation among the sampled provinces, as shown in Table 4.3. In Pursat and Kampong Speu more than 90% of respondents did not receive a title to all of the land that was surveyed, while for Koh Kong 27% of people did not receive a title for all of the surveyed land. It should be noted that of the six studied areas, Koh Kong also had the lowest rate of land survey. Figure 4.8 further breaks down the data by province and identifies locations where people reported having land that was surveyed but not yet titled and where people had already received titles at the time of data collection.

Table 4.1: Incidence of surveyed land failing to receive title

Province	Respondents who did not receive title for all surveyed lands	
	# of responses	% of responses by province
Ratanakiri	56	80%
Kratie	44	77%
Oddar Meanchey	57	77%
Pursat	65	92%
Kampong Speu	62	94%
Koh Kong	17	27%
Total	301	Mean avg. 74%

Figure 4.8: Incidence of surveyed land failing to receive title



The figures above should be viewed in context, and as discussed earlier in this part of the report, the household questionnaire revealed that there was a high likelihood that people would receive a title for at least *some* of their land if they were living in an area where land was surveyed. The fact that most people also report that they did not have *all* of their lands surveyed may be indicative of numerous issues. For example, people holding numerous plots of land may only have had some of those plots surveyed. They may also have received title for part of a surveyed plot, but this may have had some land cut from it. Some land surveys could have revealed disputes that were unresolved during the titling process and therefore resulted in the land being left unregistered. It is also possible that some people did not fully understand the question, and may have been unclear that they were supposed to answer only about plots that were surveyed, not plots that were excluded. Regardless, this requires further investigation and if there are a large number of surveyed areas that still need to be titled this should be addressed.

4.4 What Reasons Were Given for Not Surveying Land?

The focus of the Order 01 campaign was on land regarded as state property on which people were alleged to be ‘illegal’ occupants. This included ELCs, forest concessions and other types of state land. Order 01 documents outlined some restrictions on the type of land that could be surveyed. According to the Council on Land Policy (CLP) *Instruction #015* issued in July 2012, no claims could be considered over land within “jungle areas, semi-jungle areas, Prey Lang forest,

national defence areas and historical and cultural zones”.⁸⁴ No guidance is included on how survey teams should interpret and identify ‘jungle’ or ‘semi-jungle’, potentially leaving these terms open to local interpretation.

Instruction #017 was issued by the CLP later in July 2012 and had the stated aim of maintaining the integrity of public infrastructure and areas of social and economic importance. This added the following additional directions relating to the titling campaign:

- Appropriate reserves for public roads shall be kept to serve the community and general public interest.
- Natural lakes, beaches, riverbanks, canals and other waterways such as creeks, streams, and tributaries shall be registered as state public land and their boundaries shall be determined according to the existing practice of boundary demarcation.
- Community forests and indigenous land shall be preserved in order to protect the public interest.⁸⁵

While conducting the field research, the team were also informed of various other reasons that people were denied access to the survey process.

4.4.1 Village level exclusions from the order 01 land survey process

In cases where questionnaire respondents had some of their land surveyed, for the most part they were highly likely to receive a land title for at least one plot. However, there were numerous reports from survey respondents that some of their lands were not surveyed at all. Close to half of the 470 questionnaire respondents reported that they were refused land survey for at least part of their land (248 responses, 53%) while the remaining 222 people (47%) reported that all their plots had been surveyed. Sixty-four respondents identified reasons they had been given for not receiving a title. Respondents were offered 12 possible answers for reasons they were excluded, yet the most common reason was

⁸⁴ Council for Land Policy, *Instruction #015 on the implementation of RGC Order 01 on the Measures Reinforcing and Increasing the Effectiveness of the Management of Economic Land Concessions* dated 7 May 2012 - In relation to indigenous minority areas, jungle, semi-jungle, Prey Lang forest areas, national defence bases and historical and cultural areas (4 July 2012).

⁸⁵ Council for Land Policy, *Instruction #017 on the implementation of RGC Order 01 on the Measures Reinforcing and Increasing the Effectiveness of the Management of Economic Land Concessions* dated 7 May 2012 - In relation to roads, railways, paths, lakes, rivers, beaches and public service sites (13 July 2012).

“other” (30 responses, 64%).⁸⁶ The second most common reason was that the land was in conflict with an ELC company. The breakdown of these responses are detailed in Table 4.2, below.

Table 4.2: Reasons for land being excluded from Order 01 survey

Reason for exclusion	Responses	
	#	%
Land in conflict with ELC	14	30
Land located within protected area, wildlife sanctuary or forest	9	19
Land in conflict with forest concession	6	9
Land was state land	3	5
Land in conflict with ‘outsider’	1	2
Land claimed by Commune	1	2
Other	30	64
Total	64	100

In discussions with officials interviewed at the village, commune and district level, as well as a small number at the provincial level, the research team asked what reasons may have been given for refusing to survey or title lands through Order 01. A range of responses were provided, the most common being that the land was involved in some kind of conflict. This included overlaps with protected areas and forests as well as ELCs. However, it was observed that there was apparent inconsistencies in how exclusions were implemented. The following sub-sections consider in more detail the different reasons for exclusion from the 01 survey process.⁸⁷

⁸⁶ The questionnaire contained 12 possible answers: the land is in conflict with an ELC company; the land is located inside a forestry concession; the land is part of a protected area, wildlife sanctuary or national forest; the land is claimed by someone in the RCAF; the land is claimed by someone in the national government; the land is claimed by someone in the provincial government; the land is claimed by a district official; the land is claimed by a commune official; the land is claimed by another member of the village; the land is claimed by an outsider; the land is state land; and, other.

⁸⁷ Although raised by household questionnaire respondents (see Table 4.8), conflict with a forest concession was not identified in any of the 45 interviews or 6 group discussions and so cannot be elaborated here. It can be assumed, however, that the situation is similar to those cases involving conflict with ELCs.

4.4.2 Land excluded due to conflict with ELC

Many officials told interviewers that Order 01 explicitly targeted areas where people's land overlapped with ELCs. However, numerous respondents also stated that they were denied land surveys *because* the land was in conflict with an ELC. The Order 01 related documents briefly discussed the approach to dealing with cases where people were in conflict with ELCs. *Instruction #018*, issued in July 2012 by the CLP, includes justifications for exclusion of cases where an investor has already claimed land and commenced development and cultivation. It also details that past payments of compensation for land seizures by ELCs make the land ineligible for survey. Families that have left or already been removed from land claimed by the ELC were similarly ineligible. The specific text of the Instruction (as included in a translation published by the MLMUPC) is as follows:

In the case that a citizen is claiming a piece of land that has already been developed and clearly cultivated by an investor, the following principles shall be implemented:

- For citizens that have already received compensation previously following a resolution process, such claim cannot take place again,
- For citizens who had to leave the place they used to occupy because the competent authority, institution or a private business implemented the resolution properly, in accordance with the decision of RGC and the legal procedure. Then, the claim was not able to be solved. In such case, the provincial authorities can implement a social concession program in favor of the concerned citizens, which involves the confirmation of civil status from the local authorities in charge of civil status of the place where the concerned citizens originate as well as evidence of their poverty from the Provincial Land Use and Allocation Committee of their birth place.⁸⁸

However, this document did not clarify what should happen in cases of claimants who have lost land to an investor, but do not fit under these two categories. For example, those who have lost land to concessions but received no compensation, or households who have lost land to concessions that have not been implemented in line with the relevant policies and legal procedures. As indicated by government statements on the cancellation of ELCs, it is clear that many concessions have not followed legal process (See Part 2).

The authors attempted to develop a clearer understanding of this apparent contradiction, but without more detailed study of specific individual disputes, it

⁸⁸ Council for Land Policy, *Instruction #018 on the implementation of RGC Order 01 on the Measures Reinforcing and Increasing the Effectiveness of the Management of Economic Land Concessions* dated 7 May 2012 - *Land identification, People Identification and Issuance of Primary Land Title* (20 July 2012).

is impossible to clearly ascertain why some people within ELC areas could receive title, whereas others could not. Statements from some officials suggested that ELC areas that were reclassified and granted to villagers were areas of ELCs that had not been cultivated. For example, a village chief in Andoung Meas district, Ratanakiri, stated that land was cut from ELCs through the Order 01 process if the company had failed to develop and cultivate the area in line with the concession agreement (RTK2, 02/07/2014).

It is not clear to what extent the government was able to compel ELC holders to give up concession land, but it is clear that in some areas the concessionaires were not willing to do so, as there are a high number of cases where land users were denied Order 01 titles because the conflict could not be resolved. This was frustrating to some of the local officials who were interviewed in the provinces, and a village chief in Kampong Speu stated: “I wonder why they did not survey land which had conflict with ELC Companies, as they are still stuck in conflict” (KPS3, 22/07/2014). In this area, information on some land plots was omitted from the public display and when people complained they were told to “wait for next time”. However, the village chief has received no further information on when, or if, any survey teams will return (KPS3, 22/07/2014).

Also in Kampong Speu, a commune councillor from Thpong district, stated that some lands that were subject to conflict between the villagers and an ELC holder were not surveyed (KPS3, 22/07/2014). Again in Thpong district, a village chief confirmed that *all* land that overlapped ELCs or state property was excluded from the survey process. Confusingly, those people living on state land were told that the land “still belongs to them” but they could not receive titles because it is within state land boundaries (KPS8, 19/07/2014). In another district of Kampong Speu, Phnom Sruoch, villagers were similarly excluded from the campaign as their land was in conflict with an ELC. A commune councillor there said that four villages were affected by three ELCs, however, he explained that the 01 campaign did not survey any of these lands since the companies had already been granted the land by the state (KPS1, 22/07/2014).

Even within the same village, local people had differing experiences of access to the land survey process. In one village in Chhlong district of Kratie, 8 families located within the ELC of Chan Sophea Development Company received land titles, whereas 93 families within the Dau Thieng Cambodia Rubber Development concession were not granted titles. The village chief explained that those families have been told that they can continue to farm that land, but they are now concerned that they may be evicted by the company at any time (KRT4, 08/07/2014). It is not clear why the outcome was so different for these neighbouring families. It may be that the two concessions were at different stages of development, or that one concession holder had greater influence than the other, but this remains unclear. However, in some areas there was strong

evidence that ELC companies were able to influence the implementation of the Order 01 process. This is illustrated well by testimony from a commune council chief in Kravanh district, Pursat. In this case, after the commune chief supported villagers' claims to land in the ELC area, the company attempted to block the Order 01 teams from surveying people's farm and residential land. The concession holder became angry at local authorities and 01 teams, eventually complaining to the provincial governor and demanding that he change the team members who "supported the people" that were in conflict with the company (PST4, 16/07/2014). The provincial governor reviewed the assignment of the team members and subsequently some team members were re-assigned to other areas (PST4, 16/07/2014).

Illustration 4.1: The Journey to Chhlong District, July 2013



Case study 4.1, drawn from Andoung Meas, Ratanakiri , details the experience of one family that was excluded from the Order 01 campaign as a result of overlapping claims with an ELC and the consequences of this exclusion.

Case study 4.1: Post-Order 01 insecurity, Andoung Meas District, Ratanakiri

Information gathered during an interview in Andoung Meas district, 3 July 2014. The interviewee's name has been removed to protect his identity.

Mr. X is of the Kachok ethnic group and lives with his family in an area that is located close to the concession of a Vietnamese company. His land was not measured during the Order 01 campaign. He explained that he was born in this village and lived there throughout Cambodia's periods of conflict, including the American bombing, the civil war between the Khmer Rouge and the Lon Nol government, and the fall of the Khmer Rouge and subsequent Vietnamese occupation. He says that despite the fact that the country is now at peace, he faces the threat of being evicted from his Chamkar by a Vietnamese-owned plantation.

For over ten years Mr. X held 5 hectares of land in an area that was farmed collectively by four families including his children. The land was cultivated and in use before the arrival of the company, which only moved into the area around 2012, building a road and destroying forest land. Since the implementation of Order 01, his Chamkar land has been reduced to only 2 ha. He explained that despite pressure from the company, he decided not to leave his farm, and has continued to resist even though the company has utilized various tactics to evict his family.

When the 01 survey teams came to the land they refused to survey all of his Chamkar as they said it was company land. Mr. X said he was scared of the survey team as he thought it was made up of soldiers that had just returned from fighting in the border areas with Thailand. In spite of these fears, he attempted to lobby the survey group and persuade them to come to his land to conduct a survey, but was told that his land was too far away and that they would have nothing to eat or drink while in the field. Hoping to change their minds, he decided to kill a pig for them and prepared a meal. His land was still not surveyed but the survey teams told him not to worry as there was no risk to his land.

However, Mr. X explained that since Order 01 finished in his area, those who did not obtain land titles are now regarded as being on state land. He felt cheated by the volunteer students since they had promised to survey his land but ultimately did not. He was disappointed with the attitude of the survey teams and said that they were reluctant to travel to remote or difficult areas. He provided another example of the survey team refusing to go to some parts of the village because they were remote and access involved a river crossing. In the end, the survey teams did cross the river and survey the land, but only after villagers carried the survey team across the water.

After the Order 01 team left, the company twice attempted to evict him from the land and even burned his cashew nut crops, leaving only 2 ha of the crop left intact. Now he has had to look for additional land to farm, but since Order 01 there is very little land left that has not been granted to other individuals or the company, or that has not been recognized as state land. He has found a small plot of vacant land in the village that he now farms, but said that he will never leave his Chamkar as he wants to pass it on to his children.

Mr. X looked for support from an NGO and government institutions, while the company continued to claim his land. Eventually the company offered to buy the full 5 ha from him, but he refused to accept their price. His efforts have left him isolated as twenty other families that had been farming in the area claimed by the company agreed to sell their Chamkar land.

He believes that the Order made it easier for the company to claim the land. Before Order 01 came to the area he had never had any communication with company representatives. After the process was finished, people who did not have their land titled were regarded as illegal occupants and the company attempted to evict them or to buy them out.

Cases have also been reported in national media which illustrate the complexities and conflicting interests at stake in the process of cutting land from ELCs. In particular, one case in Snoul district, Kratie, captured extensive media attention after villagers were denied land titles for land surveyed under Order 01 in August and September 2012. In this case, according to reporting in *The Cambodia Daily*, 391 plots claimed by 329 households were surveyed, but the Korean company Horizon Agriculture Development filed a formal complaint, claiming that it had purchased the concession in 2008 and many villagers had moved onto the land after the sale (Wright and Aun, 2014). The case dragged on and villagers protested at the local and national level, leading to the Prime Minister publicly criticizing provincial and national officials for not resolving the dispute (Aun and Hul, 2014). Despite the complaints of the company, and a complaint filed by the South Korean Embassy, 300 families were eventually issued with titles, although some families were not included as the authorities deemed them not to be eligible (Aun and Wright, 2014).

4.4.3 Land excluded due to overlap with protected areas or forests

The team collected evidence from three provinces (Koh Kong, Kampong Speu and Pursat) where land was apparently excluded from Order 01 surveys due to it overlapping with protected areas. Each of these provinces is detailed in turn

below in order to highlight the unevenness in how Order 01 proceeded in and around various forms of protected areas and state forests.

Firstly, in Koh Kong the research team encountered two instances of differential titling outcomes due to overlaps with protected areas, one from Koh Kong district where the Order 01 teams did not survey inside a national park, and another, in Thmor Bang district, where they did. A village chief from Koh Kong district confirmed that land was not eligible for measurement if it was in conflict, especially if it was located within protected areas (KK1, 26/07/2014). Elsewhere in Koh Kong district where there is a national park, two community leaders explained that their community is located in the middle of the park, which they referred to as “under the control” of an international conservation NGO. According to community leaders, the NGO has perceived the community as illegal occupants for many years. Residents began moving to the area in the early 1990s, when their incomes mainly relied directly or indirectly on illegal logging. In the past the community has been under pressure to relocate but has resisted. However, when Order 01 came to the area most people were denied land titles as they were seen to be within either protected area or forest land – an exclusion that many interviewees attributed to the influence of the NGO (KK2, 27/07/2014).

In contrast to the previous example, a village chief told interviewers that indigenous Chong villagers from Thmor Bang district were able to get all of their agricultural and residential land surveyed, despite some of it being within a protected area (KK4, 26/07/2014). Another official stated that in one commune in the Areng region of Thmor Bang, 80% of villagers had their lands measured, despite the fact that some lay within a protected forest (KK3, 26/07/2014). However, in both cases the people in these areas still held provisional land titles at the time of this study, and they had not yet been converted into full titles.

Secondly, in Kampong Speu different land survey outcomes were also observed across different villages in Kampong Speu province. In one case, families in Thpong district were excluded from land surveys because they lived on land that was within a protected area administered by the Ministry of Environment (KPS3, 22/07/2014). And yet, elsewhere in the same district a village chief confirmed that some plots in his village were surveyed, but that people were not provided titles as the land lay within a Community Protected Area (KPS8, 19/07/2014). Another commune councillor from that same district described how around 50 land parcels were surveyed within a Community Forest and occupants initially provided with provisional titles. After technical officers found out that this was a Community Forest, they took the receipts back (KPS3, 22/07/2014). The issue of how Order 01 teams treated land in communally held areas, including Community Protected Areas and Community Forests, is expanded upon in Part 6 of this report.

Finally in Pursat province, the research team consulted a leader of the Community Forest who stated that formerly forested land was surveyed and titled, although this only included those areas which had already been cleared and cultivated. He also clarified that in the process of registering land for Order 01, the technical teams “modified” the boundaries of commune reserved areas, forestry areas and Community Forests (PST8, 17/07/2014).

4.4.4 Land excluded due to claims by the state

Although the Order 01 campaign ostensibly focussed on people that were occupying state land, there are also cases where people were excluded from the survey process *because* they were on state land. Indeed many interviewees stated that the campaign did not survey land in forested areas because it was state land. In one area in Pursat town villagers’ land overlapped with a mining zone under the administration of the Ministry of Mines and Energy. In this case the land parcels of some families were surveyed but they did not receive land titles (PST8, 17/07/2014). At the same time, as seen in Part 2, 45% of the land that was reclassified by Order 01 was “state land and forest land”. This again indicates that there was considerable flexibility regarding which areas of land were surveyed through Order 01.

The category of state land is often rather murky on the ground and while in some instances Order 01 was used to demarcate ‘community land’, there are instances where the Order was used to carve away at public land. In particular, the research team came across one incident where an influential character was reported to have been able to acquire title for several hectares of land previously identified as state property. In Pursat town, a village official told interviewers that systematic land registration had already been conducted in his village and during this process, state land boundaries were set, including the boundaries of a school and its grounds. However, titles were not issued for the state land, including the area of the school. Subsequently, the principal of that school gave some parts of the land to his relatives, reducing the school land from 10 ha to 3 ha. The village official explained that the principal was able to obtain land titles for the former school land through Order 01, and although the chief complained to the sangkat authorities no action was taken (PST9, 17/07/2014).

4.4.5 Other reasons why land may not have been surveyed

There were a great variety of other reasons land was not surveyed, many of which were practical obstacles associated with the fast pace of the campaign. Indeed, limited time meant that for one village in Phnom Sruoch district of Kampong Speu not everyone was able to get their land surveyed (KPS3, 22/07/2014). The land registration process requires boundary confirmation and thumbprint of the household claiming land, as well as their neighbours’. It has

been observed in other studies that the absence of a spouse or neighbour can mean that the process is not completed and land titles cannot be issued (Grimsditch et al, 2012, p.69). This was the case in one village in the Chhlong district of Kratie, where a village chief explained that some men were not home as they are migrant workers, and so the land that they jointly owned with their spouse could not be registered (KRT5, 07/07/2014).⁸⁹ In Kravanh district of Pursat a village chief explained that many land parcels were not surveyed as their owners had migrated to Thailand for work (PST5, 16/07/2014). In one village in Kampong Speu, the chief explained that 35 land parcels were recorded as “no data” because residents were not present during the survey process (KPS2, 22/07/2014). These absences raise important questions for how future land registration and titling activities will proceed in a post-Order 01 landscape.

A report by Focus on the Global South (2013) found that in a village in Anlong Veng district of Oddar Meanchey province, only 10 of 59 families had land surveyed because some land was disputed and some fell outside the area that the survey team was responsible for. Villagers also reported that document requirements were very strict, including the need for official letters certifying that some female heads of household were widowed or divorced (Focus on the Global South, 2013, p.38). Similar issues have been documented elsewhere as a challenge in the SLR system (Grimsditch et al, 2012, p.106), and further emphasize the need for clear and timely information to be delivered to beneficiaries in advance of the survey process.

4.5 What Size Limits Applied to Land Surveys Under Order 01?

During the implementation of Order 01 there were conflicting reports in the media and literature regarding the maximum plot size that could be titled through the process. In order to seek clarity on this issue, the research team asked both household questionnaire respondents and interviewees what their understanding was of the size limitations on 01 titles. The June 2012 *Notification #666* from the Council of Ministers set out details regarding limitations on the size of land parcels that could be registered through Order 01. The Notification stated:

- Those occupying 5 hectares or less can apply for ownership of that land.
- For claimants occupying more than 5 hectares, the area of land that is actually under cultivation may be granted as ownership, while any cleared but uncultivated lands should be registered as state private

⁸⁹ This also raises questions of how gender played a role in titling, as this indicates that in some cases women were not able to register land in the absence of their male spouse, which is an important topic for further research.

property and the claimant given the right of small-scale economic land concession.⁹⁰

While conducting the fieldwork for this study, the research team found no evidence that “small-scale economic land concessions” were granted through Order 01, and the campaign focussed on registering and issuing private land ownership titles. Another Notification issued by the Council of Ministers in early July 2012, *Notification #684*, stated that those people occupying more than 5 hectares of land can receive ownership rights over all *cultivated* areas, but areas donated for ownership cannot exceed 200 hectares.⁹¹

For the most part, questionnaire respondents said that they were not told that there were any limits on the maximum size of land that can be titled through the Order 01 process (174 people out of 265 responses, 66%). In Koh Kong, 57% of respondents were aware of their being a limitation on the maximum plot size, but elsewhere, between two-thirds and three-quarters of survey respondents said they had not been informed of any limit. We may infer from this that information dissemination around this issue was ineffective, but it is also likely that many of the recipients held small plots of land and it may not have been thought necessary to discuss the size limit in areas where few villagers held lands in excess of this limit. As mentioned in Part 2, at the national level the average size of plots titled through Order 01 was just under 2 hectares.

Government officials working in the study areas were asked about this limit, and their responses revealed considerable inconsistency across the country and even within the same district. Table 4.3 illustrates the broad range of responses to this question. The responses also indicate that ‘outsiders’ often held larger plots than local people. In cases where a size limit was enforced, landholders would divide their plots, often registering the land under their children’s names in order to circumvent the limit. In some areas it was noted that the same household received multiple land titles for different plots, however, there was significant regional variation in the number of titles issued. In Kampong Speu, 27% of respondents received three land titles for their rice paddy land; a quarter of respondents from Pursat received 2 titles; while in Kratie 95% of respondents received only 1 title.

⁹⁰ Council of Ministers, *Notification #666 from Deputy PM Minister in charge of Council of Ministers to The Senior Minister of LMUPC, Subject: Request in principle for land registration in target areas to implement Order 01BB dated 07 May 2012 on Measures Strengthening and Increasing Effectiveness of ELC Management* (26 June 2012).

⁹¹ Council of Ministers, *Notification #684 from Deputy PM in charge of Council of Ministers to the Senior Minister of LMUPC, Subject: Request in principle to limit the land size which is actually cultivated and which is to be donated as ownership to the people* (2 July 2012).

Table 4.3: Officials' responses to the question: "What is the maximum size of land that can be measured by Order 01?"

Area		Limit	Additional Information
Koh Kong	Koh Kong District	5 hectares	In practice some people had 10 to 20 ha titled. When asked how this was possible, the official replied: "they just pay money" (KK1, 26 July 2014).
	Thmor Bang District	5 hectares	"I was told no more than 5 ha per family, but some have more than 5 ha and still can be measured. I do not understand about this" (KK3, 26 July 2014).
	Snoul District	10 hectares	Most people had 1 ha of land or less, some people had large areas of up to 10 ha. If over 10 ha they had to divide into 2 plots (KRT3, 09/07/2014).
Kratie	Chhlong District	No limit	All land was measured, no one was discriminated against, whoever had 100 ha got all measured, the same for the people who had less land (KRT5, 07/07/2014).
	Sambo District	10 hectares	"The limitation for land registration was 10 ha. I do not know how families got over 10 ha, I was not informed" (KRT7, 06/07/2014).
Kampong Speu	Phnom Sruoch	5 hectares No limit	"Most of the people from Phnom Penh, including Excellencies, have large lands exceeding 5 ha, 10 ha, 20 ha. Their lands were surveyed and they distributed land to their children" (KPS1, 22/07/2014). "[There] was the only villager with a large land holding (20 ha). There was no limit to the maximum amount of land for granting registration because it was agricultural land" (KPS2, 22/07/2014).
	Oral District	5 hectares	Villagers don't have big landholdings measuring more than 5 ha, but some people from Phnom Penh bought land and have large holdings over 5 ha. They divided this into small land parcels and registered it for their children (KPS4, 21/07/2014).
	Thpong District	No limit	"There was no limit" (KPS8, 19/07/2014).
Pursat	Provincial Cadastral Dept.	10 hectares	"If people have more than 10 ha they can have additional land registration after the campaign is over" (PST1, 17/07/2014).

Krator District	5 hectares	Some people hold more than 5 ha and most of them divided land plots and made a letter to pass parts on to their children and/or a relative or close friends. Some rich people held a large amount of land but did not have children to divide it among so they required the people that originally sold the land to them to register the land under their names, then later they requested official land transfer letters to transfer the land into their name (PST2, 15/07/2014).
	5 hectares	People with big landholdings over 5 ha divided land to children. Some people had 2-3 land parcels registered even though each plot was bigger than 5 ha. Most of these people are from Pursat town, other districts, and Phnom Penh (PST5, 16/07/2014).
	5 hectares	Some people have land larger than 5 ha and they divided it among their children. Most of these people are from outside of village and bought land from villagers (PST6, 16/07/2014).
	5 hectares	If people held more than 5ha they divided the land plot and granted it to their children and relatives. During the campaign, the commune and village chief recommended people to do this (PST7, 14/07/2014).
Pursat Town	No limit	Unlike other villages, there was no limited here on the maximum amount of land because this village has a lot of land and people have been managing and cultivating their land for years. A few villagers and some people from outside the village have land measuring about 20 ha and they could register their land. Some people divided their land to their family members (PST8, 17/07/2014).
	5 hectares	One land parcel could not exceed 5 ha but one person could hold many land titles. This was not enforced strictly and some registered up to 10 ha. Some people with over 10 ha divided it to their children or their loved ones (PST9, 17/07/2014).
	No limit	There was no limit, the students measured all the land we had, if we had 10 plots they measured all (RTK2, 02/07/2014).
Ratanakiri	5 hectares	The land was limited to 5 ha but some people got more than this (RTK3, 02/07/2014).
	5 hectares	

	Voeun Sai District	5-10 hectares	In principle, each family could have 5 to 10 hectares measured. Beyond this, they would not be measured by the students (RTK4, 03/07/2014).
		No limit	There was no limit, they measured all the land that was cleared (RTK6, 04/07/2014).
		No limit	There was no limit on the size of land that could be measured (RTK5, 05/07/2014).
Oddar Meanchey	Ou Chum District	No limit	They measured the existing land whether it was big or small (RTK7, 03/07/2014).
		10 hectares	No one could get title for more than 10 ha. However, plots over 10 ha were measured but people were not given land certificates for more than 10 ha (ODM2, 12/07/2014).
		10 hectares	"I heard it should be less than 10 ha. Though, there was no clear announcement made available" (ODM1, 31/07/2014).
	Samrong District	5 hectares	"The limit was 5 ha per family, but normal people do not even have 5 ha. The company holds more land. In rare cases where families held more than 5 ha they would register under different family names" (ODM3, 14/07/2014).
		5 hectares	The stated limit was 5 ha, but up to 5 ha can be registered under the name of each family member (ODM4, 12/07/2014).
	Anlong Veng District	5 hectares	"I was told that the maximum was 5 ha. However, people in my village do not have more than 5 ha per family. Some members of the military and powerful people could still have their land measured even if they held more than 10 ha. I do not how they do it, but it was happening in this village" (ODM7, 11/07/2014).

Similar to these findings, Focus on the Global South (2013, p.41) found that the maximum parcel size differed between the four provinces where they conducted case studies. For example, in Kampong Chhnang, Focus found that survey teams would allow up to 10 ha, and families with larger holdings were allowed to divide their holding among family members and use a different name for each plot. In some villages in Oddar Meanchey the survey teams measured up to 10 ha, but local officials later told people that they would receive titles to only 5 ha. Focus also found evidence in Krakor district of Pursat province that wealthy landowners were paying others to put their name on land declaration forms, and then later switching the names back after the conclusion of the Order 01 process.

4.6 Who Received Land Titles Through Order 01?

All questionnaire respondents were asked if they received a land title through Order 01. Of the 461 respondents that answered this question, 73% answered yes, that they had received a title. It should be noted that this response only indicates that respondents received a title, it does not necessarily mean that they received title for all of the land that they claimed (as noted earlier, many people did not receive titles for *all* of their land). It should also be noted that the sampling method used for the study was skewed towards those who received title, therefore this figure is not indicative of the likelihood of receiving titles nationally.

Of those household survey respondents that received a title, no indication of bias was observed between different ethnic groups or between female and male-headed households. Of the Khmer respondents, 72% received a land title, compared to 75% of those respondents who self-identified as indigenous. Of the women-headed households that responded to the questionnaire, 74% received 01 titles, compared with 73% for male-headed households.

The survey also examined whether length of occupation influenced titling outcomes, as well as the extent to which ‘outsiders’ benefited from the process. These issues are dealt with below.

4.6.1 Length of occupation

When asked to consider how land use histories were accounted for by Order 01, several officials responded that demarcation only happened on land that has been occupied or used for a long time prior to Order 01 (e.g. PST7, 14/07/2014), although it was not always clear what constituted a “long time”. The household questionnaire collected data on the length of occupation of agricultural land that was then compared with the receipt of land titles. This revealed that the group most likely to receive title was people that had been settled on their land for 25

years or more. In this case, the 115 out of 145 households (79%) who claimed land use of 25 years or more received at least one title for their land. Figure 4.9 illustrates that although uneven, there was a correlation between length of occupation and the likelihood of receiving a 01 title.

Figure 4.9: Comparing length of occupation with receipt of 01 land title (HH questionnaire respondents)

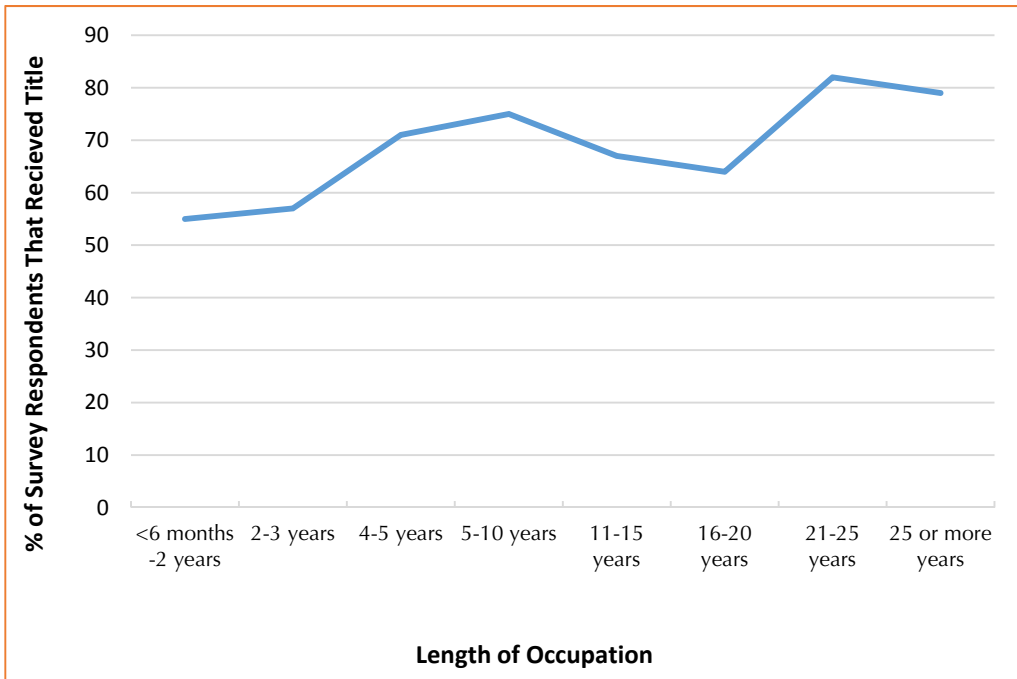


Figure 4.9 also needs to be viewed in context, and in many cases people may have commenced their initial occupation in the area at a certain time, but subsequently acquired additional plots through purchase, gift or land clearance at a later date, and the figure does not track titling outcomes on a plot by plot basis. Also, some people received multiple titles to various plots of land. These nuances are not captured in the above figure, which only compares the date that the respondent commenced living in the area against whether or not they received any 01 titles. It should also be kept in mind that the research team did not request that respondents provide any written evidence of the length of their occupation, and the above details are based on their testimony alone. However, the data gathered does suggest that among the household questionnaire respondents, there was a higher chance for long-time residents of the area to receive title than there was for newer arrivals.

Instruction #018 makes clear that no land titles can be issued to those who commenced occupation of land after 7 May 2012. This was presumably to

discourage people from moving onto and clearing new land in order to receive land titles. With this in mind it is worth noting that household questionnaires for this research were conducted in June-July 2014, yet nine respondents say they commenced occupation of their land in the last two years, i.e. after the start of Order 01. Of this group, five received land titles.

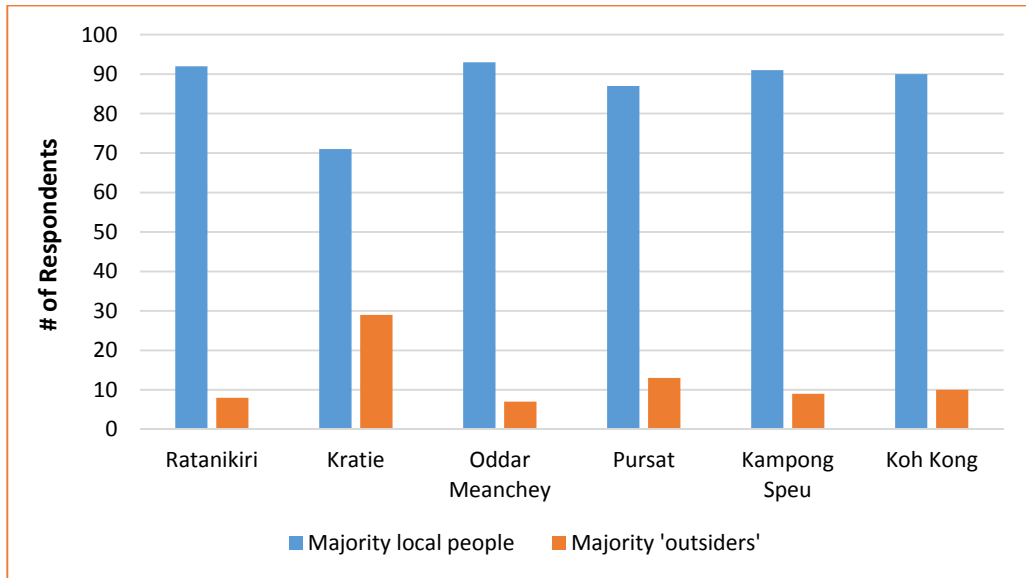
4.6.2 Origin of land title recipients: Insiders and Outsiders

During the implementation of the Order 01 campaign, reports of potential irregularities circulated in the media and several cases were picked up by civil society organizations. The local human rights organisation ADHOC (2013, p.35) stated that it had received local-level reports of people “opportunistically clearing forested or farm lands in an attempt to appear as legitimate residents and secure land titles”. The report does not go into detail or elaborate on the background of these individuals, however, the government also showed awareness of this problem, and Minister Im Chhun Lim (2012) also referred to this issue in speech, stating:

Along with the great achievement of this campaign ... there have also been some bad opportunists to encroach onto a new area, and claim for recognition from local authority. In this case, I would like to emphasize that any anarchic encroachment or claim on inactive occupied-planted-used land by various proofs is not eligible with this campaign.

Some reports suggested that ‘outsiders’, i.e. people not local to the area, or recent arrivals, in particular were responsible for such encroachment. To verify this, the household questionnaire attempted to identify the extent to which outsiders were able to obtain land titles during the Order 01 campaign. When asked whether the majority of the land title recipients in the area were local people, 87% of people (359 of 412 responses) confirmed that the majority were indeed local to the area. However, when viewed by province, the results to this question reveal interesting variations, as shown in Figure 4.10. Kratie emerges as the area where the most people (29%) thought the majority of land title recipients were not local to the area. For the other areas only 8-13% of respondents believed the majority of recipients to be outsiders.

Figure 4.10: Household questionnaire respondents' opinion on origins of majority of title recipients



The above statistics suggest that in the eyes of respondents in the six provinces visited by the research team, the majority of title recipients were local people. However, interviewers were told on a number of occasions that outsiders also received land titles.⁹² Turning to look at Kratie, a commune chief from Snoul district told interviewers: “Many outsiders, especially those from Kampong Cham [province], got large lands. By the time the campaign started, the outsiders had already cleared and sold land and many of them got titles” (KRT1, 09/07/2014). In another village also in Snoul, the chief stated that most residential and farm areas in and close to the village were occupied by local people, but outsiders had cleared forest within company areas, especially people from Kampong Cham, and had acquired large areas of land in this way (KRT3, 09/07/2014). A village chief in Sambo district stated that in his village of 303 families, 120 titles were issued, but “most” went to outsiders (KRT7, 06/07/2014). According to this

⁹² It should be acknowledged that the term ‘outsider’ is occasionally used in a discriminatory way. Although ‘outsiders’ are often associated with illegal activities, many are legitimate landholders who have purchased their land legally, but may be the subjects of discrimination against immigrants or local resentment towards the wealthy. However, interviewees in Kratie, the province where questionnaire respondents were most likely to feel that outsiders got land titles, continually accused outsiders or migrants of a great many things. Their accounts of migrants and outsiders included accounts of illegal logging and clearing land for sale (KRT2, 09/07/2014; KRT6, 07/07/2014; KRT7, 06/07/2014); clearing land within the ELC areas (KRT4, 08/07/2014); not holding a family book in the area in spite of collectively having more than 100 hectares of land (KRT5, 07/07/2014); and migrating to the area for the purpose of clearing land to gain a title through Order 01, although this last accusation was named in just one instance in Sambo district (KRT7, 06/07/2014).

village chief, people from Takeo, Kampong Cham and Prey Veng provinces began arriving in 2013, many with official letters to change their residence and with the goal of clearing Chamkar land within the forest for themselves and their families. In his opinion, there was enough advance notice that the Order 01 teams were coming that people from Kampong Cham were able to come to claim land in Kratie, and many of these 'outsiders' went on to gain land titles through the campaign (KRT7, 06/07/2014). A similar story was told in another village in Sambo district, where migrants from Kampong Cham allegedly cleared forests and then sold the land. The village chief commented that the people native to the area were not brave enough to clear the forest (KRT6, 07/07/2014). However, the Order 01 survey teams did not measure the land cleared by migrants in this case.

Outsiders often held larger areas of land than local people do, and in Thpong district of Kampong Speu, a commune council chief explained that about 10% of the land in his area had been bought by people from Phnom Penh. The council chief stated that when Order 01 surveys were conducted, outsiders tended to divide this land up into smaller pieces and distributed it to their children (KPS6, 19/07/2014). A village chief from Kampong Speu also confirmed this had happened, and that in some cases people from Phnom Penh held more than 60 ha of land and so divided it among their children. The chief did however emphasize that the focus of the campaign was on people who have cleared and farmed the land for a long period of time (KPS7, 20/07/2014).

In-migration into the uplands was identified as a serious concern by a village chief from Ou Chum district, Ratanakiri, but in this case it appears that migration occurred well before Order 01. According to the village chief, outsiders arrived during 2004-05 and acquired large areas of land by purchasing plots from villagers. These migrants were able to pay for food and a party for the volunteer students to ensure that their land was measured in its entirety (RTK7, 03/07/2014).

Commune and village officials in Kravanh district of Pursat also reported this trend, and wealthy landowners from Pursat town that held bigger lands divided it among their children in order to receive multiple titles. However, officials in Pursat also remarked that most titles went to local people (PST4, 16/07/2014; PST6, 16/07/2014). It was not only wealthy outsiders that benefitted, and a village chief from Krakor district of Pursat explained that in his village a community of landless Cham people had recently settled in the village. Most bought land and cleared forested areas, but were still given 01 land titles, which the village chief said "gave equal benefit to all people" (PST3, 15/07/2014).

In Oddar Meanchey, perhaps due to its proximity with the Thai border, the issue of the role of the military emerged numerous times throughout the course of the

research. This is explored in greater detail in Part 9. In this respect, one case in Oddar Meanchey illustrates well the extent to which powerful outsiders used their influence to gain land titles through Order 01. In one village in Samrong district, military and company employees often accompanied land survey teams, as explained by the village chief. While some villagers in the area had been able to obtain land titles, the village chief stated that the process was “mainly used for the benefit of soldiers, not the people in my village” (ODM2, 12/07/2014). Military officers and wealthy farmers from Banteay Meanchey province, who had machinery and workers with which to clear land and start cultivating in advance of the survey process, were also able to benefit from Order 01 titles in another village of Samrong district (ODM4, 12/07/2014).

4.7 Were Those Targeted by Order 01 Really Illegal Settlers?

The Order 01 campaign was presented by the government as targeting those who were illegally occupying state land, and the process was discussed in terms of ‘legalizing’ this occupation. Illegal occupation could include:

- Households living on or cultivating state public land, no matter when their occupation commenced;
- Households living on or cultivating state private land, where occupation began after the Land Law was promulgated in August 2001; and
- Households living on and/or cultivating state private land, where occupation began after the land had already been granted by the state to another person or company.

This is complicated somewhat by the fact that state land identification and mapping has so far occurred on an *ad hoc* basis in Cambodia, generally as and when the government has wished to transfer the land, for example, as an SLC, or more commonly an ELC. However, there is also a predominant mindset in place that until land is demarcated it is *de facto* state land (Dwyer, 2013, p.16). A legal framework is in place for land identification and classification, and this should be referred to when assessing the legality of a person’s land use and/or occupation – rather than assertions that land is property of the state simply because it has never been demarcated. For example, *Sub-decree #118 on State Land Management* makes clear that: “Private state land is all the land that is neither state public land, *nor legally privately or collectively owned or possessed* under the Land Law of 2001” [emphasis added].⁹³ The 2001 Land Law states that landholders who commenced their occupation or use of land prior to the promulgation of the Land Law may be legal possessors, provided they satisfy a set of five additional criteria. Legal possession is a right *in rem* and possessors are entitled to request that their possession be converted into ownership. People

⁹³ RGC, *Sub-decree N°118 on State Land Management* (7 October 2005), article 5.

meeting these criteria are not illegal occupants, and the claim that land is the property of the state simply because it has not been demarcated is dubious.

4.7.1 Assessing the legality of land occupation and use in the six study areas

Due to a lack of detailed data it is difficult for outside observers to assess whether or not those targeted by the Order 01 campaign were in fact illegal occupants, and given the fact that hundreds of thousands of people received titles, this would be an impossible task. Müller and Zülsdorf (2013, p.14) stated that the campaign was active mainly in forest land where most occupation is believed to be illegal. However, they also stated that some may be living on state private land in low-lying areas but that the campaign did not distinguish between the two.

It was difficult for the research team to assess to what extent the campaign targeted only land that was used by so-called 'illegal' settlers. The difficulty of ascertaining the degree to which people may have been 'illegal' was shared at the ground level, as one commune councillor in Koh Kong tellingly remarked when asked whether people in the commune are considered to be living on state land: "honestly, it was not clear to me at all since we all have lived on this land since we were born" (KK4, 26/07/2014). Similarly, when asked about illegal occupants, a village chief in Ratanakiri responded, "I have no ideas about this. My people have lived here their whole lives" (RTK1, 03/07/2014).

To try to paint a clearer picture regarding the legality or illegality of occupation in the 18 study districts, household questionnaire respondents were asked to identify how they acquired their rice, Chamkar, and residential land; the length of time they have been using these plots; whether they had pre-Order 01 documents to support their claims to the land; and if they had ever been informed prior to the campaign that their land use or occupation was illegal. At best, these are proxy indicators, but they are explored here with the intent of documenting the history of the land occupation and use prior to Order 01, and the extent to which people had previously been regarded as legal or illegal settlers.

The rice land of questionnaire respondents⁹⁴

The mean year that people reported that they started to farm their rice land was 1992. However, when the land use history of each plot of rice land is examined, substantial differences emerge. In particular, the average year that people said they started farming their *first*⁹⁵ plot of rice land was 1971. Yet when data is examined across all plots of rice land, the most frequently occurring answer was 1979, suggesting that the majority of the rice farming conducted by the respondents began soon after the fall the Khmer Rouge.

When describing their first plot of rice land, more than half of respondents acquired their rice land through inheritance or as a wedding gift from their family (211 people, 57%). The next most common way was for people to clear the land themselves (97 people, 26%); followed by purchasing the land (43 people, 12%); and then having received the land from local authorities (13 people, 4%). Very few (only two) reported receiving their rice land from the 1989 sub division of land from the Krom Samaki. This trend is depicted in Figure 4.11, below.

This pattern continued for the 132 respondents who had a second plot of rice land: the majority (68 people, 52%) gained rice land through inheritance, followed by land clearance (39, 30%) and then purchase (21, 16%). For the 55 respondents who reported a third plot of rice land, the same pattern repeated. That such high proportions of respondents acquired their rice land through their families very much suggests that their occupation has been long-standing, uncontested, and known to the authorities. Although it is beyond the scope of this study to make definitive judgements on this matter, there appears to be a possibility that at least some of these households could have potential claims of legal possession over their land.

With that said, most respondents had limited documentation for their land. Although purchase was a common means of obtaining rice paddy land, the majority of purchases were not supported by any kind of document (111 cases out of 142, 78%). More than four-fifths of respondents had no documentation at all for their rice land prior to the Order 01 survey by the youth volunteers (297 responses out of 360, 83%). A lack of land documentation was pronounced in

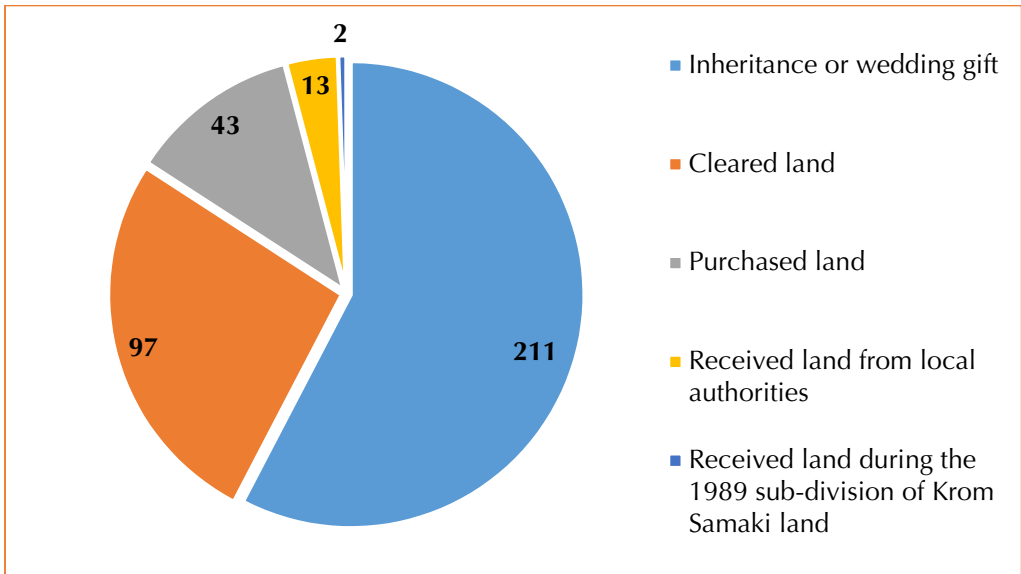
⁹⁴ For the most part, the respondents to our survey had rice land (367 out of 477 people, 77%), with the majority holding one plot (60%). Very few people reported having more than three plots of rice land: seven people had four plots and 12 had five plots or more. On average, people had 2.1 hectares of rice land, with the maximum reported size of 10.5 hectares. For the most part, there was little variation among provinces in the tendency for families to have more than one or two plots of rice land with the exception of Kampong Speu. More than one-third of respondents in Kampong Speu said they had three plots of land (35%). This was also the province where majority of the respondents who held five plots or more resided.

⁹⁵ The questionnaire collected data for people's land plot by plot for as many as five different plots of rice land and chamkar land.

Ratanakiri (where only 10% had documents), Koh Kong (12%) and Kratie (18%), while nearly one-third of respondents in Kampong Speu confirmed they held some form of document before Order 01. Although a lack of documentation does not automatically mean that occupation is illegal, it does make it harder for households to make a case for legal possession.

For those who had rice land (n= 365), only 30 people (8%) had been told in the past that their rice land was located on state land, in comparison with 335 farmers (92%) who reported that they had no information of any such overlap. A slightly higher number had been told that they were an illegal occupant of their plots of rice land, namely 38 farmers (11% of n=360), but still 322 farmers (89%) had never been informed that their status on the land was illegal.

Figure 4.11: Method of acquiring first plot of rice land



The Chamkar land of questionnaire respondents⁹⁶

In comparison to people’s history of rice farming, respondents began to occupy their Chamkar land some years later, with 1998 being the average (mean) year people reported farming their Chamkar land, and 1979 being the most frequent year people reported that they began farming it. Yet, there is a great degree of

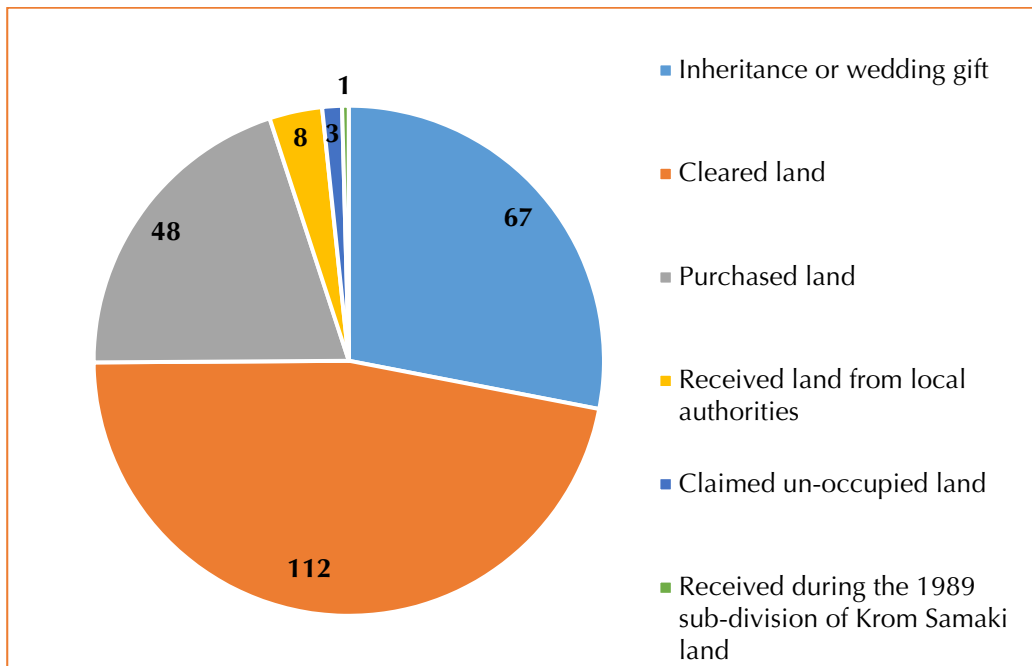
⁹⁶ About half of the respondents had chamkar land (245 farmers out of 473, 51%). Most of these farmers had just one plot of chamkar land (174, 70%), and about one-fifth had two plots. The average size of the chamkar land was 3.44 hectares. In Oddar Meanchey, respondents tended to farm just one chamkar plot, while in Ratanakiri , Koh Kong and Kratie there was a greater tendency for people to divide their efforts across two or more plots.

variation when looking at the results across different plots of Chamkar land. The most common way people reported acquiring their first Chamkar fields was by clearing the land themselves (112 responses, 46%), followed by inheritance or wedding gift (67, 28%), then purchase (48, 20%), as shown in Figure 4.12, below. Second plots of Chamkar were similarly most likely to be acquired via clearing of land by the respondents, but nearly one-third purchased their second plots of Chamkar.

When asked if people had documentation to support their purchases of Chamkar land, about one-third did (39 of 123 responses), but for the most part, people did not have any documents. Less than one-fifth of respondents had documents of any kind for their Chamkar land before the Order 01 survey teams came to their area. This was especially common in Kratie (87%), Oddar Meanchey (87%) and Ratanakiri (83%), but occurred the least in Kampong Speu, where two-thirds of those surveyed had no documents prior to Order 01.

Before the titling campaign, just 19 out of 251 respondents (8%) had been told that their Chamkar land was on state land. When asked if they had ever been told that their occupation was illegal, 18 people (4% of n=464) confirmed that they had. But almost all of the respondents, 232 people (93%), rejected that statement.

Figure 4.12: Method of acquiring first plot of Chamkar land



The residential land of questionnaire respondents

The most common way of acquiring residential land was through the family, in the form of inheritance or as a wedding gift (215 responses, 47%) followed by purchases (105, 22%) then through clearing the land themselves (91, 19%). Only one person reported that they gained access to their residential land through the 1989 subdivision of Krom Samaki land. About one-third of those who purchased land had some sort of formal contract to support the transfer, but overall nearly three-quarters of those surveyed had no documentation of any kind for their residential land prior to the Order 01 campaign. Ratanakiri and Kratie were the provinces where the fewest people held documents to their residential land prior to the survey (8% and 18%, respectively), whereas Kampong Speu was highest, with close to half of those surveyed holding documents for their residential land before Order 01. Only 13 of 460 people (3%) confirmed that they had been told that their residential land was located on state land prior to the land titling campaign.

As noted above in the sub-section on rice land, there is evidence to suggest that in many cases, the questionnaire respondents' occupation and use of Chamkar and residential land has been ongoing for many years prior to the passing of the 2001 Land Law, in some case over two decades, and in many cases in full knowledge of the authorities. Although the majority of respondents did not have strong documentation for their land, there is evidence to suggest that some may have had legitimate claims of legal possession. Of course, this is somewhat speculative given the incomplete picture that is available, but it is telling that in the past only a very small percentage of respondents had been told that they were located on state land or in any other way regarded as illegal occupants of their land. With this in mind, the next section explores how 'illegality' was understood on the ground by village and commune level authorities as well as by villagers themselves.

4.7.2 Perceptions of 'illegality' at the local level

Key informant interviews suggested much more clearly that among village and commune chiefs it was 'outsiders', or migrants, who were perceived to be illegal, and these ideas also carried over to the villagers the team met with. In Pursat, local officials emphasized that the campaign focussed on illegal occupants, naming them as an explicit target of the campaign (PST2, 15/07/2014; PST3, 15/07/2014; PST5, 16/07/2014; PST6, 16/07/2014). One commune councillor defined illegal occupants as "people who have occupied the cleared land for five years", or those who "were able to prove their occupation based on the crops, the tree yields and witnesses" (PST2, 15/07/2014). A commune councillor in Pursat town confirmed that if people recently bought the land and cleared it, or if

the land was not farmed or occupied, then the land was not eligible (PST7, 14/07/2014).

There are signs that people did rush to clear land in anticipation of land titles after Order 01 was announced, as some critiques have asserted, and it was reported to the research team in four of six provinces, namely Kratie, Pursat, Oddar Meanchey and Ratanakiri . One village chief observed that some people in his area of Kravanh, Pursat, started to clear land about 2-3 months before the campaign (PST5, 16/07/2014). In Voeun Sai district of Ratanakiri , a village chief said that even at the time of Order 01's implementation groups of rich people from outside came to clear land while measurement was taking place in the village (RTK6, 04/07/2014). These outsiders, in spite of their efforts, did not get their land measured but outsiders and newcomers who had arrived ahead of the survey teams did (RTK6, 04/07/2014). In Oddar Meanchey, a village chief detailed his concerns with encroachment: "It is hard to stop land clearance by the military and normal local people both before and after Order 01. After [Order 01] they continue [to clear land] even though they did not receive an official land title" (ODM5, 13/07/2014).

4.8 Conclusion: Factors Affecting Inclusion and Exclusion under Order 01

On paper, the Order 01 campaign had a clear focus on areas that were previously regarded by the RGC as being state land. Information gathered from interviewees at the local level suggested that the campaign focussed mostly on areas directly adjacent to or within concession areas. However, there is also a large amount that is reported as "state and forest land" in MLMUPC notifications on Order 01 results, and it is unclear exactly where these areas are located. In theory, land surveys were only supposed to take place on land that was cultivated and the campaign was not supposed to issue titles over land that was still forested. However, reports from some officials suggested that the approach of the campaign resulted in further land clearance as people wished to obtain as much land as possible when the survey teams arrived, and some national level interviewees suggested that freshly cleared land was in fact being registered through Order 01. However, the scale of such clearance is impossible to fully gauge without access to detailed maps of areas that were surveyed. If such maps could be obtained, they could be compared with satellite images to measure the scale of forest clearance.

The field research found that if questionnaire respondents lived in an area where Order 01 land surveys took place, they were likely to have at least some of their land surveyed and titled. Yet these surveying activities appear fragmented since there were numerous reports from questionnaire respondents that some of their

lands were surveyed and some were not. While a large number of respondents received land titles, there were still over 300 people who said that they had some land surveyed for which they had not received land titles. Certainly a large number of land titles were issued to local people, but there were also significant issues around exclusion and non-issuance of title. Various reasons were given by households and local officials as to why land was not surveyed, however, analysis of the data has shown that there were inconsistencies in how exclusions were implemented.

The approach to dealing with disputed land emerged as a major area of inconsistency during Order 01's implementation. In many of the 36 villages visited for this research, interviewees stated that the campaign focussed on areas that were disputed and consciously avoided undisputed areas. However, there were a number of cases people were also told that they could not have their land surveyed *because* they were involved in a dispute. This contradiction emerged in numerous areas visited by the research team and it was very difficult to find ascertain why some disputed areas were proactively targeted, whereas others were avoided all together. It is difficult to tease out a clear conclusion from the data as to why some disputed areas were targeted and others avoided. This may be due to the fact that decisions were taken at higher levels about which the interviewees – namely village, commune and district officials – had limited knowledge.

Disputes with an ELC was one of the key reasons for exclusion from the survey process. However, this reasoning is somewhat counterintuitive to the main objective of the campaign, which was to resolve the overlaps between land claims of villagers and concessionaires by implementing the 'leopard skin' strategy. Statistics from the MLMUPC indicate that a huge amount of land was reclassified from ELCs and granted to people that were previously regarded as being illegal occupants of the land. Data gathered in the field concerning protected areas and forests also painted a somewhat confusing picture. Some interview respondents reported that people within protected areas were excluded from land surveys, while others were able to have land titled.

Another research finding that points towards inconsistent implementation of the campaign relates to the limit on plot size that could be titled through Order 01. Responses from the household questionnaire indicate that most people did not know of any limit, whereas interviews with officials suggest that different limits applied in different places. Some officials suggested that no limit was imposed in their area.

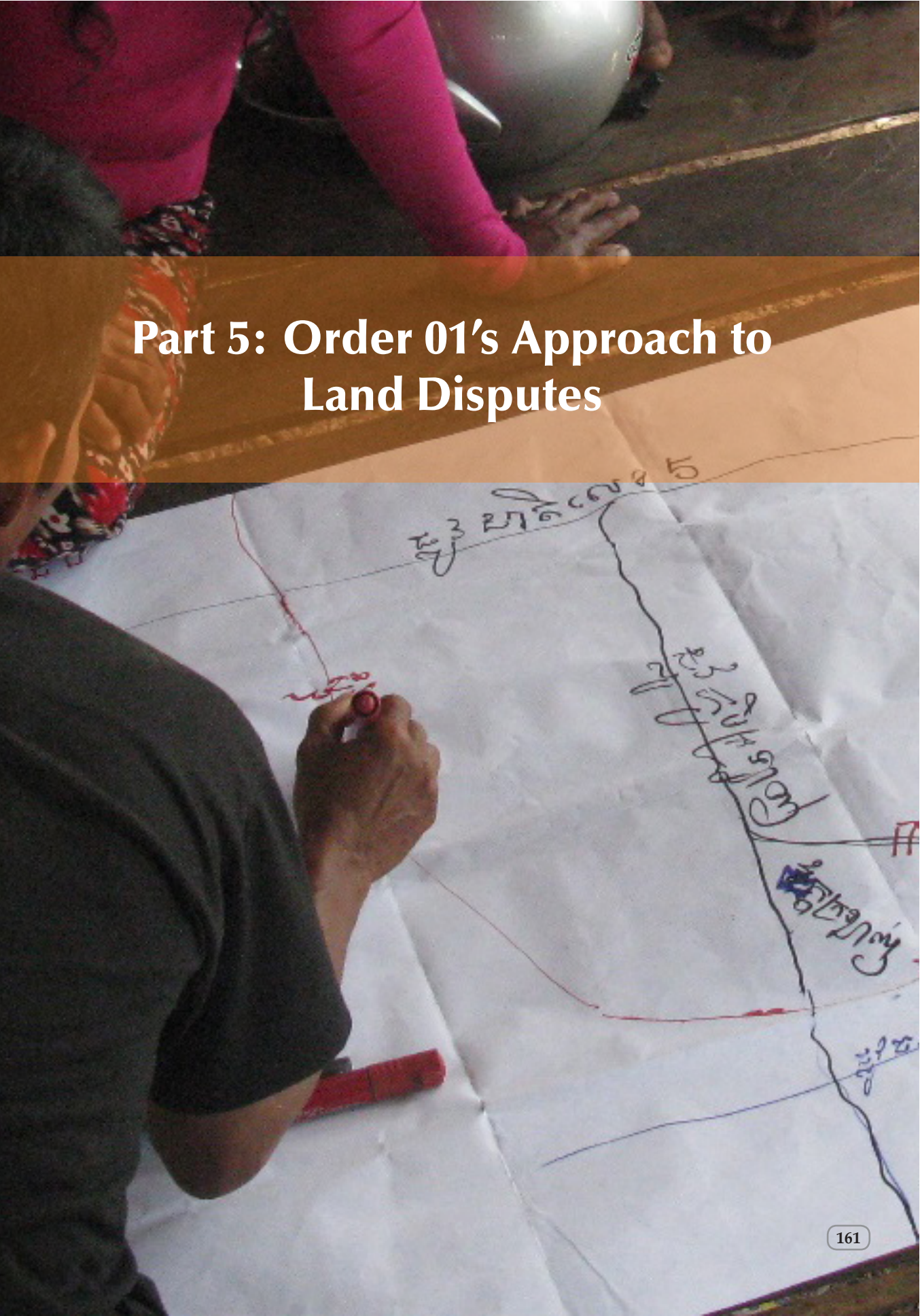
The authors' review of secondary sources along with national level interviews helped to identify numerous cases in which it was alleged that 'outsiders' (i.e. people that were unknown to local residents, or people that had only recently

acquired land in the area) were able to benefit from the Order 01 process. Similar accounts were found while conducting the field research, particularly from interviews, and supported by data from the questionnaire that 'outsiders' were able to benefit from Order 01 in some cases. Yet, quantitative data did show that for the most part people considered that the majority of people that benefited from Order 01 titles were local people. This is further supported by data concerning length of residency, which confirmed that the longer an individual had lived in their village, the higher the chance was that they would receive a title. Indeed the group most likely to receive titles reported that they had occupied their land for 25 years or more.

Finally, this part of the report also attempted to explore the extent to which the occupation and land use of those targeted by Order 01 could be said to be illegal. As discussed throughout parts 2-4 of this report, the RGC has stated on numerous occasions that the campaign focussed on the illegal occupation of state land. While few of the household questionnaire respondents had strong documentation for their land prior to Order 01, a large percentage had occupied their land since well before the passing of the 2001 Land Law, and in many cases had acquired their land through inheritance or as a gift from family. This suggests a lengthy chain of possession, which indicates that in some cases the people targeted by Order 01 may in fact have been legal possessors (although without a detailed legal assessment of each claim, this is merely speculation). While this legal argument is important, it may not necessarily be a priority for those who received titles through the process, and as will be discussed later in Part 9, those whose land was registered were overwhelming satisfied by the fact that they received titles.

What emerged as a bigger concern was the incidence of exclusion from the process, which was a significant issue in some areas. The presence of dispute was a major cause for exclusion from the process. The issue of Order 01's approach to disputed areas is therefore expanded on in the following Part of this report.

Part 5: Order 01's Approach to Land Disputes



Part 5: Order 01's Approach to Land Disputes

Whether or not Order 01 surveys targeted disputed areas is a key issue. The fact that the campaign was active in surveying the lands of households within ELC and forest concession areas means that disputes were highly likely in many of these areas. At the same time, numerous reports emerged during the implementation of Order 01 that surveys were being denied in areas where there were disputes. This apparent contradiction and the lack of clarity as to how Order 01 proceeded, or not, on disputed land formed a key focus of the field research, with the aim of contributing to understanding how this contradiction was managed.

The inconsistencies in Order 01's approach to disputed land can be seen in communications from the Minister of Land Management and the Prime Minister. According to a September 2012 speech by H.E. Im Chhun Lim, the Minister of Land Management, approximately 10% of the 1.8 million ha of land targeted by the campaign is "highly disputed". However, Prime Minister Hun Sen reportedly stated in an earlier speech in August 2012 that disputed areas were off limits to the survey teams (May, 2012). The picture on the ground adds further confusion to this issue. Some communities were told directly that their land claims would not be surveyed due to the existence of land disputes, while other communities that have been engaged in long-running conflicts appear to have received titles for at least parts of their land.

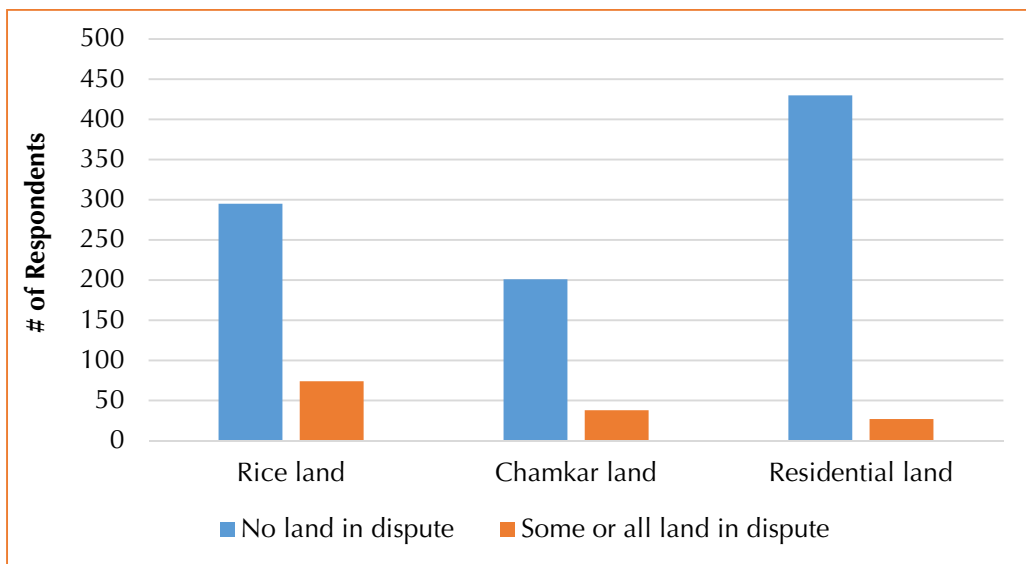
This section of the report examines how Order 01 dealt with disputed areas, the extent to which it was able to resolve disputes in areas that were targeted, and what types of dispute emerged during the process. First, it examines the presence of disputes prior to the start of Order 01, which is followed by an examination of the cause of these disputes, and whether or not Order 01 surveyed these areas. Second, it looks at disputes that emerged during the survey process and how these were dealt with. It concludes with a brief discussion on disputes that were left over after the end of the 01 survey process.

5.1 Presence of Disputes Prior to the Start of the Order 01 Campaign

The household questionnaire asked respondents in the 36 study villages whether or not any of their land had been subject to dispute prior to the arrival of the Order 01 land survey teams. The results indicated that the majority of respondents had not been involved in any dispute prior to Order 01. However, it is important to recall from the methodology that data collectors over-represented households who had at least some of their land surveyed when selecting informants (approximately two-thirds of the sample).

The questionnaire asked respondents whether or not any of their rice, Chamkar or residential plots had been in conflict prior to Order 01. If respondents stated that their land was in dispute, they were then asked if that dispute affected all their land or just part of it. The results are plotted in Figure 5.1, below and show that the majority of respondents reported that their land was not in conflict before the campaign. Turning to look at rice land first, 80% of respondents (295 out of 369) reported that their rice land had *not* been in conflict before the Order 01 teams surveyed the land. For the 74 people who reported that their rice land had been in conflict before the campaign, nearly half of respondents (31) said that all of their rice land was in conflict. Similar to rice land, the majority of respondents – 84% (201 out of 239) – reported that their Chamkar land had *not* been in conflict before it was surveyed through Order 01. For the 40 people who reported that their Chamkar land had been in conflict before the campaign, nearly half (18) said that all of their Chamkar land was in conflict. Finally, conflict over residential land was much less common, and prior to Order 01 only 6% of questionnaire respondents had experienced conflict over the land they were living on (27 of 457).

Figure 5.1: Prevalence of land disputes prior to Order 01 in the six study areas



The questionnaire identified 139 cases in which at least some of respondents' land had been in dispute prior to Order 01. The types of land subject to dispute are shown in Figure 5.2. It is important to keep in mind that one household may have more than one type of land in conflict, and so this figure best represents cases of conflict in the study areas rather than the number of households who had a conflict.

Figure 5.2: Number of respondents with some land in dispute prior to Order 01

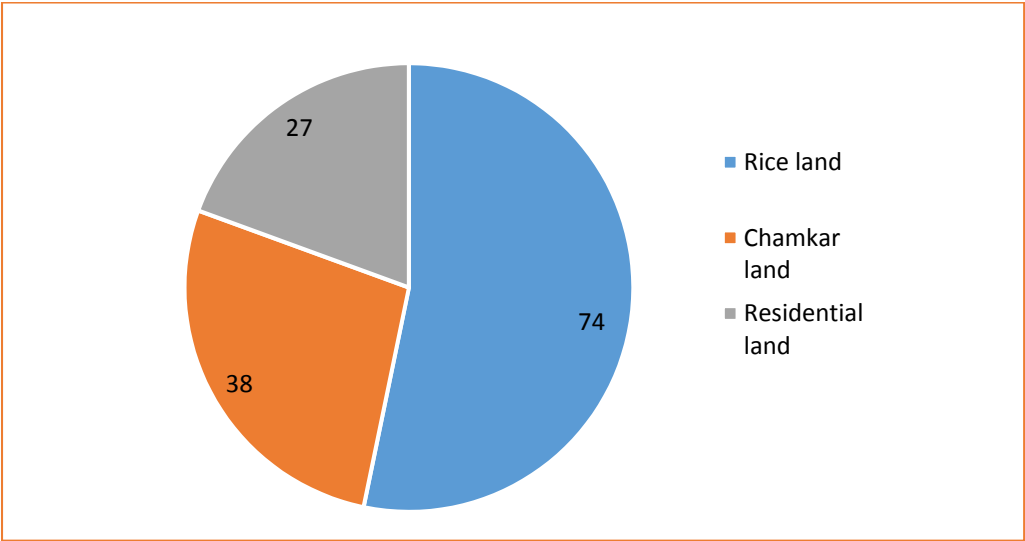


Table 5.1 outlines how these conflicts were distributed geographically and by each category of land. Rice land disputes were most common in Oddar Meanchey, where 36% of respondents with rice land (20 out of 56 people) reported a pre-existing land conflict. Chamkar land disputes were most frequent in Kampong Speu, where 37% (7 out of 19 respondents) had been involved in conflict over some of their Chamkar land. Residential land disputes were marginally more common in Pursat and Koh Kong.

Table 5.1: Percentage of respondents involved in land disputes prior to Order 01

Province	Rice land in dispute (%)	Chamkar land in dispute (%)	Residential land in dispute (%)
<i>Ratanakiri</i>	16	17	3
<i>Kratie</i>	13	13	3
<i>Oddar Meanchey</i>	36	11	7
<i>Pursat</i>	22	37	11
<i>Kampong Speu</i>	16	12	1
<i>Koh Kong</i>	19	15	12
Average	20	18	6

Having outlined broad trends in pre-existing land disputes in the study areas, the following section examines the backgrounds of these disputes in terms of the actors involved and the duration of the conflicts.

5.2 Background of Disputes in the Study Areas

5.2.1 Actors involved in the dispute

Returning to the 139 cases of pre-existing conflicts, the most common cause of conflict was a dispute with an ELC, as reported in 79 cases. This was followed by disputes with other individuals (29 cases) and finally with protected areas or forests (14 cases). The same pattern was observed for disputes over rice, Chamkar and residential land, as shown in Table 5.2. In some cases disputes involved multiple actors, for example, a plot of land could be in dispute with both an ELC and an individual, therefore the figures in Table 5.2, which indicate the sources of disputes, exceed the total number of disputes provided above.

Table 5.2: Cause of disputes reported in study areas

Land type	ELC	Individual	PA or Forest	Others
<i>Rice Land</i>	43	17	7	13
<i>Chamkar Land</i>	24	6	3	9
<i>Residential Land</i>	12	6	4	7
Total	79	29	14	29

5.2.2 Date that land disputes commenced

Questionnaire respondents were asked when their land first became subject to dispute. Figures 5.3, and 5.4, below, plot the years that respondents said the land disputes commenced over their rice and Chamkar land, respectively. The histories of disputes over rice and Chamkar land show a similar trend of increasing in frequency in the mid-2000s, reducing during 2008 and then rising in frequency again until 2011, then dropping sharply from 2012, the year Order 01 was passed. Unfortunately, although respondents were asked for information concerning the start date of disputes over their residential land, the data gathered was insufficient to conduct a similar analysis.

Figure 5.3: Start date of disputes concerning rice land within the six study areas

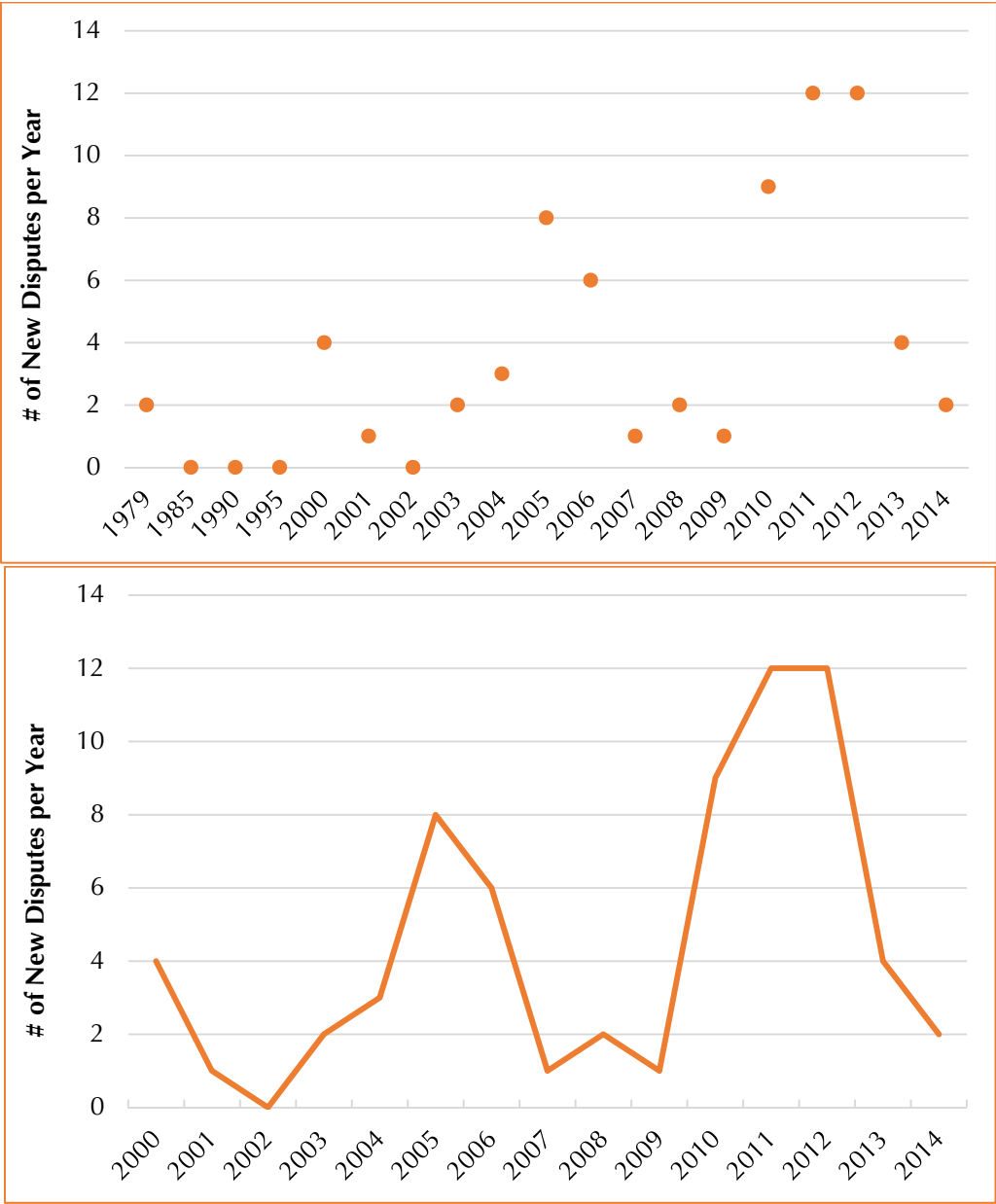
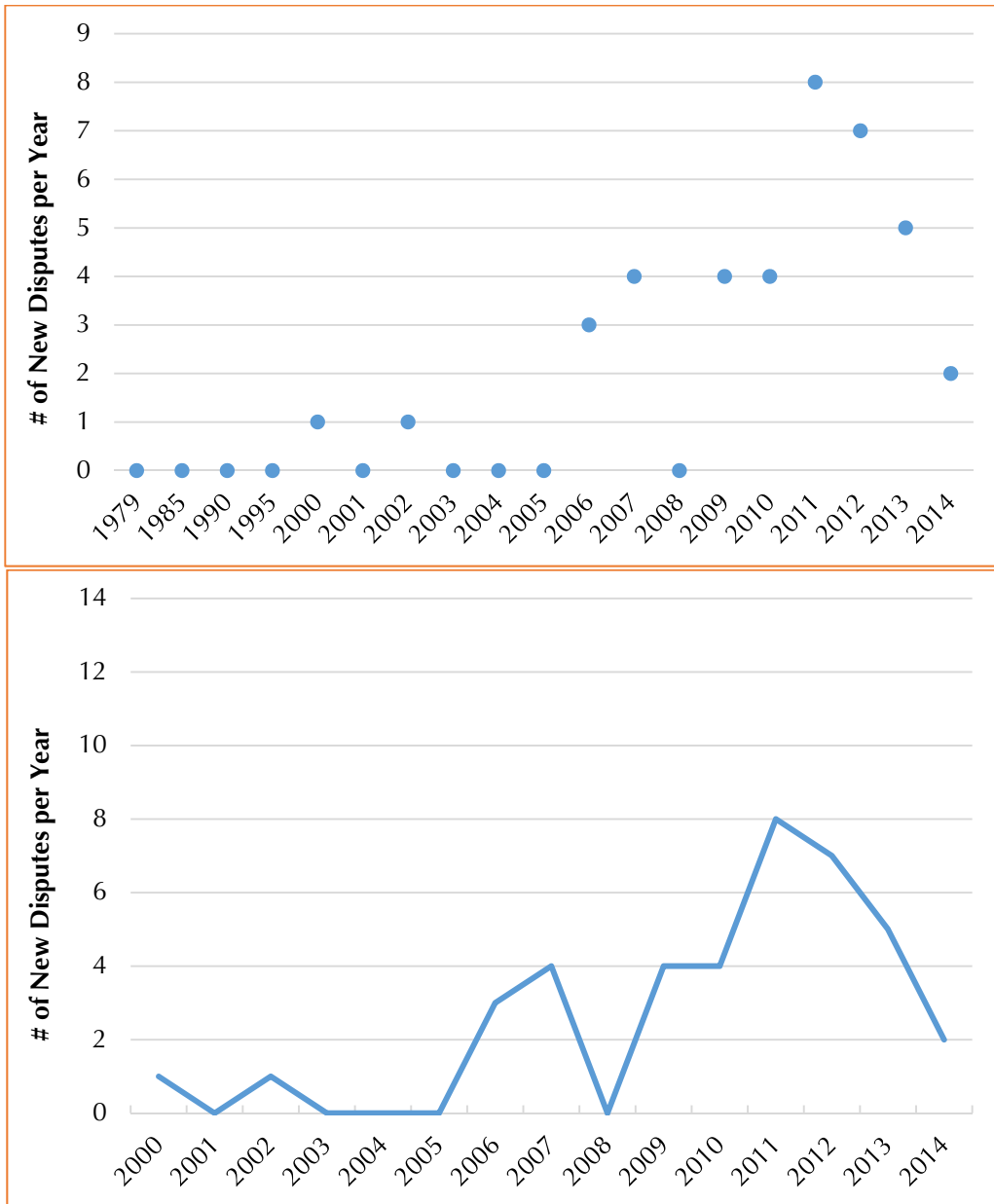


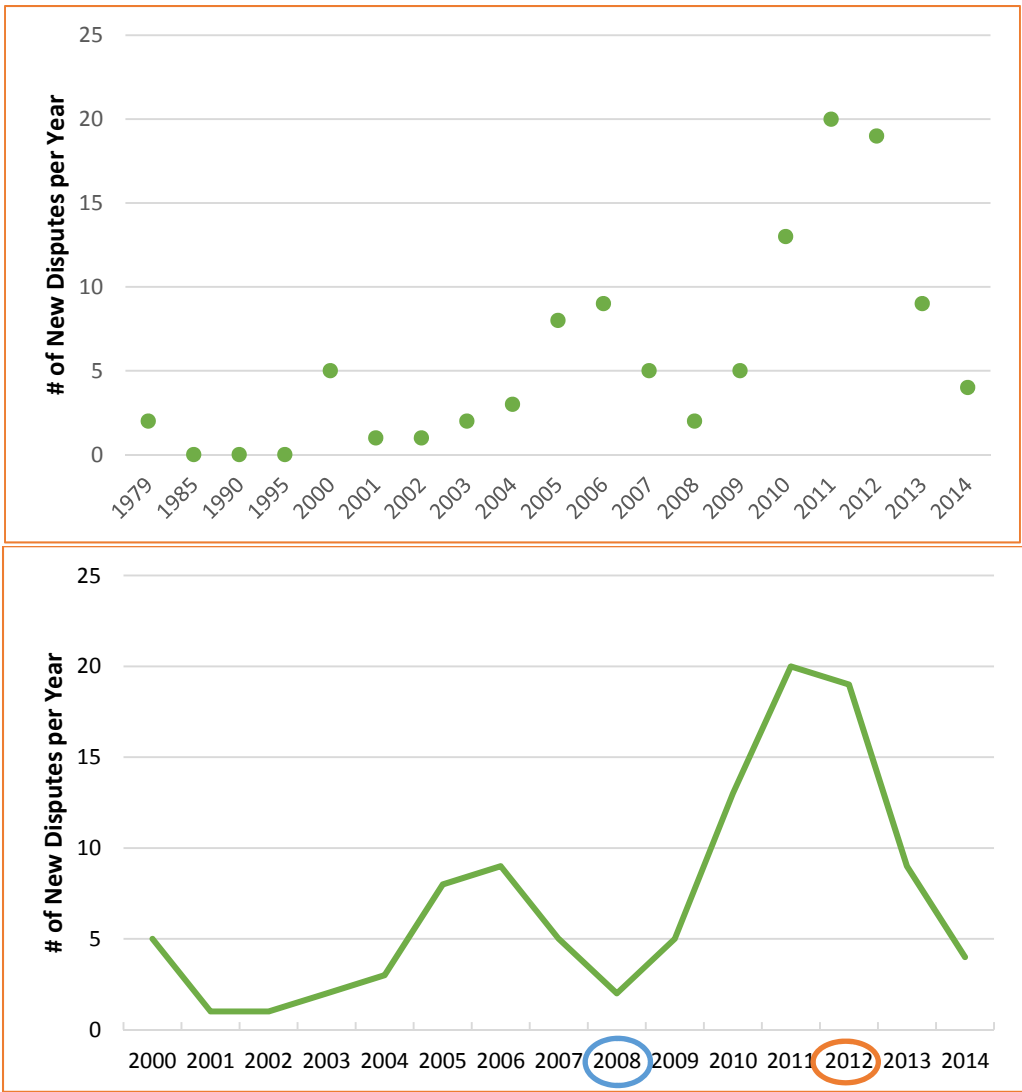
Figure 5.4: Start date of disputes concerning Chamkar land within the six study areas



The rise in disputes starting from the early 2000s is particularly pronounced in Figure 5.5 which combines dispute data for both rice and Chamkar land. The incidence of new disputes rose considerably between the early 2000s and 2011, although the number of new disputes dropped dramatically in 2008. This drop corresponds with the global financial crisis, and 2008 was also a national

election year. This lull did not last for long, however, and new disputes increased drastically between 2009 and the announcement of the Order 01 campaign in 2012. The year following the implementation of Order 01 – also an election year – disputes fell drastically.

Figure 5.5: Start date of disputes concerning rice and Chamkar land within the six study areas

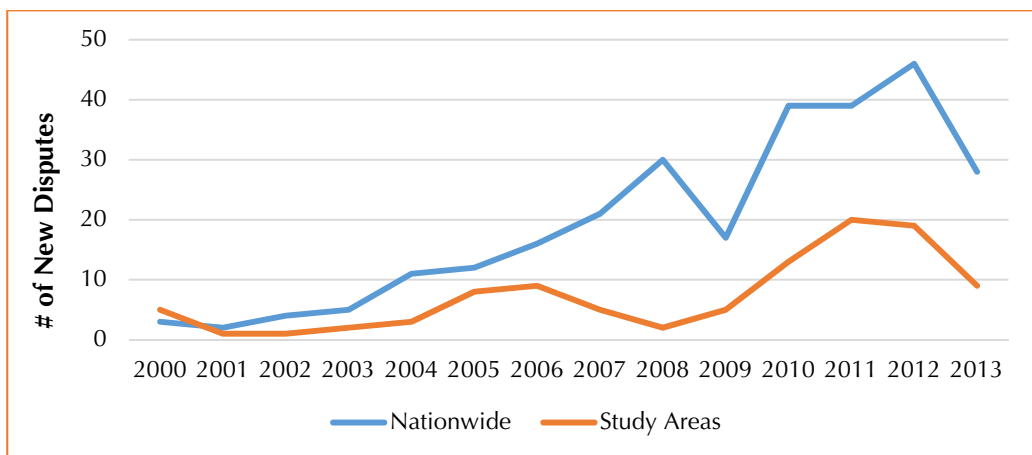


2008: Cambodian general election, peak of global financial crisis
2012: Announcement of suspension on new ELCs, commencement of Order 01 land titling campaign

It is interesting to compare these figures with nationwide data on land disputes. The NGO Forum on Cambodia (NGOF) compiles statistics based on disputes reported in the media and reported by its network members. The methodology utilized by NGOF only records disputes involving five households or more, and disputes involving multiple households are counted as a single dispute (NGO Forum, 2014, p.6). The methodology for recording disputes in this study differed, with every household questionnaire respondent asked if any of their land was in dispute. This means that small disputes (involving less than five households) are included, and cases where multiple people are involved with a single concession are counted multiple times. Nonetheless, the results bear some similarities with the NGOF national statistics, as can be seen in Figure 5.6 below. NGOF figures show that the dip in nationwide disputes occurred in 2009, rather than 2008, suggesting that this may have been more closely related to the financial crisis (and the associated drop in land prices), than to the national elections of 2008, when disputes actually peaked. However, both datasets show a peak in 2011-2012, suggesting that prior to the adoption of Order 01 Cambodia was indeed facing what some have termed a “land crisis”. Both sets of figures suggest that immediately following the adoption of Order 01 there was a drastic decline in disputes (NGO Forum, 2014, p.8).

More recent statistics suggest that this success may have been short-lived. In February 2015, the local rights group LICADHO reported that in 2014 it recorded a “surge” in new disputes. The organization recorded new disputes involving 10,625 families, double the amount recorded in 2012 and triple the amount recorded in 2013 (LICADHO, 2015). It should be noted that such figures are usually strongly denied by the government, but they certainly warrant further attention. If accurate, the figures suggest that Order 01 only had a short term impact on the occurrence of new disputes.

Figure 5.6: Comparison of incidence of land dispute nationwide and in study areas, 2000-2013



Source: NGO Forum on Cambodia (2014) and data gathered during household questionnaire (2014)

5.3 Did Order 01 Survey Disputed Areas?

As explained in Part 3 of this report, officials interviewed in all of the study areas stated that at the local level officials would help to conciliate disputes that emerged during the survey process through the Administrative Committee. If conciliation was not possible at this level, cases were raised to the district and then provincial level.

Interestingly, results from the household questionnaire found that rice and residential land that had been subject to some kind of a dispute were slightly more likely to be surveyed through Order 01 than land that was not subject to dispute, as shown in Table 5.3. Chamkar land was the exception, and disputed Chamkar land was less likely to be measured than undisputed Chamkar. This indicates that some efforts were actively made to deal with areas that were previously subject to dispute.

Table 5.3: Survey of disputed and non-disputed land in study areas

Province	Percentage of disputed plots surveyed	Percentage of non-disputed plots surveyed
<i>Rice land</i>	77%	74%
<i>Chamkar land</i>	68%	76%
<i>Residential land</i>	73%	53%

Although data from the household questionnaire showed a high incidence of disputed land being surveyed, the results also show that the process was only successful in resolving disputes in less than a quarter of these cases. Table 5.4 gives an overview of the extent to which land conflicts were resolved prior to and during Order 01, and those left unresolved. Of those disputes that were resolved, 31 out of 72 were resolved *prior* to Order 01, and the campaign itself only appears to have solved 30 out of 139 conflicts, suggesting that the process was not particularly effective at solving disputes as there was very little difference in the numbers of people who had their land disputes resolved prior to the Order as during its implementation.

Table 5.4: Disputes resolved during the Order 01 survey in the six study areas

Type of land	Land in conflict	Resolved pre-01	Resolved during 01	Resolved but unclear when	Disputes remaining
Rice land	38	10	7	0	21
Chamkar land	27	1	7	6	13
Residential land	74	20	16	5	33
Total	139	31	30	11	67
		72			

It was not possible to explore further why these cases remained unresolved in the eyes of questionnaire respondents. It could be that the survey process was not complete as the teams found that the land was disputed and the parties could not agree to boundaries; or the survey result may have been disputed during the public display; or that titles were not awarded for the area in spite of it being surveyed; or that the disputed area simply was not surveyed. It is also possible that the dispute was resolved in favour of the other party, and the dispute may have not been resolved to the satisfaction of the questionnaire respondent.

It is important not to lose sight of the fact that Order 01 did survey some disputed areas, and in the process some disputes were resolved – which is no small achievement given the overall picture of land conflict in the country. Having considered the status of disputes that existed prior to Order 01 commencing, it is also important to look at what disputes emerged during the process, and how they were addressed.

5.4 Types of Disputes Observed During the Order 01 Process

It is not uncommon for disputes to arise during the process of land registration, and for this reason dispute resolution was built into the systematic land registration (SLR) process. Article 237 of the Land Law and article 12 of *Sub-decree #46* specify that if disputes emerge during the adjudication process (for example, during boundary demarcation or public display), the Administrative Committee will seek to help the parties to conciliate the dispute. If a resolution is not possible, the plot is recorded as disputed and cannot be registered. Such cases should be passed to the Cadastral Commission, which is responsible for hearing disputes over unregistered land.⁹⁷

⁹⁷ For a more detailed discussion of dispute resolution in the SLR process see: Mark Grimsditch et al (2012, pp.23-27).

The compilation of Order 01 documents published by the Ministry of Land Management, Urban Planning and Construction (MLMUPC) in 2012 does not include any detailed explanation of what should happen if disputes emerge during the implementation of the 01 land titling campaign. However, the process of dispute resolution under Order 01 was referred to in public speeches. The Minister of Land Management, H.E. Im Chhun Lim, stated in a speech to development partners in 2012 that if disputes arise during the demarcation of state land they will be resolved by the Provincial State Land Management Committee. This speech also clarified that disputes related to individual land parcels will be conciliated by the Administrative Committee based on *Sub-decree #46*. As discussed in Part 3 of this report, the research team heard that a dispute resolution process was put in place in each of the Order 01 survey areas, but had mixed results depending on the severity of the dispute. Below is an overview of three key types of dispute that emerged during the 01 process, namely boundary disputes, disputes between villagers and ELC holders, and disputes with the military.

5.4.1 Boundary disputes between neighbours

It is not uncommon for land titling programs to ‘flush out’ disputes (World Bank, 2002, p.37). These disputes may already be present or may be catalysed by the titling program itself as people realize that permanent boundaries are to be officially set. As this is a likely outcome of titling campaigns, mechanisms need to be in place to deal with boundary disputes as they emerge. This issue was observed in the study areas to varying degrees, although most interviewees focussed on the more serious disputes, for example, between local people and concessionaires, and therefore the amount of information gathered on small-scale boundary disputes was limited.

In Koh Kong, a village chief from Koh Kong district stated that many boundary disputes emerged during the survey process due to a lack of clarity over boundaries. This led to overlapping measurements and many people objected to the results posted during the public announcement (KK1, 26/07/2014). Elsewhere in Thmor Bang district of Koh Kong, the provincial technical team established a system to deal with such disputes, but a village chief there said that very few disputes emerged in his village during the survey process (KK4, 26/07/2014). In Kratie, a commune chief from Snoul district also stated that a dispute resolution committee was established and accompanied survey teams to assist them in solving boundary disputes that emerged during the demarcation process (KRT1, 09/07/2014). This also occurred in Krakor district of Pursat, where a commune council chief explained that it was necessary for local officials to facilitate the resolution of land boundary disputes as they had the most detailed knowledge of land histories in the area (PST2, 15/07/2014). Anecdotal evidence suggests that the local level dispute resolution was most successful in resolving smaller

boundary disputes, but encountered challenges when disputes involved multiple parties, companies or the military, as elaborated below.

5.4.2 Disputes between villagers and ELC holders

During the implementation of Order 01, major disputes emerged between villagers and concessionaires, many of which were reported in the media. As discussed in Part 4, many households were excluded from the survey process because their land was disputed with an ELC. According to MLMUPC statistics from December 2014, 380,000 ha of land were cut from 134 ELC companies.⁹⁸ This clearly indicates that this type of conflict was resolved in favour of smallholders in numerous cases. Discussions with villagers and officials in the surveyed areas also revealed that many people with lands within ELCs were surveyed. However, many were also denied title because the conflict could not be resolved. A number of interesting examples and insights emerged regarding this issue, several of which are elaborated below.

One very notable case occurred in Snoul district, Kratie province – a site of intense rubber investment. Here a village chief told researchers that a representative from one rubber company attempted to thwart Order 01 measurements in the area and was eventually arrested following intervention from “senior government”. Following the removal of this obstacle, land was measured, titles issued, and as a result, disputes between people and the company resolved, according to the village chief. However, he also said that some people are still trying to expand their land or grab other areas not included in their title (KRT2, 09/07/2014). In the other village in Snoul district included in this study a conflict had been ongoing between the community and concession company since 2006-07, when the company stopped people from gathering timber from the forest and started to clear the area itself. The conflict was intense, and on more than one occasion people protested against the company, sometimes carrying axes and other tools, while the company hired armed guards. As the conflict worsened, some villagers were arrested and sent to jail. However, Order 01 proceeded in this area and people did receive land titles, thereby helping to resolve the conflict, according to one village chief (KRT3, 09/07/2014).

In spite of the two successes in Snoul, Order 01 was less effective in resolving disputes in some other districts in Kratie. Taking the example of Sambo district, a village chief told the research team that land conflicts were not easy to solve and some complaints had been submitted to the courts in order to seek a resolution following Order 01 (KRT6, 07/07/2014). At the time of the research these complaints were still pending.

⁹⁸ MLMUPC, *Notification*, 17 December 2014.

In Kampong Speu, Order 01 surveys did not take place in one area on the grounds of a pre-existing complaint at the provincial courts submitted by one community in conflict with an ELC company. A village chief explained that the company had cleared land in Phnom Sruoch district and in some cases this clearance left villagers on an island of land within the concession and with access to their farm land limited by irrigation canals. To deal with these islands of smallholder land use, the company had tried to buy the land from the people but they refused to sell, and instead protested. These protests led to the company hiring military to guard the concession. The affected people filed a complaint with the courts to resolve the dispute prior to the start of Order 01, but the court did not take action. When Order 01 came to the area people were told that they could not receive land titles as the land was subject to a complaint at the courts (KPS2, 22/07/2014). This case is notable for how the so-called 'leopard spots' that were already in place before Order 01 were approached by the campaign.

Elsewhere in Kampong Speu, villagers were able to gain titles for land in dispute with an ELC company after the provincial level government intervened to insist that all surveyed land be issued title. The City Mart ELC company, operating in Thpong District, attempted to prevent the Order 01 teams from issuing titles for over 90 parcels that had been surveyed, according to one village chief. The owners of these parcels complained to village and commune level officials, who then raised the issue to the district and provincial level. In response, the Provincial Hall ordered the team to issue the titles, stating that all surveyed land should be titled (KPS7, 20/07/2014).

In Pursat, a village chief explained that some residents received titles in an area also claimed by two ELC companies, Pheaphimex and Ratana Visal, but some disputes remained unresolved and therefore untitled. In this part of Krakor district, Pursat, the village chief explained how the survey process had been relatively smooth and no boundary disputes occurred, but after survey receipts were issued many additional disputes emerged between people and the two companies. The village chief verified villagers' complaint letters and forwarded these to higher levels, but the dispute resolution committee did not resolve any of the disputes and would not verify the peoples' complaints. The village chief commented that the committee seemed to be unaware of the history of the land or the conflicts, which have been running for many years. At the time the research was conducted, the two companies continued to clear land in the disputed areas even though the conflicts had not been resolved (PST3, 15/07/2014).

Other observers have also reported on how disputes with ELCs were handled by Order 01, and one case that received considerable attention was the dispute in Koh Kong involving the Chinese company Union Development Group. The United Nations Office of the High Commissioner for Human Rights (UNOHCHR)

found that households living in the contested area were denied access to the campaign process and survey teams deployed to the area were under orders not to demarcate the land as it was under dispute (Subedi, 2012, p.123). Local rights group ADHOC reported on two additional cases in Koh Kong. The first, involving 202 families involved in a dispute with the Koh Kong Plantation and the second involving a long-running land disputes with Okhna Heng Huy in Sre Ambel district of Koh Kong. In all of these cases, households were reportedly unable to have their land surveyed due to the on-going disputes (ADHOC, 2013, p.35). Another case by-passed by the campaign, this time from Kampong Speu, was investigated by Human Rights Watch (HRW). HRW interviewed villagers in Phnom Sruoch district who were evicted from land they claimed to have occupied since the 1940s. The organization reported that when these villagers asked the “student chief” to survey the land, he threatened to call the authorities and have them sent to prison, and told them that disputed land could not be surveyed (HRW, 2013). These accounts of exclusion due to dispute were reflected in the research findings from the six study areas, however, the reported behaviour of the “student chief” is especially alarming.

The media also reported extensively on cases where people were unsuccessful in their attempts to access Order 01 due to ongoing disputes. A *Phnom Penh Post* article from May 2013 reported on the case of military families in Veal Veng district, Pursat Province, who were unable to access the Order 01 survey process (May, 2013b). In 2000, the government resettled 500 former Khmer Rouge families in the area as part of the RGC’s integration of soldiers of ex-KR soldiers into the national army. In December 2010, the land was granted to Okhna Try Pheap’s MDS Import-Export company and the families were prevented from continuing to farm the land. According to villagers, Order 01 survey teams measured land for the company, but local authorities did not permit the teams to survey the villagers’ land. The article further explains that through the Order 01 process, 3,000 ha of land was in fact cut from the MDS rubber concession in December 2012, but the villagers interviewed for the article did not receive any. Local officials said that these villagers must instead wait to receive a social land concession because they are in a border area (May, 2013b). In April 2013, 40 villagers representing around 370 families submitted letters to the Prime Minister’s Cabinet requesting intervention (Phak, 2013).

In another area of Pursat where there is a long-running dispute with Pheaphimex, the *Phnom Penh Post* reported in August 2012 that 19 families were told that campaign teams could not survey their land due to the dispute (May, 2012). However, decrees published in Cambodia’s Royal Gazette indicate that several thousand hectares of land have been cut from the Pheaphimex concession, which implies that some people involved in disputes with the company were able to receive land through Order 01. This again points to inconsistency in the Order 01 approach to surveying land that was contested between local people

and ELC companies. The Pursat case is a useful example as it indicates that even within the same concession, some people were able to receive land titles whereas others were not – although it should also be kept in mind that at over 300,000 hectares, the Pheapimex concession dwarfs all other concessions in Cambodia.

During the fieldwork for this study, the research team sought to identify the reasons why different areas were approached differently by the survey teams, but no definitive conclusions could be made. As discussed in Part 3, a common reason given for cancellation of concessions was the lack of cultivation. It could also be the case that villagers who were in conflict with an ELC over land that had already been cleared and planted by the company were unable to have that land surveyed, but this is difficult to verify without detailed information and maps on reclassified areas. In some cases concession companies have cleared land but never developed it, and several of these companies subsequently abandoned the land. Survey and registration in areas such as this, if they occurred, would presumably have been fairly straightforward and likely to result in the issuance of land title unless another company had taken over the concession. However, if land had already been cultivated, it can be expected that the company would be especially reluctant to relinquish land, and that granting it to villagers would be particularly problematic.

It could also be the case that during the survey process an element of negotiation occurred between concessionaires, local people and the authorities regarding the cutting of land from concessions. In Andoung Meas, Ratanakiri, a village chief explained that whereas boundary disputes between neighbours were resolved through conciliation, disputes involving ELCs were sometimes resolved by the company purchasing the disputed land or providing a piece of land elsewhere in exchange (RTK2, 02/07/2014). Along with the other information outlined above, this gives the impression that the approach of Order 01 around concession areas was in fact somewhat flexible, and could result in granting of title over previously disputed land, refusal to survey, provision of alternative land, or an agreement between the parties to sell the land to the company. While such a flexible approach may have been pragmatic and intended to maintain the momentum of the titling campaign and survey as many areas as possible, the inconsistent approach could have implications in years to come.

Illustration 5.1: Forest clearance in Snoul District, Kratie, 2013



5.4.3 Disputes with the military

Land disputes with the military or individuals associated with the military were also reported to have resulted in failure to issue land titles within Order 01 study areas. In one case in Oral district, Kampong Speu, villagers were denied title because divisions of the Royal Cambodian Armed Forces also claimed the land. The land had been occupied by armed forces since the war in the 1990s. After the ceasefire, previous residents returned to the area and started to farm the land. The armed forces informed them that although they would allow them to farm the land, these families could not claim ownership. As a result, when Order 01 came, the military blocked requests by people attempting to register their land (KPS4, 21/07/2014). In several other areas, disputes between villagers and military divisions or individuals connected to the military emerged, and in many cases these disputes could not be resolved.

Disputes involving military actors were an issue in particular in the border province of Oddar Meanchey. A village chief in Samrong district stated that in cases where disputes between neighbouring families could not be resolved, the land was left unmeasured. However, if disputes involved companies or the military, the chief explained that the survey teams could be easily pushed to measure land in the favour of the more powerful actor. The village chief stated

that people were scared that if they complained they would receive nothing, and as a result they did not raise formal complaints. In his opinion, this was exacerbated by the fact that the survey teams wore military fatigues, which made people perceive them as part of the army unit and therefore dangerous to challenge (ODM2, 12/07/2014). The issue of the student's uniform is returned to in Part 9 of the report. Elsewhere in Samrong district, another village chief painted a similar picture. Although complaints were filed in this case, the chief described them as "complaints without solution. However, in his village the lack of resolution did not lead to loss of land and the people continued to occupy and use land as they did before Order 01 came to the area (ODM4, 12/07/2014). Similar stories were heard elsewhere in Oddar Meanchey, and one case that is of particular concern was reported by a village chief in Banteay Ampil district of Oddar Meanchey. He told interviewers that families were required to contribute half a hectare each to the military in order for military families to be settled along the border areas (ODM5, 13/07/2014). It is not clear whether this was facilitated by the Order 01 process or formalized by it, but it warrants further investigation.

Illustration 5.2: Household Interview Being Tested in Kampong Chhnang, June 2014



5.5 Disputes Remaining after Order 01

In spite of Order 01 working to resolve some disputes, a number of officials told the research team that disputes had continued after 01 had finished in their area. In Andoung Meas, Ratanakiri, a commune chief reported that disputes between

villagers and the company were even thought to have increased in the area. He explained that the continuance of disputes was because people “did not get fair treatment from the company”. He stated that the people felt that the survey teams worked for the company’s interests, rather than those of the people, and that the teams were more likely to follow the directions of the company than the local people (RTK1, 03/07/2014). Another official in Ratanakiri, from Voeun Sai district, stated that conflicts have continued in the area, and that in many places land clearing has continued, with both community members and companies continuing to encroach on the forests (RTK4, 03/07/2014).

Reports from Oddar Meanchey also suggested that in some areas land disputes may have increased since Order 01. In Oddar Meanchey, a deputy commune chief in Samrong district, explained that although the Administrative Committee had the power to resolve disputes, it rarely did so. The result was that survey teams would refuse to survey disputed plots. The deputy chief stated that since Order 01 concluded, land dispute complaints received by the commune office have actually increased, and local people have become angry that their lands were left untitled (ODM1, 31/07/2014). In Anlong Veng district, also in Oddar Meanchey, teams set up to deal with disputes tended to side with the company, according to one village chief, who said that “the company was the one to decide to give or not to give the land back to the people” (ODM7, 11/07/2014). In addition to the influence of the company, he observed powerful outsiders directing the survey teams to measure lands without input from local officials, which further deepened disputes. He said that disputes had doubled since Order 01, and in some cases where people did receive title the companies and military do not respect the outcome and continue with their activities (ODM7, 11/07/2014).

5.6 Conclusion: Dealing (and Not Dealing) with Land Disputes

Land disputes nationwide and in the study areas peaked in the 2011-2012 period. In 2013, there was a rapid decline in the number of recorded disputes, which indicates that at least in the immediate term, Order 01 seems to have played a major role in reducing the occurrence of new land disputes. This is clearly an opinion held by the MLMUPC, and in the words of a Secretary of State quoted in local media in late 2014: “We have solved people’s problems and we have seen land disputes decrease sharply” (Aun, 2014b).

It is apparent, however, that there was considerable inconsistency in the way in which Order 01 approached and dealt with land that was in dispute. Statements from the RGC were at times contradictory, and at one point the Prime Minister himself said that Order 01 would not deal with disputed lands. However, this is at odds with the fact that the campaign was active in areas such as ELCs and forest concessions, which are hotspots for land disputes. The results of

investigations in the 36 study villages, along with a review of literature and media reports, reveals that the approach of the survey teams differed from area to area and concession to concession. For example, in Kratie some villagers living within land contested with one concessionaire received land titles, while villagers in the same district but in conflict with a different concession did not. In Pursat the research team heard that even within the same concession the process was implemented unevenly, and residents of some villages inside the huge Pheapimex concession had their land titled, while villages elsewhere did not.

Among the questionnaire respondents, disputed land was actually slightly more likely to have been surveyed by Order 01 teams than undisputed land. Yet, in these cases Order 01 was not particularly successful in resolving disputes, solving only around 22% of pre-existing disputes during the survey process and leaving approximately 50% of cases unresolved after the conclusion of Order 01 in the study areas. Disputes observed during the 01 survey process tended to be boundary disputes between neighbours, conflicts with ELCs, or disputes with the military or individuals associated with the military. Among these types of dispute, conflict with ELCs was most common. Mechanisms were in place to deal with disputes, and they resembled the processes put in place in the SLR process. However, while interviewees reported that these systems had success in resolving many small boundary disputes, multiple respondents said that the mechanisms were often unable to resolve complex disputes involving concessionaires or the military. Many of these disputes were raised to higher levels, where most still languished at the time the research was conducted. Leftover disputes continue to simmer, and in several areas the research team were even told that disputes had worsened since the Order 01 process ended.

The issue of addressing land disputes is a complex one. Under the law, land survey teams have no right to adjudicate disputes (this applies both to SLR and Order 01 teams). They may invite conflicting parties to conciliate their dispute, and if a resolution is not possible the case should be passed to the Administrative Committee who will arrange a formal conciliation process.⁹⁹ If this does not result in an agreement, the case should be passed to the Cadastral Commission (CC) for adjudication. In the meantime, no land can be registered while a dispute is on-going. The problem that arises here is that Cambodia's dispute resolution mechanisms are notoriously weak. Powerful actors are unlikely to conciliate when there is little to compel them to do so. The local-level Administrative Committee may not have the influence to bring powerful actors to the table, and the CC is often slow to resolve complex disputes involving multiple parties and influential actors. Although there is evidence that the dispute resolution mechanisms have become more effective over time, there is still a gap between the number of cases submitted and the number resolved. In some high-profile

⁹⁹ Land Law (2001), article 237.

disputes the CC has simply avoided adjudicating the cases all together (Grimsditch et al, 2012, pp.86-88.).

While Order 01 provided institutional and financial backing for an extensive campaign of land surveying, land survey teams were not legally or technically able to adjudicate disputes. Even if the survey teams had been granted special powers to do so, this would have been extra-legal and could have led to disputes being handled improperly. However, this also means that in some areas where people are involved in disputes with powerful or well-connected actors, the disputes are still unresolved, and affected people are left no better off than before the Order 01 campaign was implemented. It is even possible that their position is weakened, and in a number of cases the research teams heard from local officials and villagers that after that Order 01 teams left, concessionaires began to clear disputed areas. This represents an area that is in critical need of more detailed investigation. Although the statistics strongly suggest that Order 01 has led to a steep drop in land disputes, those disputes that are unresolved will not go away, and the resentment and frustration of those involved will continue to build. While the relatively brief and high profile Order 01 campaign has had a big impact on the incidence of new disputes, comprehensive action is required to resolve remaining land conflicts and attack the root cause of land conflicts, or the incidence of new disputes is likely to climb once again.

Part 6: Order 01 and Communally Held and Managed Land



Part 6: Order 01 and Communally Held and Managed

Soon after the start of the Order 01 titling campaign reports began to emerge of indigenous communities being offered or even pressured into having communal land surveyed by 01 survey teams. In 2013 the International Labour Organization (ILO) reported to the Technical Working Group on Land¹⁰⁰ that they had documented 23 indigenous communities where members were pressured to leave their communities and accept individual titles (Müller and Zülsdorf, 2013, p.14-15). There were also reports that Order 01 was active in, or close to, areas where communities have been granted, or are in the process of applying, for Community Forest and Community Protected Areas. However, there has so far been only limited investigation into the impacts of Order 01 on these types of areas.

Based on the findings of the household questionnaire and qualitative data gathered in interviews and focus group discussions, this part of the report explores these issues further and seeks to assess the potential impacts of Order 01 on the land and livelihoods of indigenous communities as well as communally managed areas. This begins with an examination of Order 01 in areas where indigenous communities are present (6.1), which is followed by a closer look at Order 01 and Community Forest (6.2), then Community Protected Areas (6.3).

It must be emphasized at the outset that while conducting field research on these issues, a number of challenges became apparent and these challenges impact on the reliability of some of the data gathered. On analysing the field data it emerged that interviewees, focus group discussants and interviewers did not always have a clear and common understanding of the terms 'Community Forest' or 'Community Protected Area' in the legal sense of how they are defined and used by NGOs and development partners. Sometimes respondents confused these categories, which differ according to whether they are in MAFF or MoE areas, with each other. Sometimes there was confusion with areas that have been used communally but not officially recognized, or with other types of reserved state land on which people have been able to utilize forest resources or conduct shifting agriculture. In Koh Kong and Kampong Speu, some indigenous community members had never heard of 'collective land titles',¹⁰¹ and confused this legal term with their traditional interpretation of communal land use. These problems should be kept in mind when reading this part of the report.

¹⁰⁰ In 2004, Cambodia established a series of sectoral and thematic Technical Working Groups which include representatives from government and development partners. This includes a Technical Working Group on land.

¹⁰¹ That some indigenous communities have not heard of the opportunity to gain a collective land title in Koh Kong and Kampong Speu is likely reflective of the focus by NGOs and development partners on indigenous people in the Northeast and the communal titling opportunities there.

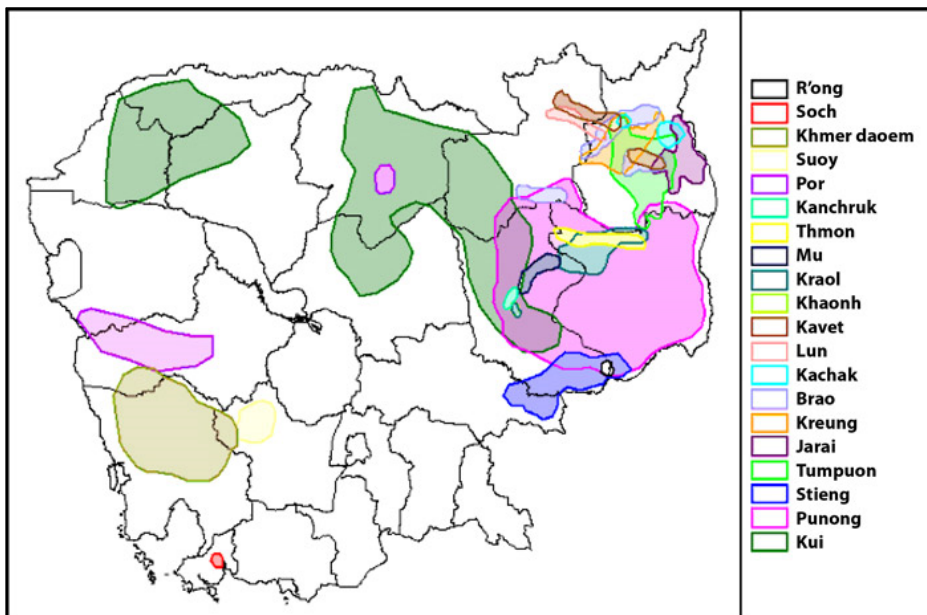
6.1. Order 01 and Indigenous Community Land

6.1.1 Cambodia's indigenous people and communal land

In the 1998 census, Cambodia officially recognized 17 different indigenous groups. Based on spoken language, the census estimated Cambodia's indigenous population to be around 101,000, or just under 1% of the population. A 2006 paper by NGO Forum on Cambodia identifies 20 indigenous groups, rather than 17 (NGO Forum on Cambodia, 2006, p.2). The 2008 population census identified a larger indigenous population, around 179,000 people, or 1.34%. The census again identified people according to their ability to speak an indigenous language, but according to a report of the Indigenous People NGO Network, "The total indigenous population is expected to be greater, as a number of indigenous people are not able to speak their people's language or do not yet feel confident saying they are indigenous" (IPNN, 2010, p.2).

The majority of Cambodia's indigenous people are located in the eastern provinces of Ratanakiri and Mondulakiri, and there are also sizable populations in Stung Treng, Kratie and Preah Vihear. However, indigenous groups are located across the country with communities residing in more than half of Cambodia's provinces, as made clear in Illustration 6.1, below.

Illustration 6.1: Geographical distribution of indigenous groups in Cambodia



Source: NGO Forum on Cambodia, 2006

The livelihoods of many of Cambodia's indigenous people are closely linked to their traditional lands and access to natural resources. Families often hold defined plots within the boundaries of community land which they use and manage individually, but often subject to traditional community rules and customs. Many communities also recognize specific natural features such as forest, mountains or rivers as 'spirit' areas, and reserve some local forest areas for traditional funeral and burial ceremonies. An important part of traditional agriculture is the practice of swidden (or shifting) cultivation. The collection of non-timber forest products (NTFP) such as honey, resin, wild fruits and nuts, is also crucial to support the subsistence of many indigenous communities.

While some indigenous communities have become integrated into local Khmer communities and abandoned or adapted some traditions, there are still many communities practising customs such as those outlined above. However, as has been well documented in recent years, the land of indigenous communities has come under intense pressure over the last decade. Concerns about the rate and scale of land alienation have been acknowledged by international bodies including the United Nations Committee on the Elimination of Racial Discrimination (UNCERD). In its 2010 report on Cambodia, UNCERD stated:

The Committee recognizes the recent and significant economic growth experienced by the State Party and the benefit such growth brings to the country. The Committee is concerned however that the quest for economic growth and prosperity is pursued, in some cases, to the detriment of particularly vulnerable communities such as indigenous peoples. The Committee is particularly concerned about reports of the rapid granting of concessions on land traditionally occupied by indigenous peoples without full consideration, or exhaustion of procedures provided for, under the land law and relevant sub-decrees (para 16).

Although the term 'indigenous minority' has long been in use in Cambodia, it was not defined in law until the promulgation of the 2001 Land Law. This law defines an indigenous community as:

...a group of people that resides in the territory of the Kingdom of Cambodia whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possession according to customary rules of collective use.¹⁰²

The 2001 Land Law recognizes the rights of indigenous communities to collective ownership of their residential and agriculture lands, including cultivated lands and lands reserved for shifting agriculture.¹⁰³ In 2009, *Sub-*

¹⁰² Land Law (2001), article 23.

¹⁰³ Land Law (2001), article 26.

decree #83 on Procedures for Registration of Land of Indigenous Communities was issued. This set out a detailed process for registering collective land, including residential, agricultural, burial grounds and spirit forests. While a collective land title acknowledges the plots and land use of individual community members, the title requires that community land is collectively owned and managed according to the customs of the recipient community. The process of applying for and receiving a collective land title is time-intensive and expensive. As of October 2014 only eight communities had so far received a collective land title, although the process had commenced in more than 100 communities. Seven additional communities were in the final stages of the communal land registration process, and the Royal Government of Cambodia (RGC) had committed to register 10 additional communities per year.¹⁰⁴

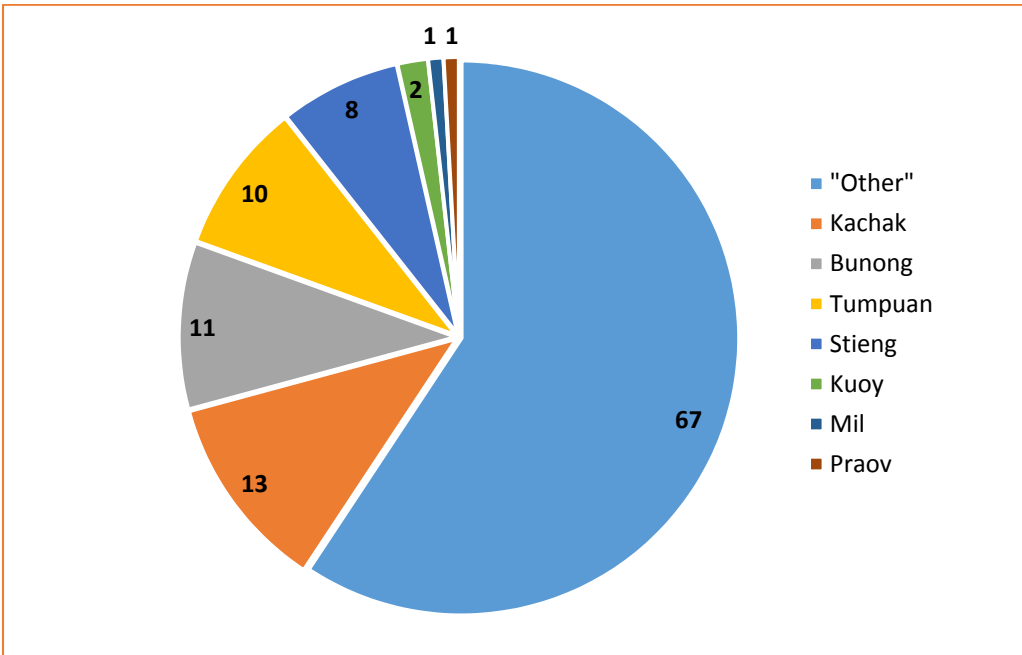
The guidance provided to the Order 01 survey teams by the Ministry of Land Management, Urban Planning and Construction (MLMUPC), changed during the course of Order 01 implementation. Initially the 01 teams were instructed to register land according to the principles set out in *Sub-decree #83*, but soon after this instruction was reversed and teams were told only to register indigenous land if community members wished to register their individual plots privately. As mentioned above, numerous reports emerged of indigenous communities being persuaded or pressured into accepting individual titles. The following section looks at the background of those household questionnaire respondents that identified as indigenous. It then reflects on experiences of Order 01 implementation in indigenous areas based on information obtained in the field and gathered from the literature review.

6.1.2 Overview of household questionnaire responses from indigenous people

During field work the research team met with indigenous people in five villages in Ratanakiri, four in Kratie, one each in Koh Kong and Kampong Speu, and none in Pursat or Oddar Meanchey. Nearly one-quarter of questionnaire respondents self-identified as belonging to an indigenous group (117 people). Of these people, 60% self-identified themselves as ‘other’ when presented with a list of 15 indigenous groups. ‘Other’ was chosen by people that identified as being of mixed ethnicity, either between two different indigenous groups or between an indigenous group and Khmer. The next largest reported group were Kachok (13 people) followed by Bunong (11), Tumpuan (10) and Stieng (8). The majority of respondents that identified as indigenous were located in Ratanakiri.

¹⁰⁴ Information provided during meeting of Technical Working Group on Land, 16 October 2014. Meeting minutes shared by NGO Forum.

Figure 6.1: Indigenous identity of household questionnaire respondents



Although the survey team encountered a significant number of indigenous households during fieldwork, the majority of respondents (434 of 472, or 92%) reported that there was no “communal” land in their community. Just 20 respondents, or 4% of the sample, reported having communal land and nearly the same number reported that they were not sure if there was communally held land in their village. Although the indigenous respondents were from groups that had traditionally practiced communal land management, in recent years this practice had reduced significantly. As few of the respondents reported still holding communal land, the quantitative data gathered for this study is not illustrative of the impacts of 01 on communal land.

When conducting the fieldwork for this study it is possible that the interviewers’ idea of ‘communal land’ may have differed from that of the interviewees. In a personal communication with the authors, an individual with extensive experience researching indigenous land issues in the northeast explained that it is important not to treat communal and private land as a dichotomy. This individual stated: “Villagers’ understanding of communal land is that it is available for anyone in the village to use. This used to be the case in the past. However greater land pressure in these villages has meant the previously available land is more and more being divided up amongst the different families in the village based on previous and present use.”¹⁰⁵ This may well be the case in

¹⁰⁵ Personal communication, December 2014.

the study villages, and the research team certainly heard accounts from local people and officials in many areas that there was a shortage of available land. Due to the limitations of the questionnaire responses, for the most part the rest of this sub-section refers to qualitative data gathered in the field, along with the literature and media review. This begins by looking at the issue of indigenous communities being pressured into accepting individual titles, and then goes on to look at some of the other issues that emerged regarding 01 registration of the lands of indigenous people.

6.1.3 Order 01 and the issuance of private titles in indigenous communities

In July 2012, soon after the Order 01 land titling campaign began, the Council for Land Policy (CLP) issued *Instruction #015* which stated that during the implementation of the Order 01 titling campaign indigenous land shall be registered as collective ownership following the process set out in *Sub-decree #83* (on registration of collective land).¹⁰⁶ However, less than a month later another Instruction was issued stating that due to cost and time constraints, collective lands should no longer be registered through Order 01. *Instruction #020* stated that titling of collective indigenous land under Order 01 should be postponed and implemented later under the framework of the 2009 sub-decree on registration of indigenous community land. However, members of indigenous communities who wished to register their land as private ownership were still permitted to do so, but were first required to thumbprint a contract acknowledging that they voluntarily wished to leave their communities and live as private individuals. This form includes the following declaration:

Myself and my family are really willing to live as private individuals outside of the indigenous community and guarantee that we are not claiming the rights and/or any benefit over the properties belonging to the indigenous community such as shifting cultivation land, spiritual land, burial land, etc. This contract is established with free willingness and no constraint. Myself and my family have read, listened to what has been read, understood the translation made in our native language and understood clearly the meaning of this contract.¹⁰⁷ [Translation by MLMUPC, full form provided in Appendix.]

The right to leave the community and register land individually was not created by the Order 01 process, and was already acknowledged in the 2001 Land

¹⁰⁶ Council for Land Policy, *Instruction #015 on the implementation of RGC Order 01 on the Measures Reinforcing and Increasing the Effectiveness of the Management of Economic Land Concessions* dated 7 May 2012. In relation to indigenous minority areas, jungle, semi-jungle, Prey Lang forest areas, national defence bases and historical and cultural areas (4 July 2012).

¹⁰⁷ Council for Land Policy, *Instruction #020 on Implementation of RGC Order 01BB Dated 7 May 2012 - In Relation to Areas of Indigenous Communities* (26 July 2012).

Law.¹⁰⁸ While community members have the right to leave their community and receive individual title, this is a decision that needs to be made on an informed basis, with community members fully aware of the implications of their decision. It goes without saying that this decision must be made free from duress. However, as mentioned earlier, there have been reports that members of indigenous communities have been pressured into accepting individual land titles. This was explored during the field research phase of this research, and the findings are outlined below.

6.1.4 Issuance of private titles to indigenous communities in the study areas

In most of the indigenous areas visited by the research team, few household questionnaire respondents stated that they still managed community land collectively. This was confirmed by interviews with village-level officials in the districts of Ou Chum (RTK7, 03/07/2014; RTK6, 03/08/2014), Voeun Sai (RTK8, 04/07/2014), and Andoung Meas (RTK3, 02/07/2014) in Ratanakiri province. However, as noted above, this may be in part due to differing interpretations of the term ‘communal land’, and a district-level official from Voeun Sai district suggested indigenous people in some areas were encouraged to take private land titles for what was previously regarded as communal land. This official stated that the granting of private land titles to indigenous people had impacted negatively on indigenous culture as well as causing the loss of control of spirit lands and forest. However, the official also explained that many indigenous people wanted to register land privately as they believed that it could then be sold and/or used to access credit more easily (RTK4, 03/07/2014). Elsewhere in Voeun Sai district, a commune-level official said that the Order 01 campaign had undermined indigenous culture and encouraged people to take private title over previously communal land (RTK5, 05/07/2014).

Information gathered in Kratie also indicated that many communities had moved in the direction of more individual land ownership practices, but in cases where there was still communal land, officials explained that it was avoided by the Order 01 teams. Near to the Cambodia-Vietnam border in Snoul district, village leaders told the research team that the Stieng indigenous people in that area had by and large altered their livelihoods and land use practices to be more similar to Khmer, with the result that there was little communally held land remaining (KRT1, 09/07/2014, KRT2, 09/07/2014). There were still some areas where communities held communal land, and in one case ten hectares of burial land was still communally managed and not included in the Order 01 land surveys (KRT2, 09/07/2014). Further north in Sambo district of Kratie, one village chief reported that the 130 Bunong families living there were managing land privately and so accepted private titles from Order 01. However, a nearby village in the

¹⁰⁸ Land Law (2001), article 27.

same district had 35 Bunong families who were actively practicing shifting cultivation using small plots, many of which measured around 1 ha. Their land was not measured after the commune chief of that area told the youth volunteers to avoid their land as it was indigenous land (KRT7, 06/7/2014).

In Kampong Speu province, home to the indigenous Suoy population, the research team heard that some community members in Oral district rejected the Order 01 process. One community chose not to allow the Order 01 land survey teams to register their land as the people believed that accepting land titles would increase the risk of the community being broken down by potential future land sales to outsiders (KPS4, 21/07/2014). In this instance, just five or six families out of more than 95 had their land measured and titled through Order 01. Elsewhere some community members took a more individualistic position when deciding whether or not to take part in the 01 survey process. In another commune in Oral district, there were tensions among families over the size of the fallow or shifting cultivation land each claimed. One commune council chief explained that families who had a small plot of swidden land preferred to apply for collective ownership of the community's whole shifting cultivation area, while those who claimed a larger area of swidden land wanted to apply for private title (KPS4, 21/07/2014). In one village people initially wished to register their shifting cultivation land as community land but later chose to register it privately. As a result, all families in the village got private land titles in the shifting cultivation area, but their titled lands were unequal in size (KPS5, 21/07/2014). The commune council chief from Oral district stated that some villages chose to register spirit land with the Order 01 teams and have the land titles kept at the commune office (KPS4, 21/07/2014). However, a village level official from the same commune said that although some communities chose to have their burial forest land surveyed they had still not received land titles at the time the field research was conducted in July 2014 (KPS5, 21/07/2014).

6.1.5 Were indigenous people pressured to accept individual titles?

The research team found no clear evidence that indigenous people were systematically pressured into accepting individual titles, however, accounts from some village and commune level officials highlighted numerous issues that are cause for concern. A commune council chief in Ratanakiri explained that people in his area were confused about the difference between individual and collective land title. Alarming, he told interviewers that district and provincial level officials that accompanied survey teams told people that obtaining individual title can increase access to credit, whereas taking collective title would be like living in Pol Pot times, when all land belonged to the state. In his opinion, the government was only interested in convincing people to accept individual land titles (RTK1, 03/07/2014). Participants in a focus group discussion in Andoung Meas, Ratanakiri explained that a village assistant went house to house in their

village asking community members to thumbprint the form confirming their wish to leave the community and accept private titles (RTK-FGD, 05/07/2014).

The issue of pressure or coercion to accept individual title was reported in both the literature and media reporting during the implementation of the Order 01 campaign. Human Rights Watch (HRW, 2013) documented the case of an indigenous community in Thpong district of Kampong Speu, where a villager reported that community members were urged to accept Order 01 surveying for individual titles. They agreed to engage in the process but only found out later that they had given up claims to other areas that they considered to be community territory. The community member interviewed by HRW said that youth volunteers told the community that they had to accept this or they would receive nothing (*ibid.*). As mentioned above, the ILO documented 23 communities that reported being pressured into leaving their communities and registering previously communal land as individual property.

Another report emerged in February 2013 that a community in Mondulkiri had been misled into accepting individual titles through Order 01. The *Cambodia Daily* reported on the case of an indigenous Bunong community in Busra commune, Pech Chreada district, who agreed to register their parcels as individual ownership. The community chief stated that members agreed to thumbprint the form confirming their consent to leave the community, but claimed that they were tricked into doing so. After realizing that they had signed away rights to traditional lands elsewhere, over 100 families were planning to return the private. The chief stated that student volunteers misinformed the community about the process, telling them that they should get private titles first and that the government would issue communal titles later for rotational farmland and ancestral lands (Woods and Kuch, 2013).

A study published in early 2013 (Rabe, 2013) aimed to take stock of the impacts of Order 01 in Ratanakiri, and working with local organizations gathered information on 79 indigenous villages and found 26 were affected by Order 01. Some communities refused to allow the survey teams to measure their land, but in the 26 villages over 50% of families had land surveyed. The study reported that many villagers were unhappy with the process as it did not secure their communal lands. Some respondents felt pressured to take private titles because their lands were under immediate threat from companies active nearby, and the communal land titling process was proceeding at such a slow pace. Villagers also stated that divisions emerged in the community between those who wanted to take private titles and those who did not, and some reported that they were coerced or threatened to accept private titles, being told that they would lose all of their land to the companies if they did not (Rabe, 2013).

As stories like these continued to emerge, criticism began to increase of the conduct of Order 01 teams in areas populated by indigenous peoples. At the time, the RGC emphasized that Order 01 land registration was in full compliance with the existing legal framework for indigenous land. In a 2012 letter to the UN Special Rapporteur for Human Rights, the Minister for Land Management denied that any indigenous people have been pressured to take private titles.¹⁰⁹ However, in April 2013 one spokesperson from the MLMUPC caused concern after being quoted in the local media as saying: “We have to push all the minority people to register for private land titles to protect their land and stop the disputes with economic land concessions” (Aun and Peter, 2013).

Although the Minister for Land Management has denied that any indigenous communities were pressured into accepting individual titles, in some cases the government stepped in and blocked the titling of some indigenous lands through Order 01. According to Oldenburg and Neef (2014, p.24), 580 individual plots were withdrawn from the 30-day public display period in Mondulkiri over concerns that the land belonged to members of indigenous communities. Subsequently, in 2014, the RGC committed to develop a formal process for converting individual land titles into communal land titles. This was included in the RGC-development partner ‘joint-monitoring indicators’ (JMIs) for 2014-2018. JMIs are developed and agreed to between the RGC and its development partners, and aim to serve as an assessment tool for progress in each sector. The land JMIs agreed to in 2014 included: “A clear instruction is in place to convert private land title of indigenous peoples to communal land title.”¹¹⁰ At the time of writing this instruction was not yet adopted.

Text Box 6.1: Indigenous communities and individual land titles

While there are concerns that some communities may have been pressured into accepting individual titles, it must also be acknowledged that some indigenous people may actually want to receive individual land titles – at least for parts of their land. This was reflected in the findings of focus group discussion with indigenous community members, and interviews with sub-national level officials – including indigenous village chiefs. However, respondents did not see this as a simple choice between one form of title over another, and information gathered in the field suggests that a number of indigenous people would like to obtain individual titles for lands that they use on a day-to-day basis, such as residential lands and lands used for rice and

¹⁰⁹ MLMUPC, Notification #1177 from Senior Minister, Minister of LMUPC to H.E. Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation, Subject: Clarification on the implementation of New Actions on Existing Policies for Land Sector, in accordance with RGC’s Order #01, responding to letter of Mr. Surya P. Subedi (20 September 2012).

¹¹⁰ Technical Working Group on Land, Proposed Joint Monitoring Indicators for 2014-2018.

Chamkar, while most still prefer the option of obtaining collective title for communal lands. In particular, people hoped to communally register reserved areas for future cultivation and passing on to children, and burial and spirit forests so that traditional practices can be preserved and passed on to the next generation.

As the authors of this study found, many indigenous communities have for some time been managing their land, or at least parts of it, individually – although that may be taking place within the greater area that is recognized as belonging to the community. That indigenous people have multiple ways of using and claiming land appears to have been overlooked by Order 01, which sought to fix land use to identity and structure legal claims accordingly. This is evidenced by the declaration referenced above which requires indigenous people to give up all of their claim to traditional lands in order to claim a private title over some. This erases the complexity of how land is accessed, used and claimed on the ground, and was a major shortcoming of the Order 01 campaign.

The reasons why some indigenous community members may seek to obtain individual title are complex, and should not necessarily be read as a rejection of traditional practices or of communal land title. The slow pace of the communal land titling process is no doubt daunting to many communities, many of which are facing immediate threats to their land. Given the option to receive individual titles now or face the prospect of waiting years for a communal land title, it is hardly surprising that many would opt for individual titles. In some cases the motivations for seeking individual title are economic, and during interviews with indigenous community members affected by Order 01 implementation in Mondulkiri, Milne (2013) found that most responses came down to the perceived restrictions on economic opportunity associated with collective title. For example, people wanted to borrow money from the bank using their title as collateral, or wanted freedom to transfer their individual land plots in the future, and felt that individual title was more likely to facilitate this. Some were worried that the collective title was not strong enough to protect the land. While these aspirations and concerns are legitimate, Milne also found that in some cases inaccurate information may have been passed to villagers by ‘outsiders’ who came at the same time as the survey teams and encouraged people to register private titles in what she refers to as “a subtle scare campaign” (Milne, 2013, p.333).

6.1.6 Indigenous community lands left unprotected after Order 01

While much of the discussion around Order 01 and indigenous land has focussed on the impacts of communities being offered (or pressured) to take

individual titles, less attention has been paid to the outcomes since Order 01 passed through indigenous areas – both for those who received 01 titles and those who did not. In addition to concerns that indigenous communities had been persuaded or pushed to accept individual land titles, the research team also heard in the field that many indigenous people actually wanted to receive land titles through Order 01 but were unable to do so. In a number of cases, respondents reported that people who had received land titles through Order 01 had experienced reduced access to areas that they previously used for traditional agriculture or collection of natural resources.

During an interview in a village in Thmor Bang district, Koh Kong, where the majority of residents are from the Chong indigenous group, the village chief explained that people there utilize traditional farming practices but had never heard of a communal land title. When Order 01 surveys were conducted in the area, everyone applied for private land titles but survey teams refused to survey swidden agriculture lands within forested areas. Since then, according to the village chief, people are no longer allowed to rotate their land for cultivation as the boundaries have been set (KK4, 27/07/2014). A commune council leader in the same district echoed these concerns. He stated that since Order 01, indigenous communities have lost the ability to utilize traditional rotational farming techniques. He stated that they can now move around less freely and can no longer work the lands that they previously farmed but were not registered through Order 01 (KK3, 26/07/2014). Similar accounts were given in Ratanakiri (see case study 6.1, below).

The decision not to survey fallow swidden lands is in line with the Order's approach not to survey land that was uncultivated, but in the Koh Kong case appears to have had the effect of cutting people off from lands that they previously had access to. This issue was also observed by Rabe (2013), who found that after survey teams left some villages, land disputes continued and in areas where the majority of households agreed to register their lands for individual titles, the companies moved in and took possession of communal land that was not registered. It appears, in these areas at least, that where land was subject to dispute between local people and concessionaires, after the 01 process ended and teams moved on, some companies regarded untitled areas as theirs for the taking, and either blocked access or commenced clearing. While some indigenous communities may have gained increased security over their residential, rice and Chamkar lands, at the same time they may now be faced with the prospect of more limited access to traditional lands. In such cases, an increase in tenure security over some lands has been accompanied by a reduction in territory, and the loss of access to swidden lands and NTFPs represents a potentially serious threat to indigenous culture and livelihoods. Case study 6.1 provides an account of the challenges facing one village in Andoung Meas district, Ratanakiri, since Order 01. Part 10 also returns to the issue of what

comes after Order 01, and explores the question of what will happen to those areas left unregistered by the campaign.

In addition, some reports from the field suggested that after Order 01 activities were over, land clearance and conflicts have continued. This was suggested by a district-level official in Voeun Sai district of Ratanakiri, who said that encroachment and forest clearance in the district had continued, and since the issuance of individual land titles to indigenous communities there had been an increase in land sales to non-indigenous people (RTK4, 03/07/2014). A commune council chief in Andoung Meas suggested that conflict had actually increased, and that many people felt that the Order 01 process worked in the interests of the company, rather than the local people. Many people are now anxious that as individual land titles have been granted over such a large area, there may be no land left for the next generation (RTK1, 03/07/2014).

Case Study 6.1: Loss of Swidden Land and NTFPs, Andoung Meas District, Ratanakiri

As told by participants in a focus group discussion in Andoung Meas district of Ratanakiri, 05/07/2014.¹¹¹

A number of major concerns emerged during a focus group discussion with local people in a village in Andoung Meas district, Ratanakiri. Perhaps the most serious of these issues was the loss of access to traditional swidden lands and to forest areas previously used for collection of NTFPs. In the post-01 environment, companies apparently moved in to claim those lands that were not surveyed by the 01 teams.

The majority of residents in the village are of the Kachok indigenous group, and the village is bordered on the north, east and south by economic land concessions held by four companies: Heng Brother, Krong Pok Ratanakiri Rubber Development, Veasna Investment, and a concessionaire referred to by local people as “Company 75”. Community land bordering these concessions has been subject to dispute for a number of years, and focus group participants told the researchers that disputes with the ELC companies and encroachment by villagers has reduced community burial land from 7 hectares to just 1 hectare. Forests that were previously used to collect non-timber forest products have gone, and spirit mountains and forest have been cleared by the Heng Brothers company. Most villagers now hold between 0.5 and 2 hectares of land which they use for rice and Chamkar.

¹¹¹ Focus group participants included 12 community members, all from the Kachok indigenous group. This included two village elders, six community leaders (including 3 women), two youths and two people from households that did not receive titles through Order 01.

The community was in the process of applying for a collective title for its reserved land, which had been submitted to the provincial level prior to the start of the Order 01 campaign. None of the villagers applied for Order 01 titles for land within this potential communal land title area. However, prior to the survey teams arriving, a village official visited households individually and encouraged people to thumbprint a document agreeing to apply for 5 ha of individual land titles. The focus group respondents stated that many people were unsatisfied with the process as a whole, as many expected to receive a full 5 ha, but due to a scarcity of available land this did not occur. They reported that disputes with the company continued and that forest continues to be lost. They also stated that the process has contributed to a loss of solidarity and identity, with community members now following an individual lifestyle more similar to that of the Khmer.

Focus group participants also said that the Order 01 teams only surveyed land that had already been cleared and cultivated. Any land with trees “taller than an elephant” was regarded as state land, and the teams did not survey these areas. However, participants stated that they had traditional shifting cultivation lands within these areas of tall trees, although they were not in active agricultural use at the time of the survey. They also depend heavily on these areas for the collection of non-timber forest products. Order 01 surveyors said that these areas could not be titled, and that they would be registered at a later date. However, according to the respondents, after the survey teams left, the company immediately moved into these areas and began to clear the trees so that they could claim the land. In the process, the local people lost access to shifting cultivation land and forest resources.

After the survey teams left the village there was a large amount of land left unregistered. Those present at the focus group discussion were unhappy with the outcome of the Order 01 process as they believe that this untitled land is likely to be claimed by the company, whereas local people were granted only small plots of land. People fear that they will have very little land to pass on to their children in the future, and that when they die there will be no land left on which to conduct a traditional burial. While some families have land for growing rice or fruit, they no longer have access to other resources crucial to their livelihoods. One respondent summed this up by stating: “we have rice, but we don’t have soup”.

6.2 Conclusion: Implementation of Order 01 in Indigenous Areas

Order 01's treatment of indigenous land came under scrutiny from the very outset of the campaign. Initially the survey teams were instructed to survey indigenous communal land according to the process set out in *Sub-decree #83*. However, it became evident early on that this was not possible within the context of Order 01, and *Instruction #020* was soon passed which removed collective land from the process. However, indigenous community members could have their plots of land registered individually, provided they first signed a form agreeing to give up their rights to community land, including shifting cultivation land, spiritual land, and burial land – all of which are central to indigenous customs. This declaration is problematic for a number of reasons, and it is a serious concern that indigenous community members were placed in a position where they had to choose between receiving land documentation over small private plots or holding on to their legitimate rights to traditional territories and their identities in the process. Even if individual households were not directly pressured into signing this declaration, given the context of rampant alienation of indigenous land, it is likely that many agreed to sign this declaration out of fear that they would ultimately continue to lose what land was still left intact at the time of the Order 01 campaign.

From information gathered in the household questionnaire, interviews, focus group discussion and media and literature review, it is clear that many indigenous people had their land surveyed through Order 01. It is harder to ascertain exactly how much of this land was at the time potentially eligible for collective land title. The household questionnaire results suggested that very few respondents held very little land that they regarded as “communal”, so the survey was not highly instructive as to how Order 01 dealt with communal land in those areas. Also, communally held land is complicated, as are the different practices associated with different types of land that are regarded as communal, or have a history of being communally managed. There were likely differences in understanding between respondents and enumerators and inconsistent interpretations of just what communal land referred to. However, in some cases the treatment of indigenous land appears to have taken place under highly problematic circumstances.

Although the authors did not find any direct evidence of coercion or threats, several others investigating this issue reported cases of indigenous communities being pressured or persuaded to accept private titles. The response from the government to withdraw some titles from public display confirms that irregularities did occur in the Order 01 process in some areas. It is also certain that experiences will have been different in different areas, and as noted in Part 1 of this report, the research team was chased out of one area in Ratanakiri by the local police. This indicates that there is great sensitivity around the way Order 01

proceeded in some areas, suggesting more problems occurred in these ‘no go’ areas than there did in others. The research team has also heard from other Cambodia-based researchers who encountered challenges conducting research on Order 01 in Ratanakiri .

While there were reports that indigenous communities in some areas may have been coerced or pressured into accepting individual land titles through Order 01, there also appear to be numerous cases where indigenous people chose to accept individual land titling for pragmatic or economic reasons. Given the on-going pressures on indigenous community land, many people likely chose to apply for individual title as a means of protecting what is left of their land. However, a major problem that has emerged from Order 01 is that in some instances where the campaign was active in contested areas, after the end of the survey process the companies moved in and claimed land that was not registered to the local people. In some cases this land was traditionally used by local indigenous communities for swidden agriculture or NTFP collection. In these cases, while communities may have secured their tenure over certain areas of their land, they may also have lost access to other areas that were crucial for sustaining livelihoods and preserving traditional practices.

Illustration 6.2: Household Interview in Ratanakiri , July 2014



6.3 Order 01 and Community Forests

Cambodia’s forests are spread across the country, with the densest areas of forest located in the eastern provinces, Prey Lang in north-central Cambodia, and the Cardamom region in south-western Koh Kong province. Forests are a crucial part

of the country's ecosystem, and in addition to providing natural habitats for diverse species, they also support the livelihoods of communities who depend on subsistence harvesting of forest products. Timber from Cambodia's forests has enormous economic value, which has led to a drastic reduction in forest cover since the 1990s.¹¹² Cambodia's forests were estimated to cover more than 73% of Cambodia's territory in 1965, but according to statistics from the country's Forestry Administration, this figure had dropped to just over 59% by 2006 (FAO, 2011, p.8), and by 2010 forest cover had dropped to almost 57% (RGC, 2014, p.34).

As part of Cambodia's Millennium Development Goals (CMDGs), the RGC set the target of achieving and maintaining forest cover at 60%.¹¹³ The Cambodian Government aims to achieve this by improving management and protection of forests and promoting reforestation through commercial plantations. Mechanisms such as Protected Forests and Community Forests have also been created in an attempt to protect and sustainably manage forest resources. These types of forest come under the administration of the Ministry of Agriculture, Forestry and Fisheries (MAFF). There are also forested areas within Protected Areas, which come under the Ministry of Environment's (MoE) jurisdiction. Part 6.2 now focuses on Community Forests. Community Protected Areas are returned to later in Part 6.3.

6.3.1 Community Forests in Cambodia

Under the 2001 Land Law, forests are state public property, and as such cannot be subject to private ownership.¹¹⁴ The Forestry Law of 2002 also states that 'permanent forest reserves' are the property of the state, and ownership of these forest reserves cannot be acquired by private individuals. However, the Forestry Law does allow for community managed forests.¹¹⁵ The law also recognizes customary use rights of local communities living near forested areas. This includes the right to utilize forest products and by-products according to traditions, customs and beliefs, although this right only applies for the purposes of sustaining livelihoods.¹¹⁶

The Forestry Law formally established the Community Forest (CF) mechanism, and the detailed process for granting CF areas was later elaborated by sub-decree

¹¹² For data on Cambodia's forest cover trends see Open Development Cambodia, *Forest Cover*, <http://www.opendevdevelopmentcambodia.net/briefings/forest-cover/> (accessed January 2015).

¹¹³ This target comes under CMDG 7, which concerns ensuring environmental sustainability, and aims to "integrate principles of sustainable development into country policies and programs and reverse the loss of environmental resources."

¹¹⁴ Land Law (2001), article 15.

¹¹⁵ Forestry Law (2002), Article 10.

¹¹⁶ *ibid.*, article 40.

in 2003¹¹⁷ and prakas (regulation) in 2006.¹¹⁸ The Ministry of Agriculture, Forests and Fisheries is responsible for administering the CF program. After being granted a CF, local communities have the responsibility to manage the area in an “economic and sustainable manner” and in compliance with an agreed Community Forest Management Plan. The local community have the right to harvest forest products and by-products within the area according to the management plan, but CFs cannot be bought, sold or transferred for the 15 years that the CF is active.¹¹⁹

Community Forests are a potentially useful tool for protecting forest resources, while also ensuring local people have sustainable access to forest resources. According to Cambodia’s National Strategic Development Plan for 2014-2017, up to 2014 the Forestry Administration had signed CF agreements for 200 sites covering 168,923 ha in 16 provinces (RGC, 2014, p.34). Cambodia’s National Forest Program has set the target of creating 1,000 CFs by 2030, and also identifies CF as the preferred model for engaging in REDD+, the UN-backed climate change mitigation initiative (RECOFTC, no date).

Although Cambodia has successfully demarcated and recognized a significant number of CF areas, the program has faced considerable challenges. The process of applying for CF recognition is time-intensive and even after communities have filed applications for CF recognition, forests continue to be at risk of degradation due to the activities of both companies and local people. According to RECOFTC, an international NGO that has supported CF in Cambodia: “Many communities have had agro-industrial companies take over local forest areas while they are navigating the long community forest formalization process” (RECOFTC, no date). There have also been reports of CFs continuing to be illegally cleared even after receiving official recognition. RECOFTC (no date) also states that land granted as CF is often already severely degraded and its potential is therefore limited, while local FAs often lack specialized staff to support CF. For these reasons, among others, some CF arrangements have been unsuccessful. As can be seen in the photograph below, sugarcane has been planted within the boundaries of an approved CF area in Oddar Meanchey, and there is no longer any forest to be seen.

¹¹⁷ RGC, *Sub-decree #79 on Community Forestry Management* (2 December 2003).

¹¹⁸ MAFF, *Prakas #219 on Guidelines for Community Forestry* (21 July 2006).

¹¹⁹ *ibid.*, article 44.

Illustration 6.3: Sugarcane concession within the Ratanak Rotha Community Forest, Oddar Meanchey



Photograph by Depika Sherchan, 2014

A key research question for this study concerned assessing the impacts of Order 01 on communally managed areas, and during the course of the field research the team sought to gather additional information on the activities of Order 01 in and around CF areas. The findings are expanded below.

6.3.2 Order 01 land surveys within Community Forest areas

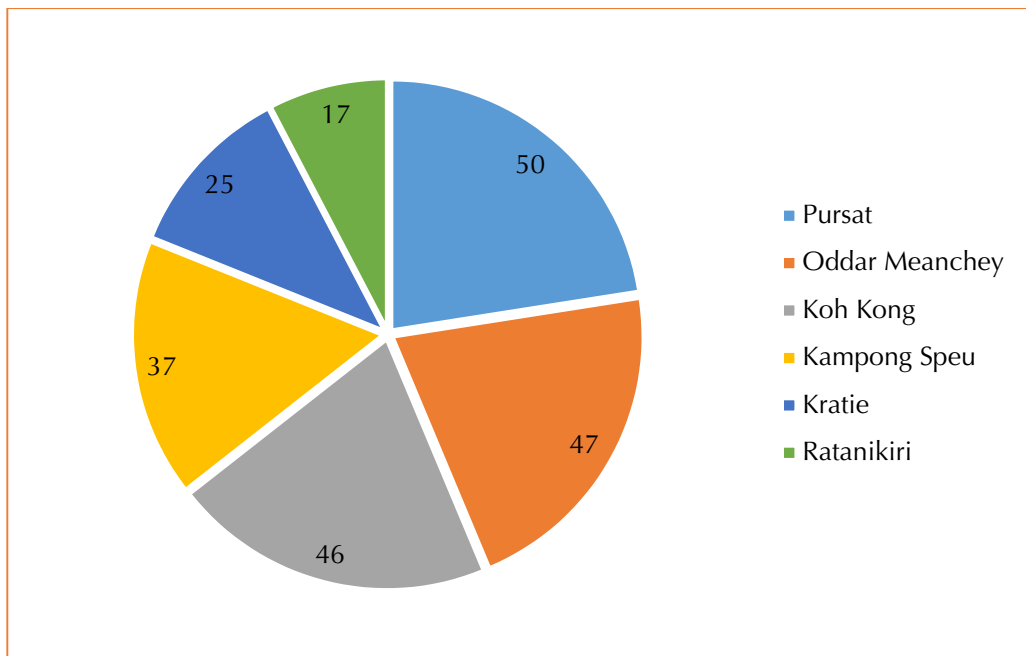
After the start of the Order 01 campaign, a number of supplementary Instructions were issued by the Council of Land Policy (CLP) which provided guidance to the survey teams. *Instruction #017* was issued by the CLP in July 2012 and added additional directions relating to specific types of land. This included an instruction to avoid Community Forests and indigenous land, stating that these areas “shall be preserved in order to protect the public interest.”¹²⁰

A large number of household questionnaire respondents (48% of 461 respondents) stated that their community had a CF in their area prior to Order 01 land surveys. The other respondents had no CF and no plans to apply for one.

¹²⁰ Council for Land Policy, *Instruction #017 on the implementation of RGC Order 01 dated 7th May 2012 on Strengthening and Increasing the Effectiveness of ELC Management - In relation to roads, railways, paths, lakes, rivers, beaches and public service sites* (13 July 2012).

The largest group of respondents who claimed to hold CF came from Pursat province, followed by Oddar Meanchey, Koh Kong and Kampong Speu. It should be kept in mind that there is no comprehensive and publicly available list of recognized CFs in Cambodia, and the authors therefore have no means of verifying whether or not the forest areas that the respondents referred to were in fact formal CF areas that had received approval from MAFF. Examination of questionnaire and interview responses indicates that at the local level (among both community members and local officials) terms such as ‘Community Forest’ are not always understood from a legal perspective, and they are often understood in practical terms, i.e. forests that are used by the community. It is therefore possible that the figures below include areas of forest that are communally used but that do not have formal CF recognition. It is also possible that respondents confused CF with other mechanisms such as Community Protected Areas. The figures below should therefore be viewed as illustrative rather than definitive.

Figure 6.2: Number of questionnaire respondents living in communities with Community Forest



Those respondents who answered that they did have a CF in their area were asked if any CF areas were surveyed by youth volunteers. Of the 185 people who responded to this question, 46 households (or one-quarter) replied that CF areas were surveyed by the Order 01 teams. The majority of these respondents were from Pursat (21 respondents) and Kampong Speu (15 respondents), whereas no

respondents in Oddar Meanchey or Ratanakiri reported Order 01 surveys occurring in CF areas.

Qualitative data gathered during interviews with local officials and in focus group discussion provides further detail regarding the implementation of Order 01 within these CF areas. According to information provided by a village chief in Phnom Sruoch district, Kampong Speu, the Order 01 teams did not enter the CF, which has been supported by four NGOs, and instead helped to set its boundaries. However, the chief said that eventually 23 families did get land surveyed and titled within the CF area (KPS3, 22/07/2014). In one case in Thpong district, Kampong Speu, about 50 land parcels were surveyed within CF areas and people were provided with survey receipts. As a commune council member explained, once the technical land management officers found out this had taken place, the receipts were taken back and no land titles were granted (KPS6, 19/07/2014).

In Oral district of Kampong Speu, a member of a commune council explained that there were five CFs in his commune that were in the process of navigating the approval process. Order 01 survey teams were active in the area and, according to the commune councillor, two to five hectares of land were cut from various parts of the CF areas and titled to individual families (KPS4, 21/07/2014). It was also reported by a member of the Cadastral Department in Pursat that in some cases, people used the Order 01 campaign as an opportunity to demand individual titles in the CF areas (PST1, 17/07/2014). Order 01 technical teams facilitated this in some cases by “modifying” the boundaries of CFs, according to a community forest leader in Pursat. The leader explained that this was done in cooperation with the Provincial Department of Agriculture, Forestry and Fisheries and an official from the provincial capital (PST8, 17/07/2014). It was not possible for the research team to visit the CFs referred to by questionnaire respondents and interviewees, but it appears that Order 01 was indeed active in areas of CF that were under use prior to the launch of the titling campaign. There is also evidence to suggest that Order 01 was active in areas of CF that had been unsuccessful and had already been at least partially cleared prior to the arrival of Order 01 survey teams.

6.3.3 Activities of Order 01 in ‘failed’ Community Forest areas

While it appears that Order 01 did survey land within CF in some areas, the CF mechanism has struggled to achieve results in a number of areas, and a number of CFs had already failed prior to Order 01 becoming active. The trend of failed efforts to gain CF recognition came out very clearly in Kratie province in particular. Both villages in Snoul district, Kratie province, had some CFs that were destroyed by operations by forest concessionaires or ELC companies before the CF process could be fully initiated or completed (KRT2, 09/07/2014; KRT3,

09/07/2014). In neighbouring Chhlong district the story was the same, with one village chief telling the research team, “we submitted the proposal for a CF but now the forest has vanished because the process takes too long” (KRT4, 08/07/2014). In this same district, a CF proposed for a total of 1,750 ha lost more than 650 ha of forest while the process was stuck in the final stage of process for CF recognition (KRT5, 07/07/2014). Further north, in Sambo district, one community reported that they requested CF recognition but the provincial level refused the request and in the subsequent years the forest was cleared (KRT6, 06/07/2014). As such, none of the six surveyed villages in the three districts of Kratie had a recognized CF, in spite of this being a significant forest region of the country.

During a focus group discussion in Samrong district, Oddar Meanchey, facilitators heard that the villagers had previously registered a CF in the area. However, the area subsequently came under pressure and “powerful people” and other local people illegally cleared the CF area until most of the forest was gone. Focus group participants stated that when the survey teams came to the area they surveyed land within this CF area as it was already cleared (ODM-FGD, 27/07/2014).

The case study below shows the challenges that the CF mechanism has faced in some areas of Pursat, and how Order 01 proceeded in that area.

Case Study 6.2: A Community Forest and ELC Encroachment, Pursat

As told by participants in a focus group discussion in Krakor District of Pursat, 15 July 2014.¹²¹

Initially, all nine villages of Kbal Trach Commune formed a CF area of 5,000 ha, starting in 2003. By 2009, the community had initiated the process for formal acknowledgement but the process became stuck at the district level, apparently because the land had already been granted as an ELC. This was the first that the villagers had heard of this land concession and there was no evidence of it on the ground. As time passed, the company began to claim land near to the proposed CF and much of the forest land was cleared by “powerful men”. The focus group participants claimed these people were from district level government departments and military.

¹²¹ Focus group participants included 15 community members, 8 of whom were women. Participants were selected by a community representative who invited women and men, the young and elderly and members of families whose land was excluded from Order 01 surveys and titling.

In 2011 the Council of Ministers ordered the ELC company to excise 500 ha for a CF in two blocks of 250 ha, each in a different part of the commune from the former CF area. However, this land overlapped with long-term farming activities of 47 families and they were angry that their land was absorbed into the CF.

When Order 01 commenced in the area, land surveys were conducted within the Community Forest. Families who had long-standing land claims within the CF had their land surveyed, and some families received land measurement receipts and eventually titles, while others had their land measured but did not receive any receipt or title. Although some villagers were denied titles, a so called “powerful man” was allegedly able to pressure the survey team to cut a big piece of land from within the CF. This land was awarded title.

The families who did not receive any title in the CF area lodged a complaint in April 2014 with the provincial government. They asked that rice land be cut from the CF and have requested individual title for agriculture land in the CF with other areas consisting of ponds, streams and forests to be registered as communal land. The villagers had been told that the complaint has reached the MLMUPC and the Cabinet of the Prime Minister, but at the time of this research they had yet to receive a response.

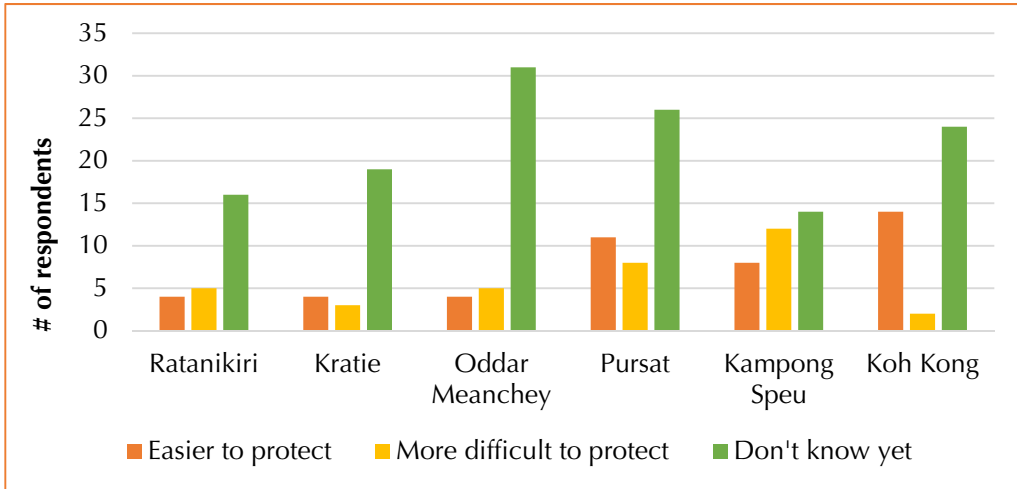
In this case there was an apparent lack of enthusiasm for the CF process to go ahead, and at one point the community even blocked an NGO that was placing boundary polls around the CF area. During focus group discussions they explained that their experiences with CF and their inability to protect the land from encroachment by migrating families and powerful local officials lead to their distrust of the process. They would rather have this area be given back to the community to manage itself.

6.3.4 Impacts of Order 01 on Community Forest protection

Although the information gathered in the course of this research is enlightening, it is not possible to reach a definitive judgement on the impact that Order 01 has had on CF in Cambodia. This would require a more detailed analysis of CF areas, taking into account the level of forest coverage and clearance prior to Order 01 compared to after the campaign was completed. Furthermore, the completion of Order 01 land surveys is still recent, and it may take time for the more long-term impacts to emerge. This thinking was also reflected in responses from the household questionnaire, during which respondents were asked if they thought that Order 01 had made it easier or more difficult for communities to protect CF

areas. In the opinion of 210 villagers that answered this question, the majority (130, or 61%) said that it was too soon to know, another 45 people (21%) thought Order 01 made the CF easier to protect, and the remaining 35 respondents (17%) thought it made it more difficult to protect.

Figure 6.3: Questionnaire respondents' view on whether Order 01 made it easier or more difficult to protect Community Forest areas



6.4 Conclusion: Implementation of Order 01 in Community Forest Areas

The Order 01 regulations clearly stipulated that no surveys should be conducted in CF, but the research team found evidence that surveys took place in CF areas or proposed CFS in Kratie, Kampong Speu, Pursat and Oddar Meanchey. In one of the earliest assessments of the Order 01 campaign, Müller and Zülsdorf (2013, p.13) conducted a review of decrees related to Order 01 published in Cambodia's Royal Gazette and found that land had been excised from Prey Tralach and Phnom ROUNG Community Forests. Half of household questionnaire respondents reported that their community had CF areas, and half of these respondents said that Order 01 surveys occurred in these areas, mostly in Pursat and Kampong Speu. As noted, it is not certain that all of the areas referred to by respondents were formally recognized as CF by the Forestry Administration, but the results still provide a valuable insight into the activities of 01 in communally used forest areas.

There was no consensus among respondents on whether or not Order 01 had made it easier or more difficult to protect their CF areas. However, in the study areas where respondents either had CFs or were in the process of applying for them, a common theme was that prior to Order 01 forest resources were under

threat. Respondents reported that forests had become degraded while they were navigating the long and complicated process of applying for CF. As mentioned above, the Forestry Administration has acknowledged at least 200 Community Forests across the country, and it is not the authors' intention to make generalizations about the program as a whole. However, during the fieldwork, the research teams came across multiple examples of failed attempts to apply for or implement CF. Order 01 may have issued titles within CF, which according to *Instruction #017* it should not have done, but it appears that many of these areas were already severely degraded prior to the start of Order 01.

6.5 Order 01 and Community Protected Areas

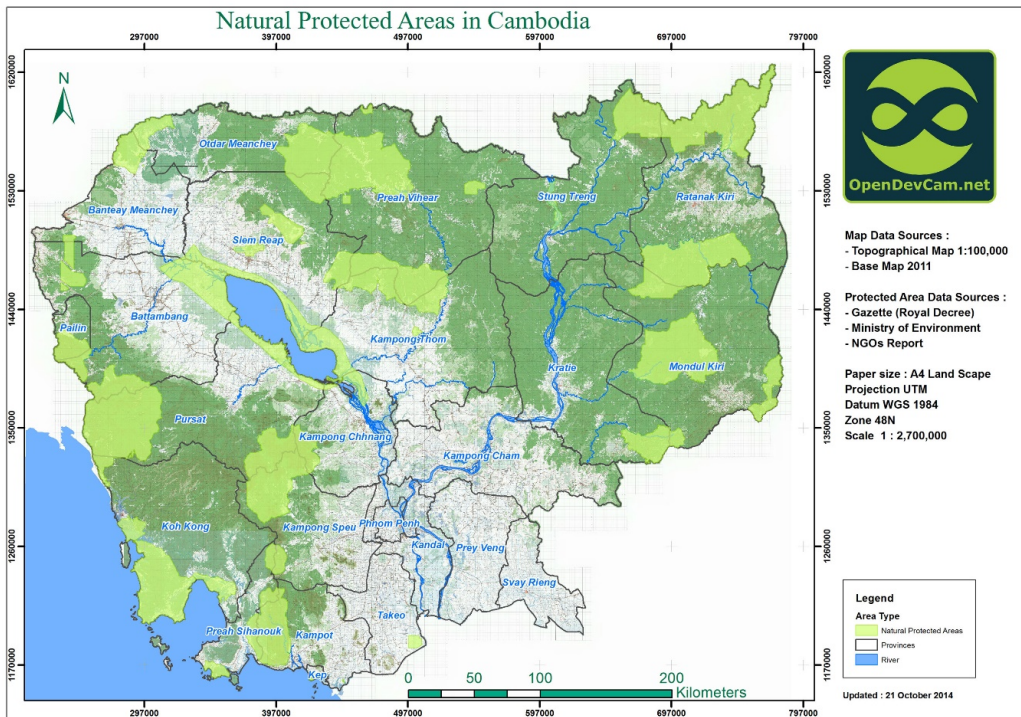
In 1993 Cambodia passed a royal decree creating 23 Protected Areas.¹²² The decree divides these Protected Areas (PAs) into four categories: Natural Parks, Wildlife Reserves, Protected Landscapes, and Multi-purpose Areas.¹²³ Since this decree was passed, additional protected areas have been created and some existing areas have had their boundaries adjusted. The Protected Areas Law was passed later in 2008 and provides additional detail on how Cambodia's protected areas are to be managed. PAs are under the administration of the MoE's General Department of Administration for Nature Conservation and Protection (GDANCP).¹²⁴ Within Cambodia's Protected Areas, specific zones may be demarcated and recognized as Community Protected Areas.

¹²² Royal Decree on the Protection of Natural Areas, 1993 (articles 1 & 2).

¹²³ Natural Parks: Kirirom (Kampong Speu and Koh Kong), Bokor (Kampot), Kep (Kep), Ream (Kampong Som), Botum Sakor (Koh Kong), Phnom Koulén (Siem Reap), Virachey (Ratanakiri); Wildlife Reserves: Phnom Aural (Koh Kong, Pursat and Kampong Chhnang), Peam Krasop (Koh Kong), Phnom Samkos (Koh Kong), Roneam Donsam (Battambang), Koulén Prum Tep (Siem Reap and Preah Vihear), Beng Per (Kampong Thom), Lumphat (Ratanakiri and Mondul Kiri), Phnom Prich (Mondul Kiri and Kratie), Phnom Namlear (Mondul Kiri) and Snoul (Kratie); Protected Landscape Areas: Angkor (Siem Reap), Banteay Chhmār (Banteay Meanchey) and (Preah Vihear) Preah Vihear; Multi-purposes Areas: Dung Peng (Koh Kong), Samlot (Battambang) and Tonle Sap Biosphere (Kampong Chhnang, Kampong Thom, Siem Reap, Battambang and Pursat).

¹²⁴ Protected Areas Law, 2008 (Article 4)

Illustration 6.4: Cambodia's Protected Areas



Source: Open Development Cambodia, 2014

6.5.1 Cambodia's Community Protected Areas

Cambodia's first CPAs were established with donor support in the late 1990s (San, 2006). This continued into the 2000s, and in 2008 the Protected Areas Law created a legal process for zoning of protected areas under the jurisdiction of the MoE. Under the law, Protected Areas are to be divided into core, conservation, sustainable use zones, and community zones. Under this law, 'sustainable use zones' are considered to be areas of high value for national economic development that directly serve the purpose of management and conservation of the protected area. CPAs can be granted within sustainable use zones.¹²⁵

Community Protected Areas are defined in the Protected Areas Law as areas administered with participation of local the community or indigenous ethnic minorities, recognized by the GDANCP. These areas have the joint purpose of supporting the management and sustainable use of natural resources in a defined part of the protected area and are aimed at improving the living standards of the local community and indigenous ethnic minorities.¹²⁶ The community concerned

¹²⁵ Protected Areas Law (2008), article 11 & annex.

¹²⁶ Protected Areas Law (2008), annex.

enters into an agreement with the GDANCP, which are valid for up to fifteen years, and CPAs must be managed according to a plan and regulations agreed between the community and the GDANCP.¹²⁷ According to Cambodia's National Strategic Development Plan for 2014-2017, up to 2012 the MoE had officially recognized 115 CPAs (RGC, 2014, p.35).

Table 6.1: Number of Recognized Community Protected Areas in Cambodia, 2009-2012

	2009	2010	2011	2012
Number of officially recognized CPAs	84	98	102	115

Source: RGC (2014)

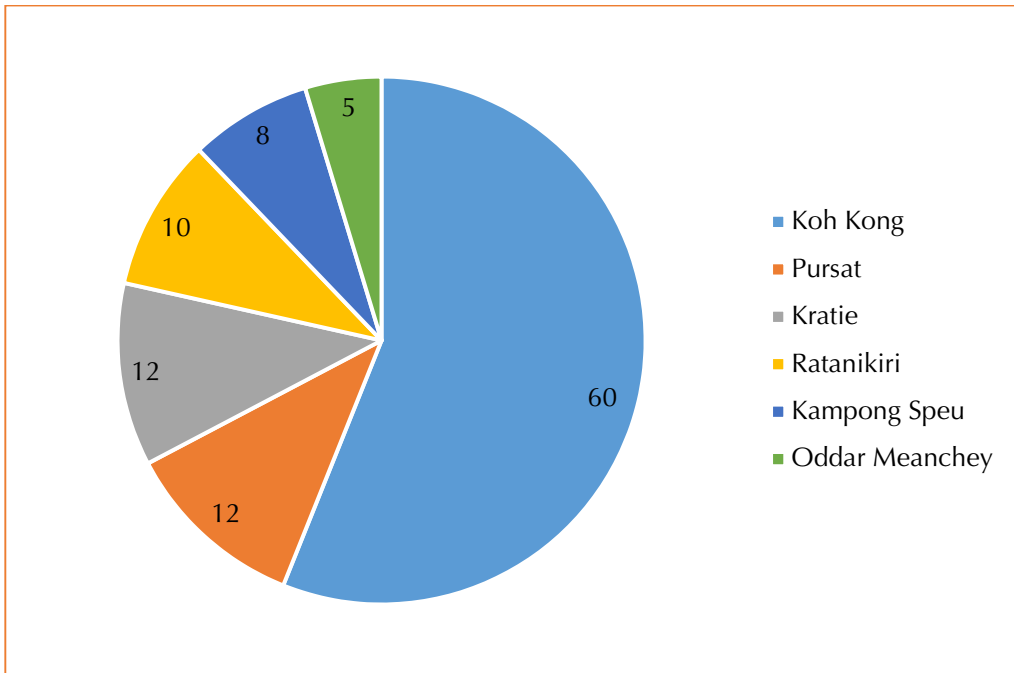
There is no publicly available list or map that indicates where exactly these CPAs are located, and at the time of writing the authors were unable to find data more recent than 2012. During fieldwork, the research team met with villagers and officials who stated that they lived or worked within the vicinity of CPAs. The remainder of this part of the report looks at their experiences of the Order 01 campaign.

6.5.2 Order 01 land surveys within Community Protected Areas

Out of a total sample of 455 household questionnaire respondents, nearly one-quarter claimed to have a CPA already granted in their area (107), with the remaining 345 respondents saying there was no CPA and no plans to apply for one. The majority of respondents that stated there was a CPA in their area were from Koh Kong Province (60), with the remaining respondents split between the five other provinces. As noted in the above sections in regard to communal land title and Community Forest, there may have been some confusion among some respondents regarding the definition of CPA, and this may have impacted on the quality of the data gathered.

¹²⁷ Protected Areas Law (2008), article 25.

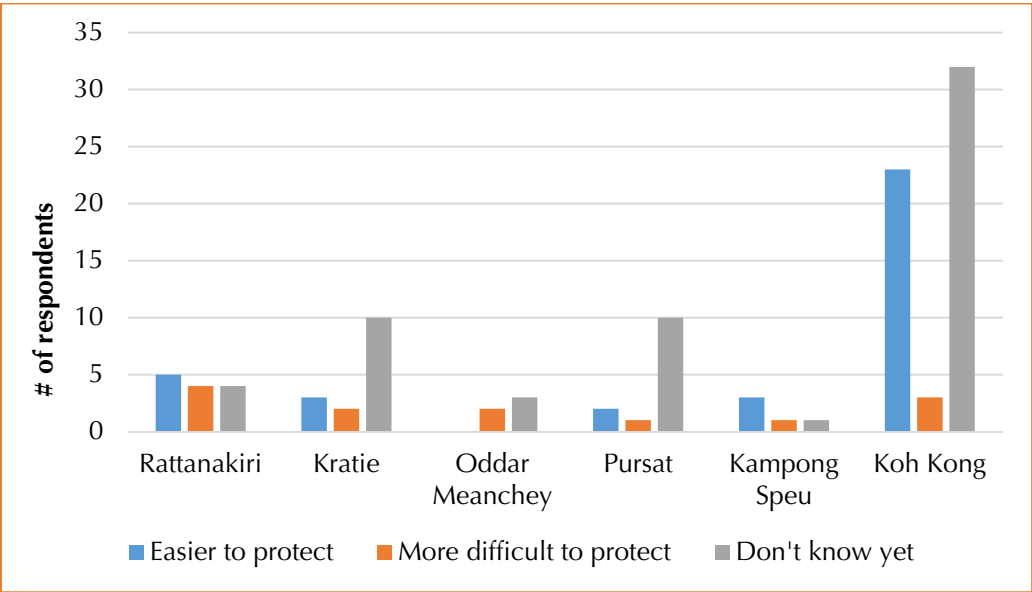
Figure 6.4: Number of respondents living in communities with Community Protected Areas



For the most part, respondents reported that their CPA areas were not surveyed by the students. Out of 95 people who responded to this question, 93% (88) people stated that no surveying occurred in the CPA, and only six people suggested that the CPA in their area was surveyed. Only one person reported that private individuals received land titles in the CPA of their community.

Similar to those respondents who were asked to consider how Order 01 has impacted on their abilities to protect Community Forest land, the majority of people whose community had a CPA were unsure of the extent to which the Order 01 process may have made it easier or more difficult to protect the area. Sixty out of 109, or 55%, said they were still unsure as to the impact of Order 01 on CPAs. One-third of respondents thought that the 01 process had made their CPA easier to protect and 12% thought that it made the CPA area harder to protect. It is worth noting that the vast majority (33) of those who believed Order 01 had made it easier to protect CPA areas were located in Koh Kong Province. Unfortunately the household questionnaire does not reveal any more detail as to why they felt that Order 01 had assisted them in protecting the CPA.

Figure 6.5: Questionnaire respondents' view on whether Order 01 made it easier or more difficult to protect Community Protected Areas



6.6 Conclusion: Implementation of Order 01 in Community Protected Areas

Notification #666 from the Council of Ministers announced that surveys would be conducted in forested areas that are under the management of the Ministry of Environment. This included Cambodia's designated protected areas. In Müller and Zülsdorf's 2013 analysis of Order 01 implementation, the authors reviewed the Royal Gazette and collected all available decrees related to reclassification of land under Order 01. They found that 16 areas had been excised from 8 Protected Areas. In total the authors found that up to January 2013 over 337,500 ha of land had been cut from state land and granted through the campaign, 15% of which was cut from MoE land (Müller and Zülsdorf, 2013, p.13). The amount of land cut by Order 01 is now much higher, but no breakdown is available indicating how much land was taken from MoE protected areas. It is not possible to see if any of this land was within CPAs, as there is no publicly available database of CPAs.

The study areas visited for this study did not reveal any major issues around Order 01 in protected areas. Almost 25% of questionnaire respondents reported that there was a CPA in their area, but very few reported that Order 01 teams were active in those areas and only one respondent said they knew of private titles being issued within the CPA. Respondents did not have strong opinions on whether or not the Order 01 campaign had made their CPA any more or less

secure (apart from respondents in Koh Kong), and most answered that it was too soon to say. However, there were reports from Kampong Speu that suggest CPAs face similar challenges to Community Forests, with the land often encroached upon and picked apart before the application process can be completed. Ongoing encroachment on CPAs appears to have been an issue regardless of Order 01 implementation, but the evidence gathered during the course of this study is not sufficient to say whether Order 01 has either helped or hindered the CPA program.

Part 7: The Impact of Order 01 on Livelihoods and Tenure Security



Part 7: The Impact of Order 01 on Livelihoods and Tenure Security

Over one year elapsed between the end of major land surveying work under Order 01 in June 2013 and the field research for this report, which was conducted in July and August of 2014. Although this is a relatively small window of time for the outcomes of the land titling campaign to emerge, this section of the report looks at the potential impacts of Order 01 on livelihoods and tenure security.

From the outset, the stated aim of Cambodia's land reforms has been to reduce poverty and promote development. The project appraisal document for Cambodia's donor funded Land Management and Administration Project (LMAP), which established the current land registration system stated that the overall goals of the project were "to reduce poverty, promote social stability, and stimulate economic development", and specifically to "improve land tenure security and promote the development of efficient land markets" (World Bank, 2002, p.2). The LMAP documents closely equate secure tenure rights with poverty reduction, and here it is worth quoting at length:

By securing land tenure rights, the project will help to promote social stability, contribute to poverty reduction and stimulate economic growth. By improving the land administration system, the project will stimulate the development of more efficient land markets, thereby facilitating the allocation of land to its highest and best use. By helping to develop capacity for land management, the project will contribute to improved environmental management ... The beneficiaries of land titles would enjoy the benefits associated with land titles, in the way of increased tenure security, access to credit and opportunities to increase investments and productivity ... Many of the expected beneficiaries are poor and vulnerable to being dislodged from the land where they live and farm. Providing them with secure titles would sharply reduce the risks of dispossession that they now face (*ibid.*, p.10).

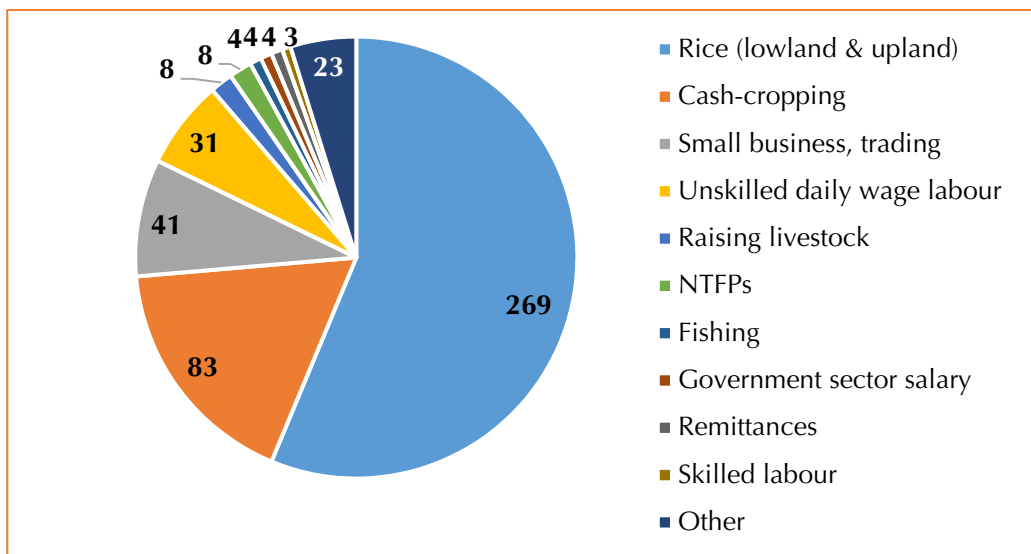
Improved tenure security was also one of the major intended impacts of Order 01, with government rhetoric around the campaign referring on multiple occasions to resolution of disputes, formalization of unclear land claims, and an increase in access to credit for poor families. However, for systematic registration to really deliver tenure security it has to be implemented systematically. One of the important differences between LMAP and Order 01 is that LMAP systematically approaches an entire area (however bounded) for registration and titling, whereas Order 01 was often fragmented within villages, incomplete, and unsystematic, as explained in Parts 4 and 5 of this report. For that reason it is difficult to assess tenure security within communities where Order 01 was active.

Given the interrelated nature of rural livelihoods and land tenure security, these issues are dealt with together in this part of the report. This begins by looking at local livelihoods in the surveyed areas and then explores the ways that people in those areas considered the campaign to have impacted their livelihoods. This considers both those whose land was titled, and those whose land remained untitled. Particular attention is directed towards the important topic of debt and collateral. Security of land tenure is discussed in the third section along with how the campaign has impacted land transfers and the price of land since titles were awarded.

7.1 Livelihood Profile of Respondents

Farming was overwhelmingly the most important way that household questionnaire respondents made a living, as illustrated in Figure 7.1. More than half of those surveyed (269 people, or 56%) reported that lowland and upland rice was the most important livelihood source.¹²⁸ This was followed by cash-cropping (83 households, 17%) and small-business or trading (41 households, 7%).

Figure 7.1: Most important sources of income for household questionnaire respondents¹²⁹

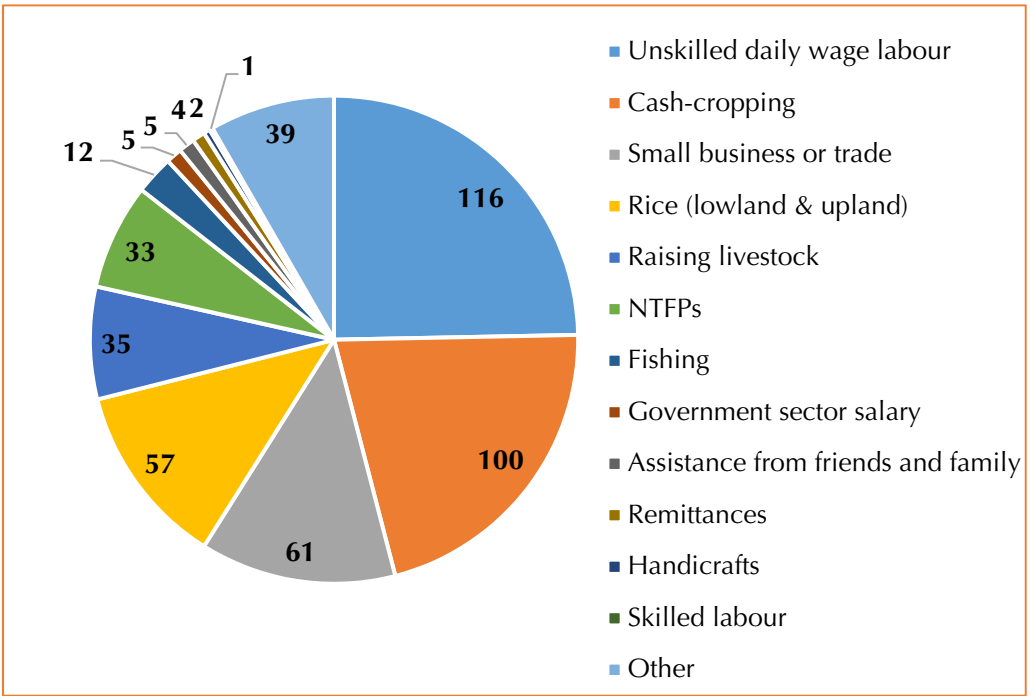


¹²⁸ The questionnaire did not collect any information about rice yields or rice self-sufficiency. It is highly unlikely that the respondents were producing enough for their own consumption and the authors consider it possible that rice farming was over-reported due to its traditional importance in rural communities.

¹²⁹ The team collected a total of 478 responses to the question: "What is the main way your family makes a living?" The question gave 14 possible responses, including 'other' and the figure shows all the categories which received a response.

Although farming formed the backbone of rural livelihoods, the importance of agricultural activities – particularly growing rice – was less pronounced when respondents were asked to identify the second most important way that their family makes a living (see Figure 7.2). Unskilled daily labour was most frequently identified as making the second most important contribution to household livelihoods (116 people, 25% of 470 responses). This was followed by cash-cropping (100 people, 21%), and then small business or trading activities (13%).

Figure 7.2: The second most important sources of income for questionnaire respondents¹³⁰



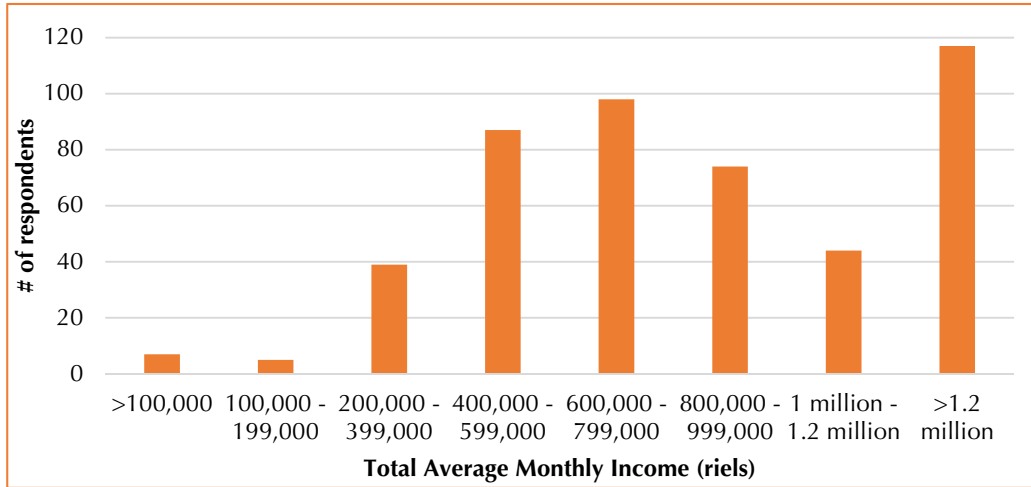
The questionnaire also asked people to estimate their monthly income, the data that follows is based on these estimates and is intended only to show a rough indication of the status of rural livelihoods in the eyes of respondents. It should also be mentioned that in some cases better-off households have a tendency of reporting themselves as being less well off to enumerators.¹³¹ The reported monthly incomes of the 471 respondents varied widely (see Figure 7.3). The highest available income category in the questionnaire was also the most frequently occurring, with one-quarter of respondents (117 people) reporting that they earned 1.2 million riel per month or more (approximately US\$300). The

¹³⁰ The total number of responses to the question was 470.

¹³¹ According to personal communication with academic researcher focusing on livelihoods and the Cambodian land sector (15/02/2015).

next most frequently occurring answer was clustered in the middle-range of the available answers with one-fifth reporting that they earn between 600,000 and 800,000 riel per month (approximately US\$150-200) and another 18% earning between 400,000 and 600,000 riel per month (approximately US\$100-150).

Figure 7.3: Estimated average monthly income of questionnaire respondents



With this overview of respondents' livelihoods now in place, the next section of the report considers the extent to which people perceived that the Order 01 campaign had impacted on their livelihoods.

7.2 Perceived Livelihood Impacts of Order 01

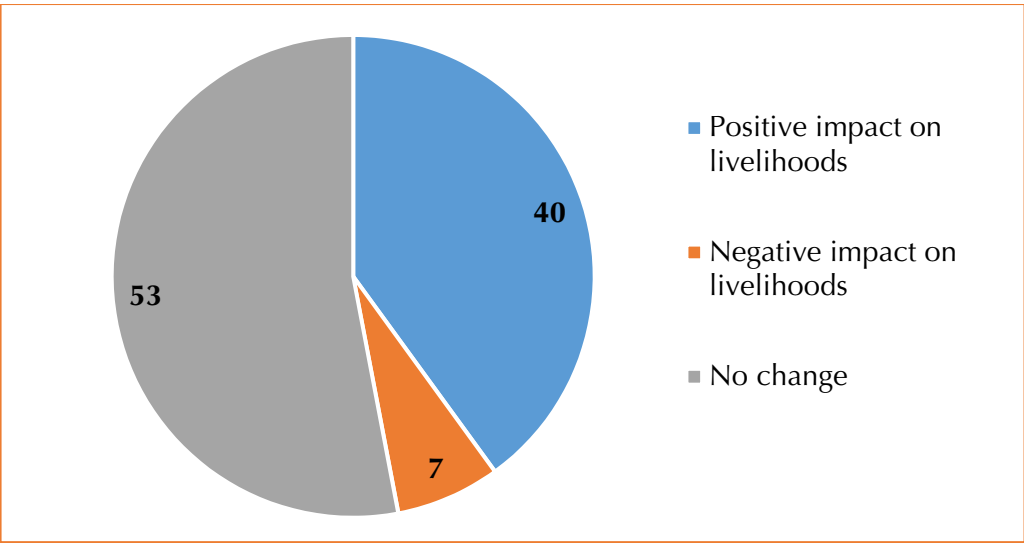
7.2.1 Livelihood impacts of receiving Order 01 titles

As set out in the introduction to this part of the report, poverty reduction was a major goal of LMAP, the donor funded project that facilitated the development of Cambodia's current land administration systems and titling programs. This is closely linked to the issue of tenure security, which is discussed later in this part of the report, and follows the assumption that increased tenure security will contribute to increased access to credit, development of land markets and more effective land use. However, the authors are unaware of any empirical research that has sought to comprehensively address the poverty reduction impacts of land titling in Cambodia in general. There is no systematic monitoring and evaluation system in place to evaluate how titles impact agricultural practice or productivity, tenure security, or access to credit and thus the narratives that link titles and rural livelihoods are seriously under-researched and not substantiated by on-going data collection and analysis (Biddulph, 2014). In this broader

context, this research was conducted only a short time after the completion of Order 01 titling work, and the authors did not have adequate data, such as baseline indicators from the studied households, on which to base a detailed livelihoods analysis. It is therefore only possible to assess the *perceived* livelihood impacts among household survey respondents and local officials.

Interestingly, just over half of questionnaire respondents who received a land title thought that the title had no impact on their family life and livelihood, which they considered to have remained the same (188 of 354 respondents, 53%). Nearly 40% of those who received a title thought their lives had improved, and just 7% thought their livelihoods had gotten worse.

Figure 7.4: Title recipients' perception of Order 01 title and impacts on livelihood



In Ratanakiri in particular, respondents did not link titles with livelihood improvements. Less than one-quarter of people from the province thought that their livelihoods had improved since receiving a title. As a village official put it, “the people who got a land certificate continue with their normal livelihoods. They did not earn anything from the land title” (RTK3, 02/07/2014). Ratanakiri was also the province where the most respondents thought that their livelihoods had gotten worse since receiving a title (possibly due to loss of access to some lands, as discussed in Part 6), and where respondents most frequently reported no change in their livelihoods. Land titles were considered to have no impact on livelihoods by more than half of the respondents who received a land title in both Kampong Speu and Koh Kong provinces. In comparison, the provinces where respondents most frequently associated titles with positive changes in their livelihoods were Oddar Meanchey and Kratie, with half of respondents in each province making a positive association between titles and livelihood outcomes.

Illustrative of the varied and uncertain impacts of land titles are the comments given by a village chief of Thpong district, Kampong Speu:

It is difficult to evaluate whether the titles have made people's livelihoods better or not because people just hold the titles. I think their livelihoods are the same as before (KPS8, 19/07/2014).

Indeed, in order to better understand how titles may have improved tenure security and livelihoods, a more thorough study is needed that explores livelihood differences that emerged due to the elimination of a threat to tenure security. Such a study could trace the experiences of households who feared losing their land or families who received titles for land they feared was lost and then document how titles contributed or not to tenure security. In the absence of such data, it is difficult to evaluate changes and potential differentiation between titled and untitled households, as the village chief's continued assessment shows:

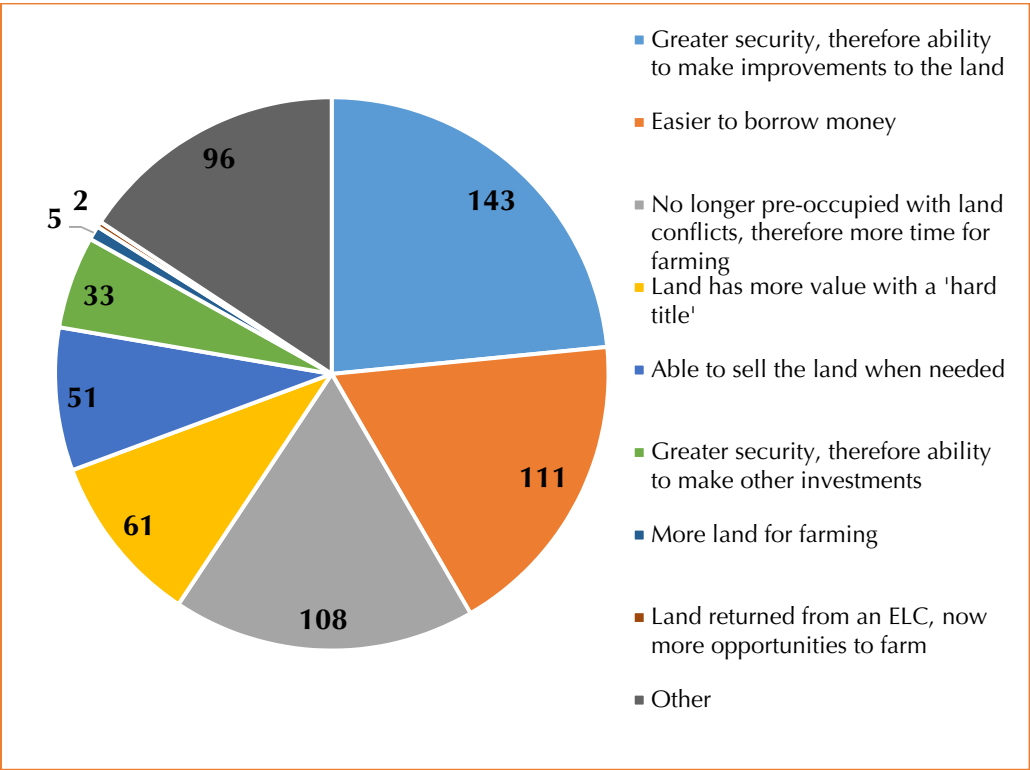
Some people use the title as collateral ... while others who did not get titles just continue doing the same farming on their land as before (*ibid.*).

Another village chief from Kravanh district of Pursat similarly identified the increased access to credit as the main way in which 01 titles have impacted livelihoods (PST5 16/07/2014). The role of titles in borrowing money and the implications of greater indebtedness is explored in more detail below.

To understand the specific ways that titles may have contributed to livelihood improvements, those people that received land titles were read a list of statements about livelihood improvements and asked if they had experienced these improvements since receiving Order 01 land titles. The most commonly identified improvement was 'greater security and ability to make improvements to the land' (143 responses out of 323)¹³², followed by 'easier to borrow money' (111) and 'I am no longer pre-occupied with land conflicts and have more time for farming' (108). The full range of responses is illustrated in Figure 7.5.

¹³² Although more than half of the respondents told the research team that they did not perceive any improvement to their livelihoods, later the questionnaire asked *how* livelihoods had been improved and collected 323 responses where people identified specific improvements. This can be explained because an individual respondent could choose multiple answers to this question, along with respondents possibly having seen some improvements, but on balance still feel no change or worse.

Figure 7.5: Ways that receiving land titles impacted on livelihoods of questionnaire respondents



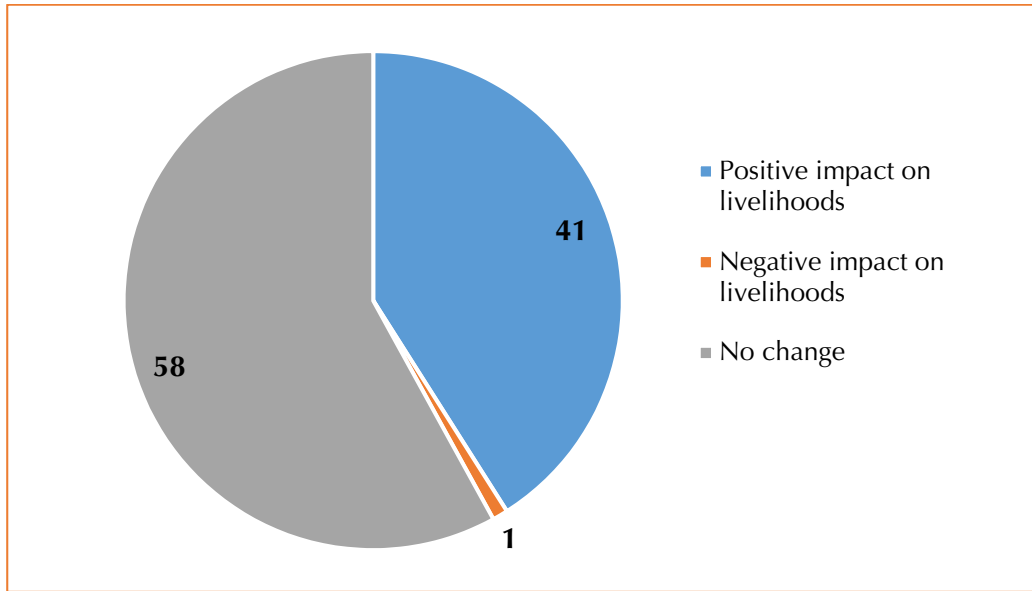
Interviews suggested that one impact of the titling program has been an increase in small investments such as planting more fruit trees, like durian, and building bigger houses (KK2, 27/07/2014; KK3, 26/07/2014; KK4, 26/07/2014). A village chief in Koh Kong explained that this shows “that we feel more confident with our land than we did before” (KK3, 26/07/2014). In Ratanakiri, one of the other reported benefits was that people could use the land title as a collateral and then invest the loan in logging work, either through buying wood or a truck to load wood (RTK6, 04/07/2014).

7.2.2 Livelihood impacts of *not* receiving Order 01 titles

In order to better appreciate the potential livelihood impacts of Order 01, the household questionnaire also asked those people who *did not* receive land titles if they had observed any impacts on their livelihoods after the completion of Order 01 in their area. Interestingly, the proportion of people who had received titles and who considered their livelihoods to have improved (40%) was almost exactly the same as the proportion for those who did not get a title (41%). This trend was pronounced in Pursat and Oddar Meanchey provinces, where in spite

of not receiving a land title, more than half of the respondents reported that their livelihoods have improved since Order 01. The untitled questionnaire respondents are also similar to the titled group in that the majority of respondents who did not get title (58%) felt that their lives and livelihood were about the same, with these responses most concentrated in Kratie and Ratanakiri (85% and 74%, respectively). Just four people, two in Kampong Speu and two in Koh Kong, felt that their situation was worse (less than 2%).

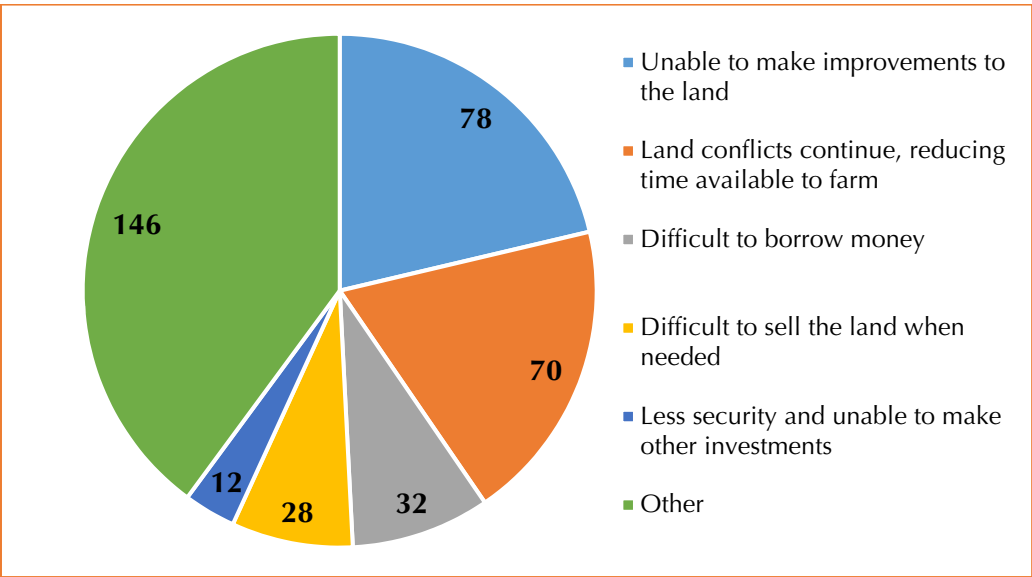
Figure 7.6: Non-title recipients' perception of Order 01 title and impacts on livelihood



The questionnaire results indicate receipt of a land title does not automatically lead to livelihood improvements. It should be kept in mind that not much time has elapsed since the Order 01 campaign and the awarding of titles. In the short term, more than half of the respondents may not perceive any immediate improvements in livelihood, however, as time goes on the benefits of receiving a title may become more pronounced, as may the differences between outcomes for those who received title and those who did not. It is interesting that very few untitled survey respondents reported negative livelihood impacts, and in over 40% of cases even reported positive impacts. This could possibly be explained by the fact that Order 01 led to a more general sense of security in survey areas. The untitled households may be embedded in communities and areas where the titling project proceeded to reduce land conflict (or the risk of land conflict) and therefore improved the broader tenure security of the community such that untitled households benefited in a similar manner to titled households. Further research will be needed to see if this trend is observed over time.

Despite very few people reporting overall negative impacts on their livelihoods, when this issue was explored further, it was clear that respondents did attach an absence of title to specific livelihood challenges (see Figure 7.7). The most frequent livelihood impact of not receiving a land title identified by respondents was that they were unable to make improvements to the land (30%, 78 responses where n=260). This limitation was most frequently identified in Ratanakiri . The second most frequently identified limitation was the persistence of land conflicts meaning that the respondent did not have enough time for farming (70 responses), a response that also occurred most often in Ratanakiri . Others reported that it continued to be difficult to borrow money (12%), or that it was difficult to sell the land when needed (11%). But relatively few (12 people, 5%) reported that not having a title meant they felt less secure and were unable to make other investments. It is important to note the fact that a significant number of respondents identified these challenges yet overall reports of negative livelihood impacts were low (see Figures 7.4 and 7.6 above).

Figure 7.7: Ways that *not* receiving a land title impacted livelihoods of questionnaire respondents¹³³



Interviews further elaborated how not receiving a title may have impacted people’s livelihoods and pointed to how feelings of security were altered. A commune council chief in Thmor Bang district of Koh Kong made the

¹³³ The questionnaire gave five options: ‘unable to make improvements to the land’; ‘less security and unable to make other investments’; ‘difficult to sell the land when needed’; ‘I am facing a land conflict and do not have enough time for farming’; and ‘other’. In this instance, ‘other’ was the most frequent response, indicating that there were insufficient options included in the questionnaire.

observation that “I have noticed that for families who did not get their land registered, they have become less confident and some of them have stopped working on their land” (KK4, 26/07/2014). A village chief in Kampong Speu gave a particularly grim assessment of the overall livelihood situation for a community affected by ELCs operating in his area. His community, located in Phnom Sruoch district, is affected by four different ELC companies operating in the vicinity. He explained their outlook as follows:

People’s livelihoods are the same as before, and for some families it is hard. Most people were able to produce charcoal for a living but now there is no forest. Now there are a few families that have survived and they collect small trees after the companies cleared land and they allowed people to get it. Soon they will lose their occupation. Some families have changed their jobs to work for companies with sugar cane and teak tree plantations and get 14,000 riels (\$3.50) per day – this is without lunch. There is no water for farming as the village dike has been damaged for three years and people’s rice fields are not good. The companies took over the forest. We have no new job opportunities like people who live in market areas. Even if we had titles and used it for getting a loan, we don’t know how to use the loan. We can only spend it so we will lose (KPS3, 22/07/2014).

Such an account reinforces a number of important points. Campaigns like Order 01 may be important in strengthening community’s land rights via land titles in areas where ELC operations are squeezing out livelihood options. However, it also shows that on-going work is needed to help to support rural livelihoods and to diversify livelihood activities in communities in the vicinity of ELCs, regardless of whether or not titles were issued.

An issue that emerged throughout the course of the research was access to credit. Reports from interviewees suggest that many people see titles as an important form of collateral, and hope to leverage titles to access credit. Due to the frequency with which this issue came up, it is elaborated upon in the following section.

Illustration 7.1: Travelling to a Study Village in Ratanakiri , July 2014



7.2.3 Land titles and borrowing money

From the outset of the Order 01 campaign, land titles were linked to credit and enhanced opportunities to borrow money in campaign rhetoric. During a speech to the youth volunteers in 2012 the Prime Minister stated that Order 01 titles would benefit recipients as they could be used as loan collateral (Cambodia New Vision, 2012). In this context, it was surprising to find nearly three-quarters of respondents (238 of 366, 71%) responded that they had not yet used their titles as collateral for a loan. The comments from one village chief from Chhlong, Kratie underscore the degree to which titles were linked to collateral in people's perceptions of the campaign. He reflected that "it seems like the land titles from Order 01 are not really important because people are not using them as collateral for a loan" (KRT5, 07/07/2014).

Yet in spite of the majority of questionnaire respondents saying they had not used their titles to get a loan, there was a great degree of geographic variation in the responses. Nearly half of respondents in Oddar Meanchey confirmed that they had used titles as collateral, whereas in Ratanakiri only about 10% had. There was also a strong tendency to use titles as collateral in Pursat where 44% of respondents used the titles as collateral. While in Kratie, Kampong Speu and Koh

Kong about one-quarter to one-third of respondents reported using the titles as collateral, this is more likely to a reflection of creditors wanting titles as collateral than borrowers wishing to deposit their titles with lending agents.

Interviews with subnational-level officials provided much more information on borrowing trends, suggesting that questionnaire respondents may have under-reported the extent to which they had used their titles to borrow money. Participants in a focus group discussion in Oddar Meanchey asserted that at least 90% of people in their community had used their land certificates to borrow money. Indeed, participants in this discussion identified borrowing money with a lower interest rate was identified as the only livelihood benefit from the Order 01 campaign (ODM-FGD, 27/07/2014). In addition to using titles to borrow money, a deputy commune chief in the same area explained that there was a significant increase in the number of families who had pawned their land certificate (ODM1, 31/07/2014).

Collateral and borrowing from microfinance institutions (MFIs) was a recurring topic of conversation throughout interviews and discussions. By way of example, one village chief in Thmor Bang district, Koh Kong, explained:

Life does not seem to be different between now and in the past, people still live as usual. But at least we have land certificates in our hands. Some of us can use these temporary certificates to borrow money, although not many people have done it yet, but I believe more will do it in the future (KK3, 26/07/2014).

Land titles not only made it easier to borrow money, but facilitated a shift from borrowing from moneylenders and middlemen in the village and towards MFIs and banks like Aceda, Sathabna and Hathakasekor. In the observation of a village chief from Sambo district, Kratie, people are using these loans to buy ploughing machines and now almost every household in the village has one. Another popular investment is to buy the columns needed to grow pepper, with families borrowing as much as US\$3,000 to invest in this activity with the intention of paying it back after the cassava harvest (KRT7, 06/07/2014).

However, not all borrowers seem to have such clear investment targets or repayment plans. A village chief in Phnom Sruoch district of Kampong Speu stated that loans were used for wedding ceremonies and Buddhist ceremonies, along with ploughing machines and agricultural tools. Here too, the titles facilitated a shift from private moneylenders with a high interest rate towards MFIs, with the village chief commenting that nobody goes to moneylenders anymore (KPS2, 22/07/2014). In the same district, a commune chief explained that the Order 01 titles could be used as collateral with MFIs to get a loan more quickly than before (KPS1, 22/07/2014). The titles also facilitate borrowing larger

amounts of money, as a community forest leader from Pursat town explained, “people can use titles to get a big loan. If we don’t have titles we can’t get the big loans” (PST8, 17/07/2014). He suggested that as many as 70% of the land titles granted in the area are now sitting in MFI offices as collateral. If true, this points to a sharp increase in the potential for people to lose land by defaulting on loans.

The degree to which greater debt was seen as a positive development varied among those consulted for the research. Some emphasized the role of credit in starting small businesses, buying houses, or investing in cattle or livestock (KPS4, 21/07/2014), but others expressed hesitancy to borrow money while rural livelihoods were faltering. In Oral district, Kampong Speu, drought meant that ploughing was several weeks delayed while the cassava supply was already exhausted as a source of. Here a community member explained that in this context people were “afraid to put land titles in the MFI, they think they won’t have the ability to get it back” (KPS5, 21/07/2014). Since credit would only be used to buy rice and basic consumption items, people were worried about their ability to make even the monthly interest payments. As a result, people prefer to borrow money from one-another in the village as community members were thought to better understand each other’s hardships and were not taking interest from one another (KPS5, 21/07/2014).

Concerns with indebtedness were further highlighted in a focus group discussion in Snoul district, Kratie, where many families concentrate on cassava production. Participants explained that the land is losing fertility and productivity is dropping. This leads to a drop in income and increased need to purchase fertilizers, which in turn means that more and more families are using land titles to get loans. This meant that more people are falling into debt with no hopes of paying back the MFIs. These fears are heightened by fluctuations in the price of crops like cassava, while at the same time costs of consumer items from the market are rising. As one participant put it, “land titles cannot solve our problems because there is an imbalance between the price of what we can produce and the price of what we buy in the market” (KRT-FGD, 09/07/2014). Indigenous Stieng members of this discussion further emphasized that the loss of forest has meant that now everyone relies on the market to buy vegetables, fish and food, whereas in the past they would have relied on products from the forest. The fertility of the previously forested land has fallen, and continues to fall, as families grow cash crops on the degraded land while spending more and more on fertilizers and pesticides. In addition to the likely inability of villagers to pay back their debts, people were concerned that as the fertility of the land declines, “people may decide to abandon the land to migrants, or that being a labourer is a better way [to make a living] than farming the land themselves”. Their assessment of the situation was further bolstered by the observation that “the MFIs don’t care about the production of the land or the level of output, they just focus on the land title” (KRT-FGD, 09/07/2014).

Illustration 7.2: Cassava cultivation in Snoul district, Kratie, 2014



This landscape of rural indebtedness was not caused by Order 01, and rural households have been using land as collateral for loans, and in some cases losing land to creditors, for a number of years. However, the information gathered during the course of this research indicates that the possession of a land title is seen by many as being a more useful document for using as loan security, and likely in high demand as reliable collateral by the MFIs, potentially accelerating the process and increasing access to larger loans. While some families are in a position that they can use these loans to invest in machinery and other items that support livelihood development, many loans are used to pay off existing debts or purchase consumable items. As land titles do become more and more prevalent in rural areas, there will be a greater need for basic livelihood support and diversification programs in order to strengthen families' ability to service their loans and avoid losing land to creditors.

7.3 Impacts of Order 01 on Land Tenure Security

Enhancing land security was a central motivation for Order 01's titling campaign (and Cambodia's land titling program in general). To assess the effectiveness of Order 01 titles in enhancing tenure security, the research team gathered data from the six studied provinces via the household questionnaire, interviews and focus group discussions. Results from the questionnaire confirm that land titles were very much considered by respondents to improve tenure security. This perception was also confirmed across interviews and focus group discussions. By way of example, a village chief in Kravanh district, Pursat, told the team that the program was designed specifically to help people who did not have land tenure security and that it has been effective in helping people to hold and manage their land (PST5, 16/07/2014).

Nearly all of the questionnaire respondents who received a land title¹³⁴ reported having had no problems asserting their rights to their land since receiving the title (333 people, 96% of 346 responses). However, it is important to note that many of these people may have had no pre-existing land dispute over the titled land. Therefore, to verify whether titles had improved tenure security in areas that had a pre-existing conflict, this study looked at how respondents that previously had a land conflict evaluated the impact of their title. The majority, 86% of those who had previously had a conflict on their rice land (n=46) and 90% of those who had a previous conflict on their Chamkar land (n=31) reported that since receiving a land title they have had no difficulties asserting their rights to land, indicating that in these cases the titles were effective.

Questionnaire respondents were asked whether or not receiving a title had an impact on their feelings of security. Receiving a land title made 282 people feel more secure (86% of 328 responses). A number of local officials also saw land titles as an effective way of making people feel secure and of putting an end to worries of land grabbing (see for example PST7, 14/07/2014). For those that did not receive a land title from the Order 01 campaign, two-thirds confirmed that they felt less secure after Order 01. Among those who did not receive a land title, respondents from Oddar Meanchey (80%) most frequently associated a lack of title with feelings of insecurity, followed by Koh Kong (76%) and Kratie (68%). However, one could also read this data not as indications of improved tenure but rather a redistribution of security and insecurity throughout villages based on whether land was titled by 01 or not.

¹³⁴ As detailed earlier in the report, nearly 73% of respondents received a land title for their rice, chamkar or residential land. When asked what types of land was titled, 221 people out of 340 reported receiving a rice land title, 146 received a title for their chamkar land, and 192 received a title for their residential land.

In a rubber growing area of Kratie, Snoul district, one village chief explained that the land titling campaign had the effect of legalizing the claims of new migrants, who had previously been viewed as illegal occupants by the indigenous people living there for generations. The village chief commented, “in the past people illegally occupied the land, but after Order 01 they have legal land tenure” (KRT2, 09/07/2014). This village chief assessed the benefits of land titles as the right to legally transfer land from one to another, to sell land, and to use it as collateral for loans. In the eyes of this official, the transformation in local legal recognition brought about by Order 01 has resulted in an increase in land prices as well as reduced conflicts from land encroachment (KRT2, 09/07/2014). The extent to which issuance of titles has altered the land market and the price of land is returned to and developed in the next sub-section.

Even though the number of people who reported no increase in their feelings of security after receiving a title was comparatively smaller (46 or 14%), it is still deserving of attention. Geographically, the largest cluster of respondents who reported no increase in their feelings of security was in Ratanakiri (17). This may be because shifting cultivation land was often not surveyed, as was reported in focus group discussions held in the province. Discussion participants explained to the team that this oftentimes meant that families with three or four plots of shifting cultivation land were left with only the one or two plots that were in cultivation when the Order 01 survey teams arrived. People also complained to the research team that at times the size of land marked in the land title did not match with the area that they believed to be theirs, but that community members did not feel confident enough to complain to the authorities about these inconsistencies. For the families in this community that did not get a title, they face ongoing threats from the company since it now uses the fact that these families do not hold a title to accuse them of being illegal occupants. As a result, this group lives with even more fear and anxiety than before Order 01 (RTK-FGD, 05/07/2014).

In Andoung Meas district, also in Ratanakiri, a village official explained that problems with the Order 01 titles and tenure security were often rooted in mistakes by the survey teams. He asserted that the teams did not always completely measure the farmed area, which meant that some of the areas excluded from the survey were effectively given back to the company. In this same village, according to the official interviewed, people exchanged land with the company after receiving land titles or even lost parts of their land in spite of holding a title. In addition to eroding the livelihoods of the families who lost land, the collective lands were also being reduced as the company took “parts here and there” either in a land exchange or by force (RTK3, 02/07/2014).

The research team documented one case in which the campaign had the unintended effect of removing the hope of securing tenure for some families in Koh

Kong District, Koh Kong province. In this case the maps produced by the survey team confirmed that people were living in a conservation area managed by an NGO. The result was that families lost farmland (KK1, 26/07/2014; KK2, 27/07/2014).

In Oddar Meanchey province, a number of research participants did not consider the Order 01 titles to be able to guarantee their tenure in a landscape where security forces have apparently exerted their power to control territory. Participants in a focus group discussion in Samrong district explained how some land that was previously in conflict between an ELC holder and local people was in fact registered to local army officials through the Order 01 process. Following on from the process, and observing the local gains made by powerful actors, people had limited confidence in the power of land titles to protect them, and assessed their situation as follows:

As far as we can tell, our residential lands that have already been granted a hard-copy of the land title might be OK, but we cannot be sure since our land is surrounded by the land of many high-ranking people, and especially the local army [from this area] who still use their power to extend their land claims at any time (ODM-FGD, 27/07/2014).

For the land that was not measured in this village, estimated at about half of total farming land, people expected to have even more problems in the form of ever mounting threats from high ranking government officials and the local army (ODM-FGD, 27/07/2014). A village chief in the same district shared such doubts, commenting that no one in his village is 100% confident that the land won't be encroached in the future even though it is now titled (ODM3, 14/07/2014). These worries seem justified in this context since the other village chief interviewed from this district stated that some families who had received land titles had since seen their land occupied by the military. The official expressed concern that these people "might face hunger" in the future (ODM2, 12/07/2014).

Examining the impact of Order 01 on tenure security has also uncovered some of the limitations to the effectiveness of the leopard skin strategy in terms of securing land tenure and land access for farmers in the midst of ELCs. In the case of one village in Thpong district of Kampong Speu, families who had received land titles for plots within the boundaries of an ELC were continually blocked from accessing their land by the company. As described earlier in Part 5, the ELC company was able to temporarily block the issuance of titles for 92 parcels that had been surveyed, but titles were later issued after intervention by Provincial Hall, which sided with the villagers. Even though these families did eventually receive title, the ELC company's land surrounds that of the smallholders and the company continued to use excavators to block the access roads and to clear

adjacent land. With the intent of trying to demarcate their land and to strengthen their claims to it, families were rushing to plant their land while the company land remained idle. Illustrative of the imbalance in access to information, the ELC company has explained to the village chief that it held a map of all the people holding land titles in the area within the ELC. The company also explained their intention to create a fence that would surround the ELC “to protect it” and effectively block all smallholders from accessing their titled land within (KPS7, 20/07/2014). In this case, it appeared that people responded to this obstruction by starting to sell land to the company. It was not clear to the research teams if the titles were doing anything for these farmers in terms of helping to give them more negotiating power over the terms of sale. Regardless, cases such as these do help to give an indication of how land titles are not necessarily the endpoint in people’s struggles with powerful ELC companies and how communities could use further and ongoing support after the granting of titles.

In December 2013, several months after major Order 01 survey activities was suspended, the Cambodian Centre for Human Rights (CCHR) organized a forum during which a number of accounts were shared of land titles proving ineffective at securing people’s claims to land. A speaker from Bavel district, Battambang, stated that even though he was granted a title through the 01 process, a company that had been occupying his land since 2005 continued to do so. At the same forum, a woman from Kampong Speu said that plots in her village were measured and residents were issued titles, but that these titles were then sold to a private company by the local authorities (May, 2013c). CCHR issued a report on land conflict in 2013 in which the organization expressed serious concerns about the effectiveness of the campaign. This highlighted a case where the Pheaphimex Company continuing to occupy the land of 10 families living in Krakor district, Pursat, who had received land titles following demarcation by Order 01 teams in December 2012. CCHR reported that when villagers attempted to build pillars on this land in May 2013 the company informed them that it would not recognize their Order 01 land titles (CCHR, 2013, p.19-20). Although the authors cannot verify these claims, such reports raise concerns about the effectiveness of the titles in hotly disputed areas.

The development of the land market is closely related to tenure security, and before concluding this part of the report now turns to how titles have impacted on the price of land and the land market.

7.4 Order 01 Titles and Impacts on the Land Market

Many opinions were shared during interviews and group discussions which indicate that the price of land has already risen in the study areas after 01 titling. However, very few respondents to the questionnaire confirmed that they had sold land, and instead most indicated they only *expected* land would have a

higher price. Just two out of 344 questionnaire respondents reported that they had sold land since they received an Order 01 land title. Although very few land sales had actually taken place among questionnaire respondents, there was vibrant discussion among research participants regarding the potential impacts of Order 01 on land values.

There may be several explanations why post-titling land sales were minimal in the study areas. It could simply be the case that people do not want to sell their land now that it has been titled, but in two of the study provinces, officials explained that the stricter rules for transfer of titled land were dissuading people from transferring land. After a plot of land has been formally titled, any subsequent transfer must be properly registered with the district cadastral authorities, which can only be done after all the necessary taxes have been paid (Grimsditch et al, 2012, p.92). In Pursat, a village chief explained to the team that these procedures have since led to complaints from landholders who have found that selling land has become more difficult, although he clarified that landholders are entitled to transfer the title within the family without engaging with the bureaucracy around a legal land transfer (PST5, 16/07/2014). The need to register land sales for titled land was similarly discouraging sales in Phnom Sruoch district of Kampong Speu according to one official (KPS2, 22/07/2014).

For some time it has been a cause for concern that land titles issued through Cambodia's systematic land registration system were not being subsequently registered after transfer, and rather than following the appropriate steps, many have simply relied on semi-formal approval at the local level (Grimsditch et al, 2012, pp.93-96). It is therefore interesting to see in these cases that people now appear to be aware that there is a formal legal process, and that they are reluctant to violate it. This is an area worthy of further investigation. Additionally, one interviewee in Pursat stated that land title holders were told that they can only sell the land five years after receiving the title (PST5, 16/07/2014). This may also have depressed post-tilting land sales, although similar reports were not found in other areas.

Elsewhere, the titles seem to have re-invigorated the land market and enhanced sellers' ability to negotiate better prices (KPS6, 19/07/2014). Community leaders in Koh Kong district explained that land titles had given people the confidence to buy land, with the result that land prices have gone up. The increase in land values may be in the range of 75% according to a village chief in Kampong Speu's Thpong district, who observed that the price of land jumped from \$400 per ha to \$700 after the titles were granted (KPS7, 20/07/2014). According to a village chief in Ratanakiri, the price of planted and titled Chamkar land may have even shot up drastically after Order 01, with outsiders being quick to buy up plots planted with cashew nut trees for about \$800 per hectare (RTK2, 02/07/2014). In Chhleng district of Kratie, a village chief commented that titled

land also got higher prices in the land market after Order 01 (KRT5, 07/07/2014). Meanwhile, group discussions in Pursat emphasized that none of the long-standing residents had sold land after receiving a title. Instead, this practice was seen to be driven by outsiders and newcomers to the area (PST-FGD, 15/07/2014). A possible consequence of the price of titled land increasing is that untitled land has also decreased in value with buyers staying away from untitled areas (KPS4, 21/07/2014).

In other parts of the country, and in Ratanakiri in particular, the team was told that titled lands were often quickly sold to nearby ELC holders (RTK3, 03/07/2014). Participants in the focus group discussion held in Ratanakiri emphasized that they fully expected that all of the land on the periphery of the concession would end up being bought by the company and that people would sell it to avoid further conflict (RTK-FGD, 05/07/2014). Discussion in Ratanakiri also captured a great deal of anxiety around land sales and how Order 01 titles were altering the land market. People were concerned by an up-tick in land sales, driven by the Order 01 titles, which was taking place in a context of decreasing land availability as reserved lands declined. Discussion participants explained:

People are able to sell the land with a higher price than they could before. But they cannot expand their landholding or find other land after they sell. If they sell their land, they will lose it all. If something happens, like falling seriously sick or falling into debt, then people will have nothing to depend on because everywhere the land already has owners, especially with the company here (RTK-FGD, 05/07/2014).

This outlook was shared by a village chief living in the area, who commented:

It is different from before when people could get new land by clearing the forest after selling their plot. But now all the land already has owners and people can't go and clear new land. After selling land some people have nowhere to live besides living on state land, like living along the canal (RTK2, 02/07/2014).

This pattern was also observed in Voeun Sai district, where another village chief observed that in spite of no one in his village having sold land, the price had doubled in the area around the company land. In his opinion, the shortage of free land along with the strong interest of buyers from outside the community were driving up the prices more so than land titles (RTK4, 04/07/2014).

7.5 Conclusions: Livelihood and Tenure Impacts of Order 01

An accurate assessment of how land titles may have impacted livelihoods is not possible without a strong baseline in the survey communities and detailed research, and our findings are for the most part only illustrative of people's *perceptions* of change. Despite the fact that land titles are often held up as an essential tool for improving rural livelihoods, the results of the household questionnaire showed that only about half of Order 01 title recipients perceived any improvement to their livelihoods. Although, when probed further, a considerable portion of respondents stated that the improved sense of security made them feel more comfortable to make improvements to their land. Some people who did not receive land titles have since been pushed off the land as the fact that they have not received title has led the authorities or the company to the conclusion that they are in fact illegal occupants. The livelihood impacts for these people is likely to be dire. Even for those who have received titles, but live surrounded by concessions, opportunities are limited, especially people who only hold small agricultural plots. This shows that while campaigns like Order 01 potentially strengthening people's rights over a given plot of land, this cannot be viewed in isolation from wider livelihood opportunities.

Over 100 questionnaire respondents stated that Order 01 titles had made it easier for people to borrow money, and a key issue that emerged from the focus group discussions and interviews was the issue of collateral and debt. Prior to the start of Order 01 titling in many areas people were told by officials that titles can increase access to credit. Data gathered through the household questionnaire indicated around 30% of respondents had already used their titles as collateral for a loan. However, qualitative data gathered in discussions and interviews suggested that this practice may be even more widespread than reported by questionnaire respondents. While access to credit can provide capital for investing in livelihood improvements, the rapid increase in indebtedness raises cause for concern.

An overwhelming majority of questionnaire respondents stated that receiving a land title contributed to an increased sense of security over their land, sentiments that were also echoed by local officials. However, for systematic registration to really deliver tenure security it has to be implemented systematically. One of the important differences between programs like SLR and Order 01 is that SLR systematically approaches an entire area for registration and titling, whereas Order 01 was often fragmented within villages, incomplete, and unsystematic, as explained in earlier parts of this report. For that reason it is difficult to assess tenure security within communities where Order 01 was active. In many cases it may be that security and insecurity were redistributed within communities as not all plots of land were surveyed and titled.

Examining how Order 01 has impacted tenure security has also uncovered some potential limitations to the effectiveness of the leopard skin strategy in terms of securing land tenure and land access for farmers in the midst of ELCs. Several cases highlighted in this report and elsewhere have indicated that land titles are not always adequate to secure the land of people located in close proximity to concession areas. In some cases it was reported that post-01, concessionaires exerted pressure on the title holder to sell the land to them. This shows that land title distribution should not be viewed as an ‘endpoint’, rather as another tool to help protect the land of rightful owners. The distribution of over half a million titles though Order 01 must also be accompanied by heightened oversight of how concessionaires and other powerful actors behave in the future, supported by meaningful action if violations are observed. Without these steps being taken, the potential for Order 01 land titles to provide land tenure security will become increasingly limited.

Illustration 7.3: Upland intercropped rice, Snoul district, Kratie, 2014



Part 8: Perceptions of Order 01 in the Six Study Provinces



Part 8: Perceptions of Order 01 in the Six Study Provinces

A key objective of this research was to assess the extent to which people within Order 01 areas were satisfied with the campaign and its outcomes. As already illustrated throughout this report, a large number of land titles were issued through Order 01, but there were also a significant number of irregularities and the researchers met with numerous people that felt that they had been unfairly treated by the process. This results in a somewhat polarized response in terms of satisfaction, and obviously those that had all or a large part of their land registered are likely to express satisfaction, while those that were not included are likely to express serious dissatisfaction.

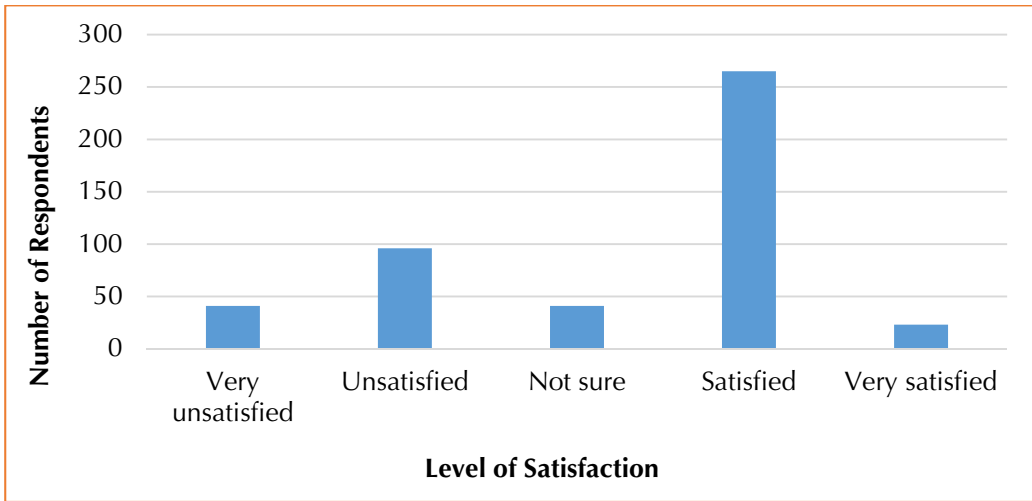
This part of the report explores people's satisfaction with Order 01's implementation and outcomes in more detail. This section first presents a broad overview of satisfaction levels as gleaned from the household questionnaire, which indicated a relatively high rate of satisfaction. The second section then explores the accounts from both community members and local level government to consider what aspects of the campaign people considered successful. This discussion also directs attention to the various parts of the campaign that people found challenging. The third section then moves to describe the various reasons that people and local government were unsatisfied with the campaign.

8.1 Satisfaction Levels Among Household Questionnaire Respondents

When given the choice of whether they were satisfied or unsatisfied with the Order 01 *process*, about three-quarters of household questionnaire respondents (343 people out of 465) said they were satisfied, with the remaining 122 people stating they were unsatisfied. When assessing this response, it is important to note that the selection of questionnaire respondents was skewed towards people who received title, who as mentioned above, are more likely to be satisfied than those who did not.

To un-pack this the varying degrees to which people in the 36 studied villages may have been satisfied with the *outcomes* of the campaign, they were then asked to rank their satisfaction on a five-point scale ranging from 'very satisfied' to 'very unsatisfied' (results shown in Figure 8.1). The results were not quite as positive as when people were asked about the Order 01 *process*, but still, more than half of respondents chose 'satisfied' (265 out of 466 responses, 57%). This option was chosen most frequently in Pursat province and occurred least often in Koh Kong. 'Unsatisfied' was the second most common response, with 96 respondents (21%) and was reported most in Ratanakiri and Koh Kong provinces. These results suggest that although very few people were overwhelmingly positive about the campaign, more often than not people were satisfied.

Figure 8.1: Satisfaction with outcomes of Order 01 among household questionnaire respondents



With this basic overview in place, the remainder of this section turns to examine the detailed considerations of the campaign’s successes and failures as described during focus group discussions and interviews.

8.2 Positive Perceptions of Order 01 and Indications of ‘Success’

Interviews with local government add a more nuanced view as to what aspects of the program were most important to people living within their jurisdictions as well as their own assessments of the success of the campaign. One of the key determinants of perceived success was of course whether or not land titles were issued, followed by the ability of the land survey process to contribute to solving disputes. In the eyes of one village chief from Thpong district, Kampong Speu province, the campaign was successful because it “made people confident in the future” since now that “they hold land titles, they are not afraid that their land will be grabbed” with the result that people are “happy and hopeful” (KPS8, 19/07/2014).

Tenure security was emphasized as a key component of what made Order 01 a success. An official from Pursat’s Cadastral Department explained that protecting people’s land and tenure security was a key part of poverty reduction since it “frees people from concern with tenure security” (PST1, 17/07/2014). Along with improving people’s tenure security, he considered the titling campaign to have brought social stability and to have reduced land conflict in ways that allowed people to invest in and increase their agricultural production (PST1, 17/07/2014). These sentiments were shared by a commune council chief from Krakor district, also in Pursat, who confirmed that “80 to 90 per cent of people got land titles

and are so happy with them” telling the team that “the titles were free of charge and reduced land conflicts, especially boundary disputes among villagers” (PST2, 15/07/2014).

How Order 01 proceeded around disputed land was another criterion for success among interviewees. In cases where long-running disputes were considered to be solved, the campaign was considered a success. For instance, in an area of Snoul district, Kratie province, where a number of rubber companies operate, a commune chief declared the campaign to be effective,

because people’s land was measured, land conflicts were solved, and there were no complaints about the student’s attitudes from people. It was helpful to people and they no longer have concerns about losing their land since a big number of land conflicts were solved ... Overall, the number of land conflicts was reduced, especially those between ELC companies and people, it also helped cases where state land was grabbed (KRT1, 09/07/2014).

In contrast, when the campaign did not survey and title land in areas in dispute with ELCs, people were reluctant to consider the campaign a success since it did not solve long-running conflicts as many had hoped. In an area where the campaign did not proceed due to an ongoing conflict with an ELC company in Kampong Speu, a village chief gave the following opinions of the campaign and its shortcomings:

The campaign happened because the government was afraid of people who had been in conflict with the ELC companies and they wanted votes from the people. But I still wonder why they did not survey land that had conflict with ELC companies so that now the conflicts continue ... The youth volunteers were not really independent and they were afraid of the ELC owners (KPS3, 22/07/2014).

He went on to explain how the ELC managers were successful in their attempts to block the teams from surveying people’s land in conflict areas and that the team simply said “we cannot survey land conflicts” (KPS3, 22/07/2014). The result was widespread dissatisfaction with Order 01 in his community. The next sub-section explores what people judged to be the shortcomings of the campaign further.

In other areas where titling proceeded unevenly, the communities were very much split between satisfied villagers who held title, and unsatisfied families who felt increasingly vulnerable. In one community in a forested area in Kravanh district in Pursat, the village chief explained to the team:

For those who got land titles through the campaign, they think it was good. The landholders whose land was excluded from the survey feel that the team was biased ... Before the land survey, the people were so happy to hear that

the land titling campaign was coming to the village. Afterwards, some people's land was not surveyed and the people felt upset with the youth volunteers and team members (PST5, 16/07/2014).

This situation led to tensions within the village that were heightened by the case of a police officer who had his land surveyed while his neighbours and other regular community members who had land in the same area were passed over by the survey teams. The result was that the policeman was the only person to get a title in the area and many people felt this was unfair and unjust (PST5, 16/07/2014). The sentiment surrounding inclusion and exclusion from Order 01's benefits emerged most clearly during focus group discussions in Kampong Speu where it was simply put, "All the people who got titles are satisfied with the campaign while the people that did not get titles are not" (KPS-FGD, 20/07/2014).

Order 01 also resulted in boundaries being both fixed and clarified. According to some official interviewees, this had the important effect of discouraging encroachment on villagers' land by both newcomers and ELCs. One village chief in Sambo district, Kratie, commented that the demarcation of boundaries was useful in "stopping the problem of clearance and expanding land" (KRT6, 07/07/2014). Another village chief in the same district emphasized that Order 01 "does not allow the company to continue to take any more land" (KRT7, 06/07/2014). In other settings, though, the clearer demarcation of boundaries also meant limited access to some types of land and produced mixed outcomes for villagers. Community leaders in Koh Kong district explained to the team:

Although we have more confidence now that we can stay on our land, at least half of the villagers here became disappointed because part of our cultivation land has been taken by the conservation NGO and we cannot work these lands now. Before Order 01 we can plant something, but now we can't anymore (KK2, 27/07/2014).

Yet, even in this case of losing land access after Order 01, the community leaders recognized the advantage that "in the residential areas we can now build our houses with no fear and are able to plant more trees around our houses" (KK2, 27/07/2014).

Although there were numerous accounts highlighting the positive aspects of the Order 01 campaign, there were also some harsh critiques and considerable dissatisfaction with the campaign in some areas. This is discussed below, focussing first on the criticisms heard from local level government, and then at the concerns that emerged from villagers during focus group discussions held in each of the six studied provinces.

Illustration 8.1: Focus Group Discussion in Pursat, July 2014



8.3 Dissatisfaction with the Campaign Among Local Officials

One of the biggest causes for dissatisfaction with Order 01 was that people felt that the promises to resume Order 01 activities after the 2013 national election were not kept, leading people to judge the campaign as incomplete. Considering how the implementation of Order 01 impacted his community, a village chief in Phnom Sruoch district, Kampong Speu, said:

I don't know if the campaign was effective or not because they did not complete the assignment. The survey teams only covered the rice fields and people's land in the community forest area ... Some land was not surveyed and they told people 'wait, next time we will do it'. But now, even today, we still have not seen them return ... There is no positive outcome for the campaign in this village. Land in conflict with ELC companies was not surveyed. They said they would come back, but we did not see them, and they did not reappear in other provinces either (KPS3, 22/07/2014).

It is concerning to know that after one year villagers were still waiting and hoping for the Order 01 teams to return, with no information about if or when this would actually happen.

In Pursat, one commune council in Krakor district responded to the discontinuation of the campaign in the run up to the election by issuing a letter to acknowledge land used for agriculture for those households who did not receive land titles (PST2, 15/07/2014). Yet, in the same district a village chief explained to the team that:

For the landholders who had their land excluded from the titling campaign, they want the youth volunteers to come back. These people need ... [to understand] the reasons why their land was excluded ... If these conflicts will not be solved, then the people will stay angry at the local authorities (PST3, 15/07/2014).

Local authorities in Samrong, Oddar Meanchey also reported that people were angry with them after Order 01. One village chief said that 99% of people in his village were happy with the results, but that “some small numbers of people are not happy that they have not received the land title and they blame local authorities for nepotism to the rich and powerful people” (ODM4, 12/07/2014). A village chief from the other studied village in this district also told the team that in his opinion, “Order 01 does not achieve its purpose” because “they could not manage the land conflicts”. Instead of the situation improving its seriousness is now “double or triple” what it used to be (ODM2, 12/07/2014). As a consequence, “the people in my village became so angry with me as the local authority” and he acknowledged that as he deals with more dissatisfaction from within the village, “the powerful people can still grab land, even after the families in the village have their land certificate!” He ended up concluding “there is no land security in my village” (*ibid.*).

Although a village chief in Koh Kong did not draw such dire conclusions himself, he described very similar patterns when evaluating people’s feelings in the area about Order 01. He told the research team:

At this stage, people in my community are still angry and not happy with the process of Order 01. It is seen as being unfair. More conflict has been raised every day (KK1, 26/07/2014).

He went on to explain his personal assessment of the program:

I think the motives behind the order were political and the government wanted it to gain support during the election. But, as we can see now, they get nothing. The conflict is increasing and this village has lost support for the ruling party (KK1, 26/07/2014).

Discontent was so severe among villagers who felt cheated that people drew comparison to the darkest days in living memory, as the village chief stated: “some of my people whose land was not measured perceive Order 01 as being worse than Pol Pot!” (KK1, 26/07/2014).

The above comments all point to the critical importance of what comes next in terms of land surveying and titling efforts in Cambodia now that the Order 01 campaign has effectively finished. Many communities face uncertainty and

persistent tensions as the land surveying activities appeared at first suspended and now only partially completed in some areas.

Another critique to emerge about Order 01 was that in some areas it was considered to benefit migrant and wealthier households to a greater degree than long-term settlers (a point explored in Part 4 of this report). This was the opinion of a village chief in a formerly majority Stieng village in Chhlong district, Kratie. He evaluated the campaign as “being for people who have a lot of land” (KRT5, 07/07/2014), explaining “the normal people did not have any new land for measuring, they measured the same land they always had” (KRT5, 07/07/2014). The interviewee implied that wealthier households were able to clear land in advance of the arrival of the survey teams, and consequently, to expand their recognized landholdings. In this community the village chief reported that outsiders, mostly from Kampong Cham province, had more than 100 ha of land in the community (averaging at 4-10ha per family) and were able to get it all titled. In this same village, the chief offered a strongly negative assessment of the program, telling the research team:

The program and policy of the government failed because the officers on the ground did not have discipline. They did not obey the law and its principle. I could see this in the contrast between what the volunteer students did and the expert officers (KRT5, 07/07/2014).

In his view, there was corruption as some people paid land and forest officers in order to claim more land. He explained:

the students did not take money. There were meetings explaining that people are not allowed to give money for measuring to anyone. Yet, people had already spent or given money to get their land measured, but they did not dare to tell the students (KRT5, 07/07/2014).

As explained next in Part 9 of this report, there was a great degree of variation within the study areas as to how the youth volunteers were perceived by both communities and local government, but for the most part the perception of community members was positive.

8.4 Sources of Discontent Among Community Members

The strongest community critiques of Order 01 emerged through focus group discussions held with community members in six villages, one per target province. One of the main areas of complaint was corruption and the manipulation of Order 01 by powerful outsiders. All of the group discussion participants in Oddar Meanchey said they were not happy with Order 01 as it was seen to benefit powerful people and the company more than the villagers.

They explained how powerful people utilized the campaign for their own benefit:

Even though they said we cannot have more than 5 ha per family, we saw that powerful individuals could easily get more than 5 ha measured. The strong connection and cooperation between the Order 01 team and powerful individuals that we saw during the land measurement in our village makes us even more afraid since we saw they could do anything they wanted here. Therefore, we can say that when talking about what is state land and what is community land, it was not clear at all to us since some powerful people still had their land measured, even if their land was in the forest or was just cleared days before measurement began (ODM-FGD, 27/07/2014).

This example indicates that the lack of clarity around land classification, which the report discussed in Part 4, may in some cases have been used by powerful groups to the detriment of the goals of the campaign and to the land rights of villagers.

The story from another focus group discussion held in Botum Sakor district, Koh Kong province, involving a community facing threats from a sugar plantation details their dissatisfaction with Order 01. Their frustration is rooted in how, in their view, rich and powerful people were able to manipulate the campaign. They said:

[Order 01] just came and created more conflicts in our village. It is an opportunity to provide legal land status to powerful people like [the concession owner], but it left us more vulnerable. We expect that there would be more violence if [the concessionaire] comes and clears our land. We are ready to fight him! We understand that Order 01 is for the rich but not for the poor like us. They just measure the land and make sure that the land for the rich will be safe. No one dares to challenge after [the campaign], but all of us do not agree. We will continue our struggles even though the temporary certificates have now been issued (KK-FGD, 25/07/2014).

This community held only temporary land certificates and was still waiting to receive their final titles at the time of the field research in late July 2014, in spite of the survey teams having measured land two years previously in July 2012. The rumour in the community at the time of the research was that the concessionaire had already received the final hard copy of his land titles, while the community continued to wait (KK-FGD, 25/07/2014). This could not be verified by the research team, but this lack of trust is indicative of the lack of transparency and access to information that has characterized the campaign in some areas.

In Kratie, group discussions emphasized the sentiment that Order 01 was ‘too little, too late’. Held in a village that had previously been predominantly Stieng,

discussion group members expressed their frustration that they needed the campaign much sooner, back when there was still forest in the area and there was a high demand for land from outsiders coming to the area from Kampong Cham. Participants pointed out that there have been large groups of migrants who have steadily encroached on their land while the government did nothing to stop it. They would have rather had the government prevent this encroachment years ago, and to have maintained the forest at that time, saying that “we prefer to live with the forest like we did in the past rather than to live with the land alone” (KRT-FGD, 09/07/2014).

The focus group in Ratanakiri had specific and unique concerns associated with Order 01 as private land titles had serious consequences for their traditions and livelihoods. Participants considered Order 01 as a way of forcing them to live in one place in a way similar to Khmer people who farm just one plot of land. They posed the rhetorical question of “how can we live in one place like Khmer people, having just one plot of land to survive our whole lives?” and reasoned that they had no knowledge of the farming techniques needed for that type of livelihood. People were also worried about “lost solidarity” since “doing something individually would lack relationships” as they shift to “follow the way of the Cambodian people doing their livelihoods individually in the free market, competing with each other to make a living”. This community would have preferred a mixture of titling options to simply private land titles. They thought that private land titles would be appropriate for land that is regularly used to make a living while collective title would secure reserved land for the next generation. Initially, people had not wanted to take private titles, but they felt pressured by village and district level authorities. People believed that Order 01 would give each family 5 ha each and upon hearing this decided to thumbprint to accept private titles. However, it did not play out that way and people did not get the 5 ha they expected and some families got titles for even less land than they were already farming. They had also hoped that Order 01 would be an intervention into the ongoing logging activities around their village and were disappointed when they did not see the youth volunteers or the other government institutions involved in the campaign intervene to stop this activity (FGD-RTK, 05/07/2014).

8.5 Conclusions: Assessment of Order 01 Satisfaction Levels

The results of the household questionnaire were used as a starting point from which to assess people’s satisfaction with the Order 01 campaign in the six study areas. This data indicated relatively high levels of satisfaction with the campaign, with about three quarters of respondents satisfied with the process, and over 60% stating that they were satisfied or very satisfied with the outcomes. However, it must be kept in mind that the questionnaire was skewed towards people that

received title through Order 01, which means that satisfaction levels reported through the questionnaire are likely to be more favourable.

While the results of the questionnaire are useful in indicating general satisfaction levels, the qualitative data gathered in interviews and focus group discussions paints a more detailed picture of why villagers and officials may have been satisfied or not with the implementation and outcomes of the campaign. For many officials the key indicators of success were issuance of title and resolution of disputes. In cases where local officials felt that a high number of titles had been issued and long running disputes resolved, they provided positive assessments of the campaign.

Disappointment with the implementation of Order 01 was central to people's dissatisfaction. Officials and villagers were disappointed that, in their opinion, the campaign ended suddenly and did not restart after the general election. There was frustration that in some areas outsiders seemed to benefit more than long-term residents. Numerous reports were made that powerful actors were able to manipulate the process to their own benefit, receiving multiple plots of land to larger areas, while many others struggled to have small plots registered. In some cases local officials reported that they were blamed by their constituents for being involved in facilitating land grabs by these powerful actors, and indeed, local people told the research team that they suspected local officials of being nepotistic or taking money to help some people secure land titles.

The rich variety of responses shows that experiences of Order 01 were hugely varied. While some officials spoke of the "brilliant" campaign devised and handed down from senior levels, other officials expressed frustration that local people came second to powerful actors and companies. Although the majority of questionnaire respondents reported that they were satisfied with the process, the research team were also bombarded with negative assessments during focus group discussions, indicating that experiences differed significantly from location to location. It is also possible that the different methodological approaches have an impact on the nature of responses. The limitations of conducting structured and close ended questionnaires result in question structures that are somewhat unnatural. This question format may be hard to understand or simply unfamiliar to respondents. When given the chance to express themselves on their own terms in semi-structured interviews and discussions, much richer and more critical information emerged regarding the implementation of the campaign.

Illustration 8.2: Villager’s farmland alongside rubber plantation





Part 9: Assessing the Critiques of Order 01

Part 9: Assessing the Critiques of Order 01

During the implementation of the Order 01 land titling campaign, concerns and criticisms were raised by a range of individuals and groups, including NGOs and civil society groups, the UN human rights office, and researchers in the land sector. These concerns continued to linger in the immediate aftermath of the campaign. This section of the report addresses a number of these concerns, and attempts to verify the degree to which these critiques were observed in the field.

The Order 01 titling campaign attracted considerable attention from the media and local and international civil society. Much of this attention was sceptical, and in some cases strongly critical. In one especially vigorous critique, the Asia Director of Human Rights Watch called on Cambodia's donors to: "insist that the program be reformed into a professional and apolitical process, or cancelled", stating:

While some have benefitted from the campaign, in other cases the scheme has amounted to a land grab by powerful interests with no legal protections or recourse for those who lose out in the process. The campaign is being conducted in a secretive and bullying manner in which independent organizations are prevented from monitoring what is happening and local residents are threatened if they complain (HRW, 2013).

Concerns have also been raised about the campaign's avoidance of disputed land (as discussed in Parts 4 and 5 of this report), impacts on indigenous land rights (Part 6), and the use of the youth volunteers (covered below). To address these concerns, the authors first review claims in the literature regarding the politicization of the land titling campaign. This is followed by an assessment of the role of the youth volunteers¹³⁵ in the campaign and their apparent military overtones. The third section then turns to describe the various ways corruption may have impacted the campaign's implementation and examines the degree to which powerful interests may have used the campaign to capture land.

9.1 The Politicized Nature of the Order 01 Titling Scheme

Much of the critical discussion around the implementation of Order 01 focussed on its politicization. Certainly, the Prime Minister was eager to promote his role in establishing the titling campaign, and it was surely no mistake that the campaign was implemented in the 12 month period running up to the national

¹³⁵ Although colloquially referred to as "the students" in the countryside and some media and NGO reports, the volunteers were technically termed 'The Samdech Techo Volunteering Youth Heroes' and the authors have decided to refer to them as 'youth volunteers' since people were also recruited from the CPP youth league and were not necessarily students. However, "the students" is used when quoting from interviews.

elections. While there was clearly a large political element to the implementation and presentation of the campaign, it is overly simplistic to suggest that it was simply a political tool implemented with the 2013 election in mind.

As explained in Part 2, Cambodia has increasingly come under pressure for its inability to resolve land disputes and reign in companies that continue to dispossess poor Cambodians. While the Royal Government of Cambodia (RGC) has generally dismissed such accusations as baseless or politically motivated, there is little doubt that behind the scenes the government is increasingly concerned with the number of unresolved land disputes across the country. Cambodia's well publicized land problems not only harm the country's image, but may also cause alarm among the foreign investors that Cambodia is currently eager to attract. On a deeper level, the current land situation comes with a real risk of social instability, and on a number of occasions the Prime Minister has highlighted the threat posed by land conflict to the ruling party's popularity (Kuch and Willemyns, 2013).

The Prime Minister has made various declarations in the recent past that directly address disputes around ELCs and alleged illegal occupation of state land, and the legal framework for dealing with these issues has been in place for a number of years, but with limited effect. This is down to weak implementation on the part of some authorities, but also due to the fact that some well-connected business interests remain beyond the reach of the law. Müller and Zülsdorf (2013, p.9) suggest that Order 01 is a means for the Prime Minister to regain credibility among parts of the electorate, but it is "most importantly a means for the PM to regain leadership internally over some centrifugal forces in his own government". In the same paper the authors state: "The Directive [Order 01] finally puts an authoritative end to inter-ministerial competence quarrels and blockades by powerful individuals and groups inside and outside the state apparatus which have marred Cambodia's image in international quarters for more than a decade" (*ibid.*, p.16). Human Rights Watch (2013) took a much more critical stance regarding the aims of the campaign, stating: "the scheme has been set up by Hun Sen so that those victimized by the program often have no effective recourse and may suffer adverse consequences if they attempt to protest".

Whatever the motivations behind the campaign, the Prime Minister went to great efforts to promote his role as the driving force behind it. In public speeches he discussed his financial support for the campaign and promoted the image of himself as an 'uncle' to the young volunteers. The Prime Minister and other party officials also made it quite clear that the continuance of campaign was dependant on the re-election of the Cambodian People's Party (CPP) in the national elections of July 2013. According to H.E. Im Chhun Lim, the Prime Minister named the youths the "Samdech Techo Volunteering Youth Heroes"

(May, 2013a).¹³⁶ The Prime Minister instructed local officials to take care of the youth volunteers, as many of them had not lived apart from their parents before. Referring to the volunteers as nieces and nephews, he said that they must be taken care of, or their families may lose faith in him and “won’t be concerned about uncle anymore” (Khuon, 2012).

Prior to Khmer New Year in 2013, the Prime Minister threw a party for the youth volunteers on Koh Pich island, where each volunteer was presented with a letter of thanks from the PM (Khuon, 2013). Earlier, in January of the same year, the Prime Minister organized another party to mark the end of phase one of the campaign. The Prime Minister promised a US\$100 bonus to all those present, including 2,150 youth volunteers, 1,757 officials, 273 soldiers, and 386 medical staff. Prime Minister Hun Sen reportedly stated that the money for these bonuses would come from “uncle, auntie and the party” (Phorn, 2013), referring to himself, his wife and the CPP. During the same speech the Prime Minister said that the campaign had cost US\$600,000 so far, of which he had personally donated US\$400,000 (Phorn, 2013).

As part of the personalization of the land titling campaign, in 2012 the Prime Minister embarked on a mission to travel across the country and personally distribute land titles at official ceremonies. During the first phase the Prime Minister aimed to attend ceremonies in 20 provinces, and joined the final one in January 2013, where he hailed the campaign a resounding success (Vong, 2013). The Prime Minister personally handed titles over in multiple provinces, including Oddar Meanchey, Takeo, Koh Kong, Kratie, Pursat, and Battambang, among others.

It is clear that the strong backing of the Prime Minister was a major driver behind Order 01 implementation. Rather than emphasizing the authority of the land administration and management institutions, the campaign often nurtured a political and personal focus on the Prime Minister and the party, and to an extent, on the youth volunteers over which the Prime Minister assumed an image of a paternal figure. With elections approaching, there was a clear political element to this approach, but it may also have been expedient in terms of ensuring that the campaign moved fast and received broad support from sub-national authorities. However, the issues that catalysed the adoption of this campaign: misuse of the land concessions program, illegal encroachment on state land, dispossession of poor rural families, growing rural discontent, and so on, will not be solved by a the Order 01 campaign alone, and will require concerted efforts for the foreseeable future.

¹³⁶ Samdech Techo is an abbreviation of the Prime Minister’s full title: Samdech Akka Sena Padei Techo Hun Sen.

The *Cambodia Daily* reported that in a May 2013 speech, prior to the national elections, Prime Minister Hun Sen made clear that if the CPP did not win the coming election the Order 01 teams would not be dispatched to finish the titling campaign. Addressing the youth volunteers he reportedly said: “You children have not completed the work, but you have to tell people straight that you will depart temporarily and be back whenever the Cambodian People’s Party wins the election” (Kuch, 2013b). The research team found that many people in the study areas recalled hearing statements such as these when Order 01 teams were in their area, and many were still waiting for the students to return more than one year later.

Other reports in the English language media suggested that in some areas Order 01 was used to curry favour for the ruling party. The *Phnom Penh Post* reported in May 2013 that villagers concerned about alleged encroachment on their land by a Korean timber company requested that the Order 01 survey teams come to title their land. However, according to community representatives, local officials said that land surveying was subject to their loyalty to the CPP. The representatives allege that at a meeting with the president of the youth volunteers and a local party official they were told that if the CPP were not elected, land would not be measured and would instead be given to the company (May, 2013d). Focus on the Global South (2013, p.25) also heard similar reports from villagers in Oddar Meanchey and Pursat provinces.

In order to understand the degree to which a political message may have been conveyed to villagers during the survey process, through the household questionnaire the research team asked 465 people whether or not anyone had been told to vote for the ruling party in the 2013 national elections, or if any links had been made between the election outcomes and the outcomes of the land titling process. Just 24 people (5% of respondents) said that they had been told to vote for the ruling party in the 2013 elections in order to improve their chances of getting a title. The research also found that just six people out of 458 (1.3%) were told that they could lose the titles they had received based on the 2013 election results, suggesting this was not a common threat in the 36 study villages. However, it should be kept in mind that respondents may have been uncomfortable to discuss political issues with the enumerators, and as noted earlier, it is also possible that the closed nature of the questionnaire format may miss the fact that more subtle and less direct methods may have been used to influence people’s voting habits.

Local government officials were more likely to make the link between the election and the titling program during interviews than were the respondents to the questionnaire. Indicative of local officials’ take on the campaign are comments from a village chief in Samrong district, Oddar Meanchey who stated plainly: “I think it is very political and has little to do with land conflicts”

(ODM2, 12/07/2014). Also striking were comments from a commune councillor in Thmor Bang district, who told the team:

I am not sure what the motives were behind Order 01, but if it was to reduce land conflicts, this cannot be achieved. The problems have increased significantly. At the same time, the government may have wanted to get more support for the last election, but they failed to do so. The vote to support the CPP has decreased from more than 90% to only over 60% (KK4, 26/07/2014).

A similar sentiment was expressed by an NGO in Oddar Meanchey, who pointed out that the increased support for the opposition party in the general election suggests that the strategy was a failure:

[The campaign] is political. The government wants to reduce land conflicts so that more support can be built during the election. However, I feel that they failed as conflict continued and in many areas where land was measured more people have voted for the opposition party (ODM8, 11/07/2014).

In Pursat, a village chief thought that the campaign had been beneficial to the CPP by providing them with credit for helping people (PST6, 16/07/2014). Some interviewees viewed the land titles as gifts, as they were free of charge, and in some areas title recipients also received soft drinks, clothing, sarongs and \$5 per family during the title distribution ceremonies (KPS7, 20/07/2014). A village chief recalled hearing the provincial governor and youth team leader telling people “Don’t forget who provides this gift! The gifts are from Techo Hun Sen!” (KPS7, 20/07/2014).

Another key criticism of the campaign was its use of relatively inexperienced youth volunteers. The next section outlines some of the critiques made in the literature, and compares this with findings from the field, assessing the extent to which people regarded the students as respectful, helpful and effective at their jobs, as well as some of the challenges local officials recall from working with the volunteers.

9.2 Use of the “Youth Volunteers” in the Order 01 Campaign

The recruitment of thousands of youth volunteers to survey land as part of Order 01 was a controversial decision. In the first phase of the campaign, from June to December 2012, more than 1,000 youth volunteers were involved and by January 2013 this number had swelled to over 2,000. Volunteers were recruited from state universities such as the Royal University of Agriculture, the Cambodia Institute of Technology, the Royal University of Law and Economics, Royal

University of Phnom Penh, and the National Institute of Management. Others came from private universities including Build Bright, Norton University and the Cambodian Mekong University. These students were also joined by youth from ruling-party aligned student associations such as The Buddhist Intellectuals and the Cambodian Democratic Students Intellectual Federation.¹³⁷ In spite of being termed ‘volunteers’, it is estimated in the press that the youth volunteers earned a monthly stipend of US\$220 (Focus on the Global South, 2013, p.16). This amount is equivalent to, or even surpassing, the salaries of some professional civil servants in the MLMUPC.

Before deployment to the field, the volunteers were first given a two-day crash-course at the MLMUPC on surveying with hand-held GPS equipment and completing personal data forms for land applicants (Müller and Zülsdorf, 2013, p.10). The limited training was identified by some observers as a source of concern, including by the UN Special Rapporteur for Human Rights in Cambodia, who outlined his concerns in a letter to the Ministry of Foreign Affairs in 2012. To counterbalance this brief training, experienced surveying teams supervised the youth volunteers in the field.¹³⁸

9.2.1 Attitudes of villagers and local officials to the youth volunteers

To better understand how the youth volunteers were perceived on the ground, this research asked households about their experiences with the volunteers, discussed their role with village and commune chiefs and raised the issue in village focus group discussions across the six studied provinces. For the most part, the youth volunteers were popular among the villagers surveyed, who found the volunteers helpful, respectful and competent, and appreciated their spirit of volunteerism. However, local government officials interviewed by the team were more critical of the way in which the youth volunteers were involved in the program and the appropriateness of their tasks, and commented on the variable ease of working with the volunteers. This discrepancy is likely indicative of the delicate aspects of negotiating administrative power and oversight during the campaign on the part of local officials since the campaign very likely impinged on local politics and the authority of local officials who had previously

¹³⁷ See Focus on the Global South (2013) for a detailed description of the volunteers’ backgrounds, motivations and experiences as recounted during interviews.

¹³⁸ In the long term the campaign may also build up the capacities of the MLMUPC and associated technical departments through on-the-job training of new recruits. According to Müller & Zülsdorf (2013), in December 2013, 600 new staff were taken on as permanent staff at the MLMUPC’s General Department of Cadastre and Geography in Phnom Penh and at the sub-national level. Many of these new staff were drawn from the ranks of the Order 01 volunteers. According to one report, over 1,600 applicants sat an entry exam for these positions, and the 600 successful applicants were appointed as technical staff to phase 2 of the land titling campaign (Focus on the Global South, 2013).

functioned as gatekeepers for migrants moving to rural areas and looking to acquire land.

The vast majority of those surveyed, 81%, thought the youth volunteers were helpful and respectful (363, n=449). There was little variation among the six provinces surveyed, and between 79-85% of respondents in each province agreed that the youth volunteers were helpful and respectful. In many areas people reported that they were happy to see the arrival of the students and had good experiences hosting the teams. By way of example, a village chief in Samrong district, Oddar Meanchey, summarized the perception of the students in the village as follows:

All of us were happy to hear that the students had come to measure the land for the villagers. The students were good and gentle, and ate with the people. They regarded us like family (ODM4, 12/07/2014).

The involvement of the youth volunteers was highly regarded by some of the local government interviewees, who appreciated the degree to which the urbanites successfully adapted to the rural areas as well as also commenting on their compassion and volunteerism. One commune chief from Pursat noted that:

the volunteers wanted to support people and to serve their nation through volunteerism. They also helped people who had been facing conflict with ELC companies (PST4, 16/07/2014).

This spirit of serving the nation was also highlighted by a commune councillor from Pursat town, who observed that the volunteers had good collaboration, good morale and “helped the people for other things besides their assigned tasks” (PST7, 14/07/2014). Another particularly positive view of the youth volunteers was given by a village chief in Phnom Sruoch district of Kampong Speu who remembered:

The youth volunteers worked so hard and had compassion for people. They were effective and communicated clearly. Even though they were from the city they know about fieldwork after finishing the campaign. They were independent and managed by their team leader (KPS2, 22/07/2014).

And yet, in one predominantly indigenous village in Andoung Meas, Ratanakiri, an official complained that the youth volunteers “do not respect the elders in the village and the village chief cannot say anything because he got a lot of blame from the students” (RTK3, 02/07/2014), suggesting that there may have been cases where prejudices and unfamiliarity with highland indigenous groups may have played a role in local engagement.

In addition to being mostly considered helpful and respectful, even more people (383) thought the youth volunteers were competent and able to do their jobs well. Again, there was little geographic variation of these impressions among provinces. Important for the implementation of Order 01, nearly 95% of the respondents said that they never felt intimidated by the youth volunteers. But not everyone agreed the students were competent (74) and another 24 people told the teams that they had felt intimidated by the youth volunteers.

As with the other findings of this research, interviews and focus group discussions paint a more complex picture of the involvement of the youth volunteers and how they were perceived at the local level. Although there were a number of positive assessments from local level officials, as set out above, there was also a recurring theme in interviews of village chiefs expressing frustration with how they felt side-lined during implementation of the campaign. There was a tendency for these complaints to centre around the role of the youth volunteers and their relations with different levels of government. A village administrator in Andong Meas, Ratanakiri, explained some of the difficulty by pointing out that the youth volunteers sometimes effectively out-ranked commune chiefs or district councils who “were afraid of the students because of the power of the Prime Minister” (RTK3, 02/07/2014). This shake up of traditional power structures and hierarchy was no doubt difficult for some officials to deal with.

Local officials were also divided on whether the volunteers were suitably qualified to work under the campaign, particularly given their lack of familiarity with the local histories and geographies of land disputes. A village chief in Koh Kong district thought the youth volunteers should have been employed differently, suggesting that they would have been more wisely put to use, in his opinion, by having them work on a socio-economic study and mapping of the community before any land measurement activities started (KK1, 26/07/2014). He further stressed:

[There is a] need for land concessions and social development to be carefully studied before any measurement is done. I also suggest that while the students work on conducting the study, the technical team then does the task of land measurement (KK1, 26/07/2014).

Since the youth volunteers were seen by some respondents as lacking knowledge of the local geography, in order for the campaign to proceed, the local authorities had to actively help to identify conflicts and orient the teams in general (PST2, 15/07/2014). This lack of knowledge about the geography and history of local land use was identified by one village chief from Krakor district, Pursat, who thought this shortcoming was a key reason the campaign was unable to solve land conflicts in his area (PST3, 15/07/2014). These same sentiments emerged in Kravanh district of Pursat where a village chief complained that the

volunteers were not aware of the history of land conflict in the area, and were therefore highly reliant on the provincial land management department and commune officers to learn the background of the land and the areas to target for survey and registration (PST6, 16/07/2014).

Indicative of the tensions surrounding the role of the youth volunteers was the tendency of local government interviewees to express concern that the volunteers were manipulated or lacked independence. In Kratie province, one village chief described the volunteers as “just an assistant or follower” of the technical land officers, who were considered to be the real experts (KRT6, 07/07/2014). In Anlong Veng, Oddar Meanchey, one village chief thought that the youth volunteers lacked independence and were “manipulated by officials from the land management office” (ODM7, 11/07/2014). These criticisms were also shared by a village chief in Krakor, Pursat, who commented that they were not independent, “could not make decisions by themselves and were just always following the ideas of local authorities” (PST3, 15/07/2014). A local NGO operating in Oddar Meanchey emphasized that according to their observations, the general trend was that the youth volunteers were more focused on the techniques of land measurement and didn’t listen much to the views and concerns of community members (ODM8, 11/07/2014). The fact is that the youth volunteers were intended to play the role of assistants, providing feet on the ground to implement the ambitious campaign. The volunteers should have been under the direction of technical officers, who should have been directed by the relevant state institutions. The youth volunteers had no legal or technical authority to resolve disputes and make decisions on complex issues such as land classification. Nonetheless, respondents expressed frustration that the youth volunteers lacked independence and were influenced by various other actors.

Another key complaint was that powerful interests managed to manipulate the work done by the youth volunteers. Considering that the volunteers were young, inexperienced and generally unfamiliar with the particularities of long-running disputes and powerful local parties, this is unsurprising. Critical of both the role of the youth volunteers and how village chiefs were incorporated into Order 01, a village chief in Samrong district summarized his experiences with the campaign as follows:

As far as I understand, [the youth volunteers] were helpful, but I am concerned that they come here and work for the powerful people rather than working for us in the village. As a village leader, I knew nothing and was not able to take part in any problems [that occurred] during the measurement process (ODM2, 12/07/2014).

Similarly, a commune council chief from Ratanakiri , Voeun Sai district, observed that the students “worked under the order of some powerful authorities

and in particular showed more bias towards the company than working to support the people" (RTK5, 05/07/2014). The potential for corruption within the Order 01 campaign is examined in greater detail later in this section.

Turning to the opinions of a cadastral officer in Kratie tasked with supervising the volunteers, he believed that the volunteers generally worked well, but "some groups were difficult to control. They listened to their boss and seemed to see themselves as working for the Prime Minister" (KRT8, 17/07/2014). He went on to explain that:

During the first wave, they were behaving in a helpful way, but later on in the process a culture emerged where the families had to prepare a meal for them when they measured their land. Once this started, the students started to get drunk a lot of the time and could not go to work (KRT8, 17/07/2014).

This sentiment was consistent with that of a commune councillor in Samrong district in Oddar Meanchey who said:

First [the youth volunteers] seemed to be honest and trustworthy. But later they became manipulated in the traditional way by corruption and other forms of bribery. I have cases where students complained that they did not want to measure land because the family did not prepare good food for them ... the preparation of food for students became a requirement if people wanted their lands measured (ODM1, 13/07/2014).

The degree to which sharing food with the survey teams may have been simple hospitality or small forms of everyday corruption is considered later in this section.

When discussing the role of Order 01 in promoting private titles in areas previously regarded as being indigenous community land, and the ways that the volunteers may have played a role in this process, the research team received a mixed response. In Ratanakiri, a commune councillor from Andoung Meas commented that "the students still focused most on how people could benefit from the private land title" (RTK1, 03/07/2014), suggesting that they may have convinced people to opt for individual titles over collective. Yet, in the focus group discussions held in this same district the villagers commented that the youth volunteers were supportive of shifting cultivation and "encouraged the people to fight for their land back" (RTK-FGD, 02/07/2014), indicating that the degree to which the survey teams promoted private titles may have varied between the teams.

9.2.2 The appearance of ‘militarized’ volunteers: perceptions and reactions to the army uniforms

Many observers were alarmed by the images that emerged at the start of the Order 01 campaign of camouflage fatigue-clad youth volunteers being transported to the provinces on board military trucks. The photographs were widely reproduced in the press and did not present a favourable image of the campaign. It is unclear why the decision was made to provide military fatigues as uniforms and use military vehicles for non-military volunteers conducting civilian activities. It may have been an attempt to create an image of authority, or may simply have been expedient, with the uniforms and vehicles readily available at the time the campaign was launched, or perhaps a combination of the two.

The UN Special Rapporteur for Human Rights in Cambodia raised concerns about this approach and in a 2012 report stated that it created confusion among some rural communities and created the impression that the youth were part of an arm of the military (Subedi, 2012). The Minister for Land Management, H.E. Im Chhun Lim dismissed this suggestion, stating that the RGC had informed the public about the program and the use of military uniforms in order to avoid misunderstandings.¹³⁹

To understand whether or not people knew whom the youth volunteers worked for, household questionnaire respondents were asked for their thoughts. The most prevalent understanding was that the volunteers were working for the Prime Minister (189, 40%), followed by nearly the same number of people who were simply not sure (183, 39%), suggesting that there was a good deal of confusion that public announcements did not assuage. Just two people thought the volunteers worked for the Ministry of Land, one identified the army, and one more thought the provincial government. That an extremely small number of people thought the volunteers were associated with the army, Ministry of Land or provincial government suggests that the Prime Minister was effective at communicating to the Cambodian people his involvement in, and patronage of, the land titling program. However, the fact that nearly 40% were unsure of who the volunteers were working for indicates that this publicity was only partially successful. Also, a shortcoming of the questionnaire design was that respondents could select only one option, and given the high visibility of the Prime Minister in the campaign he was an obvious choice, reinforced by the fact that he is known to have the strong support of the military, and so the two go hand and hand. Indeed the qualitative data collected in the field suggested that people very much saw the students as linked to the military, as described later.

¹³⁹ MLMUPC, Notification #1177 from Senior Minister, Minister of LMUPC to H.E. Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation, Subject: Clarification on the implementation of New Actions on Existing Policies for Land Sector, in accordance with RGC's Order #01, responding to letter of Mr. Surya P. Subedi (20 September 2012).

Announcements by the government that the youth volunteers would be in military uniforms and ride military trucks and so on helped to prepare some people for the arrival of the teams, especially in Kampong Speu (KPS2, 22/07/2014; KPS7, 20/07/2014; KPS8, 19/07/2014). A number of interviewees from Pursat province considered that the attire was appropriate for working in forest areas where there are snakes, mosquitoes, heavy rain and varying temperatures (PST2, 15/07/2014; PST6 16/07/2014; PST7, 14/07/2014). One village chief in Oddar Meanchey suggested, “maybe they were offered the uniforms because it would look handsome and people will respect them” (ODM5, 13/07/2014). Some also made distinctions when considering the uniform, commenting that the uniforms did not carry any military insignia (PST7, 14/07/2014; KPS6, 19/07/2014), instead using the cadastral department sign on their upper arm, along with the cap of the cadastral team, making their affiliation more clear (PST8, 17/07/2014). However, it seems that this distinction may have developed over time as one village chief, also from Pursat, explained that the first wave of volunteers wore military dress while the next group had the cadastral symbol on the military shirt (PST9, 17/07/2014).

Public announcements oftentimes left room for interpretation as to the youth volunteers’ affiliations. While on one hand the government was eager to emphasize the supporting and non-military role of the youth volunteers, the comments of the Prime Minister sometimes gave a different impression, while consistently highlighting his leadership of the campaign. For example, in a June 2012 speech to the youth volunteers, the Prime Minister stated:

I am your Commander in Chief, H.E. Im Chhun Lim is like Chief of General Staff. So you are not soldiers under the command of H.E. Tia Banh, Deputy Prime Minister and Minister of National Defense and H.E. Pol Saroen, the RCAF’s Chief of General Staff. You may have noticed that on the uniform you are carrying a sign of Land Management, Urban Planning and Construction. MLMUPC will send you to different provinces and villages thereafter ... So I suggest that all Governors must look after their [land management] soldiers (Cambodia New Vision, 2012).

Given that public speeches such as this alternated between clarifying that the youth were not an arm of the military, while at the same time using military terminology, it is no wonder that some people were confused. As an approach, providing the volunteers with military clothes was likely also intended to make the volunteers appear disciplined and aligned to the state.

Although data collected from villagers paints a relatively clear picture that people were pleased with the performance of the youth volunteers, there was a great deal of criticism of the military uniforms worn by the students. Oftentimes it was local officials who offered the strongest critiques. A cadastral officer working in Kratie commented that the army uniform worn by the youth volunteers appeared

to generate concern among local people, “who expressed some level of fear, even of asking questions, while believing the student group was part of the army units” (KRT8, 17/07/2014). The tendency for villagers to be afraid to ask questions, to contradict, or to negotiate due to the impression that the students were in the army because of their uniforms was prevalent across interviews in the six provinces (KK2, 22/07/2014; KK4, 26/07/2014; ODM7, 13/07/2014; ODM-FGD, 27/07/2014; RTK4 03/07/2014; RTK5 05/07/2014). Community leaders in Koh Kong district said that the army uniforms generated fear, discouraged people from asking questions, and that people felt they ought to “just take what they give us and do what they want us to do” (KK2, 27/07/2014). These statements suggest that the uniforms may have contributed significantly to the volunteers’ perceived authority.

Oddar Meanchey was particularly sensitive to the militarized appearance of the volunteers. As one local NGO pointed out, much of the area is a military zone and the uniforms were misconstrued as being in some way connected to the military, such that some people were quite afraid of the volunteers (ODM8, 11/07/2014). In Anlong Veng, a village chief stated plainly that people were intimidated by the uniforms, and tended to perceive the volunteers as part of the local army and as a result, were afraid to question or to advocate for their land claims (ODM7, 13/07/2014). Likewise, a village chief in Samrong district, explained,

People in my village were so scared of the army uniform used by the students. We also believed that the students were working closely with the local army to take land from this village (ODM2, 12/07/2014).

Village chiefs even brought complaints to a commune chief in Samrong, stating that they themselves were afraid of the youth volunteers because they wore army uniforms and suggested that the volunteers should wear civilian uniforms or simply dress as students (ODM1, 13/07/2014). Various other local government officials interviewed for the study suggested that in the future the volunteers should simply dress as civilians or students (KK3, 26/07/2014; RTK1, 03/07/2014). One commune chief from Pursat commented that the military dress was inappropriate for non-military actors and commented that by wearing the uniforms, “it looks like they were not involved in technical land registration” (PST4, 16/07/2014).

The history of military involvement in rural land conflicts meant that in some places people experienced heightened anxiety due to the military uniforms. Past experiences were invoked in Sambo district, Kratie, by a village chief who commented that, “When people saw the soldier’s uniform, they were afraid. [This is] because [in the past] they had experienced soldiers trying to catch people and had to run away to the forest” (KRT7, 06/07/2014). Another village

chief from this same district emphasized that the military uniforms were very inappropriate for land measurement activities since the villagers have already had their land seized by the provincial level authorities (KRT6, 07/07/2014). Also, people's experiences with civil war were identified as a key reason that people were afraid to see the military uniforms in Oral district, Kampong Speu (KPS5, 21/07/2014). In Koh Kong, a village chief thought that while the overall behaviour of the youth volunteers was fine, he felt that "it was really bad when they wore the army uniform. They come like soldiers" (KK1, 26/07/2014).

9.3 Potential for Corruption in the Order 01 Campaign

Reports have circulated in the media and several cases were picked up by civil society organizations that highlight potential abuses of the Order 01 campaign. The local human rights organisation Adhoc stated in a 2013 report that it had received local-level reports of people "opportunistically clearing forested or farm lands in an attempt to appear as legitimate residents and secure land titles" (p.35). Minister Im Chhun Lim acknowledged that "some bad opportunists" tried to take advantage of the campaign in order to encroach onto new areas, but emphasized that such people were not eligible to have their lands surveyed.

As mentioned above, Human Rights Watch were highly critical of the campaign as a whole, and in a 2013 report stated that: "in practice the titling program is subject to domination by wealthy and powerful interests who have diverted it to increase their land-holdings and leverage over affected populations". However, it should be noted that while the HRW report provides several cases where the Order has avoided disputed areas and problems around indigenous land, it did not provide comprehensive evidence to support the accusation that the whole campaign was compromised.

In order to examine these issues in more detail, research for this report sought to gather data on the incidence of payment of unofficial fees for land measurement, and also local experiences of outsiders or powerful parties exerting influence on the campaign.

9.3.1 Payment of informal fees to secure Order 01 land survey and titles

For the most part, very few people answering the survey reported paying fees during the land registration process, with only 20 people out of 441 (4.5%) responding they had paid money at any point from the announcement of the campaign to the issuance of land titles. Eighteen of these respondents told the team how much they had paid to the survey teams, with responses ranging from as little as 3,000 riel (US\$0.75) to 500,000 riel (US\$125). There was very little overlap among the reported amounts paid, but half of the responses clustered between US\$40 and US\$125.

However, as with a number of other topics covered by this research, the questionnaire responses painted quite a different picture to responses gathered in interviews with local officials. Considering the topic, it is rather remarkable that interviews with local government highlighted more instances of corruption than villagers did. We can only speculate why this pattern emerged, but it may be that villagers were reluctant to report it to the research team, that outsiders or the wealthy land owners who tended to be accused of bribery were unlikely to be questionnaire respondents, or that village chiefs were better positioned to know what was going on 'behind the scenes' in their village or elsewhere, and so on. Indicative of village chiefs' access to broader networks of information, one village chief from Koh Kong mentioned, "I heard that there was some under the table payments made to Order 01 teams, but this did not happen in my village" (KK3, 26/07/2014). Another commune leader from the same district stated:

Although officially there were no fees involved, there was a good deal of anecdotal evidence of payments made under the table as part of the Order 01 process ... How much? I have no idea, but surely it happened (KK4 26/07/2014).

A village chief from Snoul district, Kratie, explained that he knew people were giving the teams money, but did not know how much as the money was given at the farmland at the time of measurement and away from watchful eyes (KRT3, 09/07/2014). The evidence of this practice, he suggested, could be seen in how rich people's land was always measured first (KRT3, 09/07/2014). Also in Kratie, in Chhlong district, a village chief explained that corruption tended to facilitate land owners to get more land or expand their land holdings, or to make it easier to split plots of land within the family (KRT5, 07/07/2014). In this village, the official stated that people spent money for measuring (US\$10), along with food and their time to accompany the teams, and then paid again to the commune office about US\$5 to get the final title, but this is the only village of the 36 studied where this was reported to have happened (KRT5, 07/07/2014). Again, there may have been a degree of geographic variation in how Order 01 was implemented and in spite of reports of corruption in Snoul and Chhlong districts of Kratie, in Sambo, the other studied district in the province, there was no mention of corruption, and village chiefs stated they had not heard of any corruption at all (KRT6, 07/07/2014).

Interviews suggest that the payment of unofficial fees was strongly associated with land titling for powerful outsiders. A local NGO in Oddar Meanchey described anecdotal evidence from the province that some powerful people took the opportunity to work with the student team to get more land through under the table payments, but it is not clear the extent to which this was common practice (ODM8, 11/07/2014). Supporting this claim, a district cadastral officer from Kratie explained that it was common practice for land owners who did not

live in the villages to pay the measurement teams and local officials to have their land measured (KRT8, 17/07/2014). The most detailed account of how the implementation of Order 01 may have been compromised in the field came from a commune councillor in Koh Kong:

Powerful people, some were army and some were high-ranking government officials, were able to come along with the Order 01 team and pay money so their land is measured quite easily. The student teams also spent time drinking and got so drunk they cannot go to work. Through informal channels, some students did request payment [from farmers] if they wanted to get their land measured quicker. Some have told the villagers that they can only complete the measurement of land if [the villager] pays money ... In cases where two plots of land are located next to one another and one family has the money to pay, their land was measured. But, in the next plot, where the family did not have money, then there was no measurement. The family requested the student team [to measure], but they got no response ... At the same time, due to time pressure, I was requested by the provincial technical team to sign on blank forms for temporary land certificates that certify that people named in the form have land in the commune. I did it and then those forms were used without control (KK4, 26/07/2014).

Given that the commune chief was pressured to sign blank temporary land certificates, it is no surprise that he concluded “after the Order 01 team left, all the problems with land conflicts increased and now fall into the hands of local authorities, and as a result it gives me a big headache” (KK4 26/07/2014).

Various reports suggest that a culture emerged around providing the survey teams with hospitality in the form of food and drink. While this may simply be an act of kindness, a cadastral officer noticed that rich families who could offer a good meal tended to get their land measured ahead of poorer families who had to wait (KRT8, 17/07/2014). In Oddar Meanchey, a village chief explained that after rich families provided a good meal “then they can drag the students around to measure their land” (ODM7, 11/07/2014). Offering lunch or hosting the survey teams appears to have been an important part of the exchange in Kampong Speu, Pursat, Kratie and Oddar Meanchey (KPS2, 22/07/2014; KPS6, 19/07/2014; PST5, 16/07/2014; PST7, 14/07/2014; ODM4, 12/07/2014; ODM7, 11/07/2014). In a Pursat village, the village chief mentioned how people donated beers and chickens to the team (PST5, 16/07/2014) whereas in another village people organized a collection to raise money among the neighbours to buy food for the team members (PST8, 17/07/2014). A commune councillor in Pursat town deemed this exchange far preferable to the SLR program, noting that under SLR people have to pay at least \$2.50 for titles, whereas Order 01 titles are free of charge (PST7, 14/07/2014).

It was not just wealthier people that tried to play the system, and village chiefs also identified the tendency of people to overstate the land they were using to the survey teams. In a Ratanakiri village where Kachok indigenous people and ethnic Lao communities reside, a village clerk complained that “some people were selfish and they tried to clear more land and expand their land claim without thinking about the next generation who need the land too. There was jealousy and disappointment from the villagers towards these people” (RTK3, 03/07/2014).

This part of the report now concludes by looking at the unique case of Oddar Meanchey, where families faced pressure from both ELCs and powerful figures, often associated with the military. As a result, the data gathered from that province was exceptional in the extent to which the Order 01 campaign seemed to be captured by powerful interest groups, and how titling outcomes were often disregarded by these same actors.

9.3.2 Focus on irregularities in Oddar Meanchey

During focus group discussions and interviews with local officials in Oddar Meanchey a range of irregularities were highlighted. Oftentimes powerful outsiders were not even physically present during land measurement, and instead managed to negotiate to get their land measured over the telephone, according to one village chief. In this case, the village chief felt that it was the rapid process of Order 01 that enabled the rich and powerful people “to grab land as they wished by paying some bribes” (ODM7, 11/07/2014). This chief also detailed one case in which the youth volunteers bypassed his authority in order to measure land used by villagers for another individual. The village chief later realized that the volunteers had followed an order from their supervisor who had received a request from a local high-ranking military person (ODM7, 11/07/2014). As a result of this manoeuvre, there are families who are still using this land but it is a military official who holds the land title certificate. Efforts by these families to advocate for their land rights were blocked by the former village chief, a person the interviewee asserted was well-known by local people as a land grabber and heavily involved in land sales. This same person is also known to have a strong connection to a powerful person in the army, and consequently, was seen as quite influential in Order 01 throughout its local implementation (ODM7, 11/07/2014).

In another village of Samrong district, the village chief explained how the village land is surrounded by both an ELC company and the local army. The army’s claims extend into the village such that even in cases where some villagers received a land title, the soldiers are still claiming to own the land and have not ceased farming. As a result, the village chief declared, “the people here think that

the land title from Order 01 is mainly for the soldiers, but not for the people of the village” (ODM2, 12/07/2014).

Elsewhere in Oddar Meanchey, focus group discussants described the slow creep of corruption as follows:

At first, the students seemed to be OK ... they treated us with respect. However, as soon as powerful people from outside started to interfere and got involved with meal preparation as an incentive to measure the land, then the students became less available for measuring the land for local people. From there, we feel that they were no longer working for us, but that they worked for the outsiders who had money to pay. We believe that if they just focused on measuring the land for the local people they would have completed it ... we find that the students were following the people who have power and the company, rather than listening to our concerns. We are not happy with the practice of compensating the students with a meal or beer or a drink, or even some payments of money before measuring the land. Many poor families had to wait almost till the end of Order 01 for their residential land to be measured. And as we said earlier, they spent more time measuring land for outsiders, but only about 30% of their time for local people. We think this is wrong (ODM-FGD, 27/07/2014).

In 2013, action research teams from Focus on the Global South also heard from villagers in Oddar Meanchey that local wealthy landowners capitalized on the 01 survey process to claim parts of neighbouring villagers’ land. According to their interviewees, in one case landholders threatened to withhold thumbprints confirming the land boundaries unless they gave up some property (Focus on the Global South, 2013, p.25).

Case study 9.1 provides further excerpts from discussions with villagers in Oddar Meanchey and illustrates the challenges villagers faced in exerting their land claims during Order 01 as powerful interests attempted to seize the opportunity to exert their influence.

Case Study 9.1: Grabbing Order 01 in Oddar Meanchey

*As told by participants in a focus group discussion in Samrong district of Oddar Meanchey, 27 July 2014.*¹⁴⁰

The village had organized a team of people to accompany the youth volunteers to the field and help to identify land belonging to each family. Members of the team explained that “at first, the process seemed to follow the plan and the schedule of measurement, especially by focusing on the land of

¹⁴⁰ Focus group participants included 15 community members (9 women and 6 men).

local residents". Yet, "step by step, the families began to provide meals for the students" as an incentive to measure their land. Once this practice became established, measurement no longer occurred as planned. The better-off families got their land measured first, while the poorer families were stuck waiting. As time wore on "the measurement schedule got even more confused when outsiders who claimed to have bought the land ordered the students and technical team to measure their land". As one villager explained, once outsiders got involved:

We became frustrated as the students now spent more time to measure the land for people from outside, rather than to work on our land. We estimate that the student team spent about 70% to measure the land of people from outside. As result, at the end of the process, only 50% of the families can have their land measured and the rest have to wait until now.

When asked who the outsiders were, people explained that, as far as they could tell:

There were many government officials, some we know are from the Oddar Meanchey provincial town, a local army commander and some were from Phnom Penh. In a few cases, the students measured the land even without the presence of the land owner. The owner just made a phone call to the 01 leaders, explained where the land is, then they can begin the measurement. As far as we see, the outsiders made payments to the 01 team before the measurement could begin.

After the process got confused and the schedule discarded, the village team chose not to join the land surveyors any longer. They simply gave up, in part because the measurement stage was coming to a close.

A public display was conducted and lasted for the full month required under the Order 01 process. However, during the display many complaints emerged regarding boundary measurements, especially as some local people did not have their land measured, but saw in the public display they had lost part of their land to someone from outside the village. The adjudication record also included names of people that were not known to anyone in the village.

When pushed to describe the land claims made by outsiders, discussants explained:

... we have seen the names of people who claimed to have bought land in our village. We do not know who they are and have never known them. So, we protested and asked our village chief not to sign on their documents. He agreed, but soon afterwards he signed their documents and just told us "I have to do it as requested by the commune council". As

far as we understand, our village chief was involved in making these deals as well. He was definitely involved in the land sale process.¹⁴¹

Another issue that caused frustration among the villagers concerned the limits to land size eligible for titling. Participants in the focus group discussion complained that although they understood the limit to be 5 ha, families or outsiders who had large holdings of 10-15 ha managed to get all of their land titled by using the names of multiple family members to cover their claim.

While some strategized to maintain their large holdings, many families felt that they lost land through Order 01. Discussants explained that claims made by army officials in the area, along with land given to a nearby ELC company were to blame for villagers collectively losing as much as 75 ha. In spite of advocating for the acknowledgment of their rights over this land and raising complaints to the Order 01 teams, there was no result in favour of the villagers at the time this research was conducted. The discussion group further stressed that for the remaining half of the village's farming land that has not yet been measured, they expected future problems in the form of threats from high ranking government and army officials who have overlapping claims on land already cleared and cultivated by villagers.

9.4 Conclusions: The Critiques of Order 01

As can be seen from the references to the literature review scattered throughout this report, there were a great number of critical voices directed at Order 01 during and after its implementation. Some of these concerns were verified during the course of this research, although perceptions of villagers and local level officials provided a much more detailed view of issues that emerged on the ground.

Order 01 clearly had a political element to it. Announced one year prior to the national election, the campaign was active for the 12 months leading up to the election, and there was a notable pre-election spike in the issuance of titles. This is not to say that the election was the only motivation for the campaign, and the continued actions of the RGC to review and cancel delinquent ELCs shows that there is an apparent desire to resolve some of the problems that have emerged over the last decade. Although household questionnaire respondents overwhelmingly reported that they were not told to vote for the ruling party in return for Order 01 titles, statements from local officials suggested that there was a clear link between the campaign and elections made at local levels.

¹⁴¹ The village chief declined the research team's requests for interviews after learning the topic of the research.

The recruitment of the youth volunteers to support the implementation of Order 01 proved to be an extremely controversial decision, but again the responses from household questionnaire respondents indicated that villagers for the most part liked the students and believed them to be competent. Feedback from local officials was less positive. While the concerns they raised should be taken seriously, it can also be speculated that it may have been difficult for more mature and experienced village and commune officials to take on a role that they felt was subordinate to young, unqualified yet well paid 'students'. Indeed, many local officials expressed how they felt side-lined during survey implementation, and in a number of cases village and commune officials stated that they felt that they were not listened to by the survey teams.

The decision to kit the youth volunteers in army fatigues and transport them in military vehicles was ill-judged, resulted in bad publicity, and had the result of causing concern among some villagers within the survey areas. Although questionnaire respondents expressed a liking for the youth volunteers, many local officials were highly critical of the militarized appearance, which they say caused confusion among some villagers. This was more acute in areas that are still genuinely militarized, in particular Oddar Meanchey. Whatever the motivation was behind deploying the students in this manner, it was clearly inappropriate for a civilian exercise such as this.

Finally, the issue of corruption and abuse of the campaign reared its head numerous times throughout the research. While very few of the household questionnaire respondents admitted to providing payments to survey teams, numerous accounts suggested this did occur. Many of these accounts were based on hearsay and the information was therefore unverifiable, but trends emerged in the stories from across all the study areas. In particular, powerful and wealthy actors were reportedly able to have their land titled first, or even have land titled in their absence. Sometimes this was reportedly facilitated by payments, but a more common approach appears to have been treating the survey teams to drinks, food, parties and alcohol. Inevitably the wealthier people could afford to provide better 'treats', and so villagers and officials reported that the richer landholders often had their land measured first, while the poor had to wait. Reports of irregularities such as this emerged across all study areas. However, in Oddar Meanchey the picture was especially bleak and illustrates well how the power and influence of business, military and political elites is so persuasive that these actors are even able to capture the benefits of a campaign which was aimed at resolving the very conflicts that they are implicated in.

A photograph of a dirt road in a tropical setting. The road is made of light brown soil and leads into the distance. On both sides of the road, there is dense green vegetation, including tall palm trees and various shrubs. In the background, a small building with a red roof is visible on the left, and another building with a corrugated metal roof is on the right. The sky is blue with some white clouds. A semi-transparent orange banner is overlaid across the upper portion of the image, containing the title text.

Part 10: Conclusion and Recommendations

Part 10: Conclusion and Recommendations

10.1 Conclusion

Order 01 held the promise of issuing titles to thousands of people living in and around concession areas and was initially welcomed by a range of observers, including some civil society groups. The campaign proceeded to survey land parcels and issue titles on an unprecedented scale, and between June 2012 and December 2014 the campaign reclassified around 1.2 million hectares of land and issued approximately 610,000 land titles. After facing years of mounting criticism for the lack of accountability in the granting and implementation of ELCs, Order 01 and its subsequent measures suggest that the Government has finally recognized the need to address problems associated with the ELC mechanism. Although the implementation of Order 01 did not always run smoothly, it is clear that a large amount of land was cut from concessions and registered to people who may have previously faced the risk of displacement or land conflict, and while attention has focussed mainly on the land titling campaign, the Order also imposed a suspension on new Economic Land Concessions, which is officially still in place.

Despite its successes, numerous concerns emerged during the implementation of the campaign. This study was conducted in order to assess the extent to which these concerns manifested (or not) in the field, and to fill crucial gaps in existing knowledge regarding Order 01 implementation. The research revealed a complex picture on the ground. Many household questionnaire respondents reported that they were pleased with the land titles that they received, but of course those who did not receive land titles for their land (or parts of it) were often critical of the process. In particular, issues emerged around the consistency with which Order 01 teams dealt with disputed areas. On the one hand, in some cases it was seen that land was cut from concessions and granted to people that had been involved in long running disputes with ELC holders. On the other hand, in some areas people were refused land surveys point-blank because they were involved in disputes. In this regard, a recurring theme that emerged during the course of this research was the inconsistency with which Order 01 was implemented.

Although the Order 01 suspension on new ELCs is still in place, and hundreds of thousands of households have benefited from land titles under the campaign, there are still many people who continue to live in insecure circumstances, including many who live in Order 01 survey areas but were unable to access the survey process. A number of questions remain pertaining to the future of land management now that the big push from the titling campaign is no longer underway, including how households or villages who did not access the survey

will be treated by future land titling efforts. Another important question relates to the future of ELC oversight and how effectively Cambodia will oversee the ELCs that remain, as well as any concessions that may be granted in the future if the suspension is lifted. As the implementation of Order 01 winds down, the attention of the MLMUPC will return to the systematic land registration process and further development of the state land management mechanisms. The Ministry has since hired many of the volunteers who were trained for Order 01 as full-time staff. This will no doubt support on-going systematic land registration work, but it remains to be seen what the long-term impacts of Order 01 are on the established land management and administration systems, and whether this will result in more effective use of concessions in the future.

The purpose of this study was not simply to root out problems with Order 01, but to understand more deeply how exactly the campaign was implemented in the field, what went well and what did not. In the post-Order 01 environment, debates over the rights and wrongs of the campaign are less important than learning from its successes and rectifying its mistakes. With this in mind, key findings of the study are presented below, followed by recommendations to the Royal Government of Cambodia, development partners and civil society.

10.2 Key Findings

10.2.1 General observations

1. The RGC has made strong commitments to deal with problems associated with ELCs

Regardless of the motivations behind the Order 01 campaign, it is a significant step forward that the RGC has publicly committed to address concerns regarding land concessions. Land conflicts involving ELCs have been an on-going problem in Cambodia for over a decade, and the measures taken to title land to villagers and take action against delinquent ELCs has the potential to impact positively on many thousands of Cambodians. The Order 01 campaign resulted in the issuance of land titles to hundreds of thousands of rural Cambodians, many of whom were poor and living in insecure circumstances. Beyond the titling campaign, the RGC has continued to review and cancel concessions that are in breach of contract and in May 2014, MAFF and MoE also issued a joint prakas which included directions for improving ELC management. This prakas addresses many important issues including impact assessments, master plans, payment of fees and royalties, and handling land conflicts.¹⁴² If implemented and enforced, this prakas could provide crucial guidance for improved implementation and management of ELCs in the future.

¹⁴² MAFF and MoE, *Inter-ministerial Prakas #177/#206 on Strengthening Economic Land Concession Management* (9 May 2014).

2. The Order 01 campaign was heavily politicized

Although Order 01 was aimed at addressing long running issues around conflicts involving state land, the timing of the campaign and the tone of public statements by senior figures indicates that the Order 01 campaign was heavily politicized. The major land survey work wound down just prior to the 2013 general election campaign period, and although the Order 01 teams later returned to some areas to complete survey work and issue titles after the election, the campaign never replicated the extensive levels of activity that occurred prior to the election, which had been both promised and heavily publicized prior to the campaign's suspension. Figures released by the MLMUPC indicate that just prior to the elections there was a spike in the amount of land reclassified and the number of titles issued. Order 01 was also highly personalized and implementation was driven by the strong backing of the Prime Minister. Rather than emphasizing the authority of the land administration and management institutions, the campaign nurtured a political and personal focus on the Prime Minister and the Cambodian People's Party, and to an extent on the youth volunteers over which the Prime Minister assumed an image of a paternal figure. With elections approaching, there was a clear political element to this approach, but it may also have been expedient in terms of ensuring that the campaign moved fast and received broad support from subnational authorities.

3. Transparency was lacking in the implementation of Order 01

The MLMUPC published periodic updates on the campaign's progress, including figures for plots surveyed and titles issued. However, these statistics are all approximate and there is no detailed data available which can be used to assess where exactly the campaign was active. Civil society were discouraged from monitoring Order 01 implementation, and even the development partners working with the MLMUPC were not able to observe the survey teams in action. It is therefore extremely difficult to independently assess the quality of the process that took place. It is also unclear how the MLMUPC has monitored the Order's implementation and outcomes and if there are future plans for studying its outcomes in the longer-term. Order 01 was also treated as 'sensitive' which hampered discussion. In one case the research team for this study was confronted by police in Ratanakiri and prevented from talking about Order 01 with local people. In one interview the team also heard that an NGO in one province was summoned to meet with the provincial governor in 2012 and told to stop discussing Order 01 with local communities.

4. Access to data on land concessions is inadequate

Transparency regarding ELC data has always been a problem in Cambodia, and the information published by the government in the past has been incomplete

and at times conflicting. MAFF have reported on the number of concession contracts, and initially posted basic information on each concession, including the name of its owner and the stated purpose. However, this data became dated and was eventually removed. No information was ever published by the government detailing the size and location of concessions granted by the MoE. After the start of the Order 01 campaign, decrees announcing the reduction in size or cancellation of many concessions has been published in Cambodia's Royal Gazette, but this information is basic and generally no maps are attached. It is therefore now even more difficult to assess the current scale and boundaries of ELCs in Cambodia.

The MoE and MAFF have released announcements and conducted press conferences separately, making it difficult to accurately assess the full extent of ELC modifications. However, there is no detailed consolidated breakdown, no maps, and no list of the ELCs, forest concessions and other areas that have been reduced or cancelled. This makes assessing the impacts of the campaign, both positive and negative, extremely challenging.

It is encouraging that an inter-ministerial commission is now actively investigating ELCs and cancelling or reducing concessions that have failed to honour their contracts or which are in breach of legal provisions. However, the activities of this commission go on behind closed doors and no information is made available on which ELCs are being investigated or what the findings of those investigations are (unless the investigation results in a concession being cancelled).

5. *More detailed planning should have occurred prior to the start of Order 01 land surveys*

The actual process for Order 01 land surveys was set out in July 2012, when the Council on Land Policy issued *Instruction #018*. However, this was issued over three weeks after the first survey teams were deployed to the provinces. With land survey work on-going, the Council of Land Policy continued to issue Instructions including crucial guidance for the implementation of the land survey process. It is a significant concern that important guiding documents were issued after the campaign had already started, and indicates that the process of preparing and deploying teams was rushed. A campaign with such potentially serious and long-term impacts should be well planned and supporting administrative documents should have been in place and disseminated well before survey work commenced.

6. *There is evidence to suggest that some recipients of Order 01 titles may have in fact had legitimate claims of legal possession over their land*

Prior to the start of the Order 01, many title recipients were likely to have been illegal occupants of their land, especially those living on state public property such as forest land and those in protected areas. However, the responses gathered in the household survey suggest that many of those in the 18 study districts had been in occupation of their land for many years (some in excess of 20 years) in full knowledge of the authorities. Although most did not hold strong documentation for their land prior to Order 01, very few had ever been informed that their occupation was illegal or that they were living on or farming state land. Although it is not possible within the scope of this study to analyse individual land claims, it appears that some of the targeted households in the study areas may have in fact had legitimate claims as legal possessors of their land. For most of these households the fact that they received a land title is likely to be much more important than whether they were previously labelled as legal or illegal, however, as a matter of principle and in recognition of Cambodian citizen's rights under the Land Law, no one should be labelled 'illegal' simply because they do not hold a land title.

7. *There were a number of inconsistencies in the implementation of the campaign*

As noted in a number of the other key findings set out here, there were inconsistencies in the way in which the Order 01 campaign was implemented. For example, while many people involved in long running disputes with ELCs were surveyed and received land titles, many others were denied survey or title due to the existence of disputes. Similarly, the research team came across cases where people had their land surveyed within protected areas, whereas others were denied surveys because they were within protected areas. There was also an apparent lack of consistency in how the limitation on plot size was implemented, with some interviewees stating that limitations of 5 hectares were imposed, some 10 hectares, and some saying no limitations applied at all. These inconsistencies are difficult to account for, and undermine the credibility of the campaign.

10.2.2 The Order 01 survey and titling process

8. *The Order 01 process largely mirrored the pre-existing legal framework for systematic land registration*

Although the campaign came under some criticism for being "extra-legal", the Order 01 process mirrored the main stages of SLR, although the process was often implemented at a much faster pace. While the authors do not agree with

the suggestion that the process was “extra-legal” as such, the context for its implementation meant that it took place in a manner that was parallel to the pre-existing mechanisms for land administration, rather than part of them. One issue that was difficult to assess was the process by which areas of ‘state’ land were identified and selected for survey. Given the lack of access to state land maps and inventories, it is unclear what process was used to determine whether areas were or were not state property.

9. The approach of Order 01 in disputed areas was highly variable

It was observed that implementation of Order 01 varied greatly from place to place in its approach to disputed areas. On one hand the research team heard that the campaign actively targeted disputed areas, and some people were actually told they were not eligible for survey as their lands were undisputed. On the other hand, numerous accounts from local villagers and officials indicated that people were also excluded from the process because their land was disputed. The research team was unable to identify a pattern or trend in how disputed areas were included or excluded. The approach was varied right down to the local level, and in the same district the team met households in dispute with one ELC who had their land surveyed and households in dispute with another ELC who were not. Results from the household questionnaire indicated that the Order 01 survey process was only able to resolve about 1 in 5 of the pre-existing disputes in the studied areas. Interviewees at the local level said that dispute resolution mechanisms were generally able to solve small boundary disputes between neighbours, but were less likely to have success in resolving disputes involving ELCs or the military.

10. The ‘youth volunteers’ were apparently well received by villagers, but the use of military uniforms was a mistake

Although the deployment of the youth volunteers came under some heavy criticism, the research team found for the most part that they were well received by villagers. Among household questionnaire respondents, 81% stated that the volunteers were helpful and respectful, and 95% said they were not intimidated by them. However, some concerns were raised by local officials and villagers that took part in focus group discussions. The most common concern was related to the military-style uniforms that the students came kitted in, and this critique was especially strong from local officials who said that it had the effect of confusing some people about the authority and role of the student volunteers. It was suggested to the research team that the volunteers dress simply like civilians, civil servants or students.

11. Most households did not report having to make informal payments for titles, but interviewees reported that wealthier landholders made payments to get their lands titled

During the household questionnaire, only 4.5% of respondents reported having made an informal payment in order to have their land titled or receive a title. However, among the 18 people that did, one paid \$125 – a large amount for many rural families. Interviews with local officials revealed that the scope of informal payments may have been broader, and the research team heard many anecdotes of wealthier landholders and ‘outsiders’ making payments during the process in order to secure a survey for their land, or even to obtain more land through the process.

12. Powerful actors were able to influence the activities of the survey teams

The research team heard numerous testimonies from villagers and local officials that powerful actors were able to influence the survey process. This included wealthy ‘outsiders’ instructing survey teams in Oddar Meanchey to survey their land via telephone, without ever visiting the land. Villagers in Koh Kong stated that a well-connected concessionaire had undue influence over survey teams, and intimidated villagers who threatened to protest. The issue of providing ‘hospitality’ to the survey teams apparently became expected as the campaign progressed, and many respondents reported that people provided food and drink to the survey teams. In itself, this is not especially problematic, but there were reports that wealthier landholders were providing better food and in some cases parties in order to have their land titled first, meaning that poorer villagers had to wait. In Oddar Meanchey in particular there were reports that powerful actors (generally from the military and government) were able to subvert the Order 01 survey process and have their lands surveyed and titled at the expense of local villagers.

10.2.3 The results of Order 01

13. Satisfaction with the campaign among questionnaire respondents was relatively high, but very much tied to the outcomes of the Order 01 process

Among the respondents to the household questionnaire there were reasonably high levels of satisfaction, with almost three quarters expressing satisfaction with the process, and over 60% satisfied with the outcome. On delving deeper and discussing the outcomes with focus group participants and local officials, it was clear that there were also many people that were frustrated or angry with the outcomes of the process. Predictably, the levels of satisfaction are somewhat polarized, with people who received land titles more likely to be pleased with

the outcome than those who were excluded or did not receive title to all the lands they believed entitled to.

14. Beneficiaries of Order 01 land titles appeared to be mainly local and long term land users

Although there were reports in the media and other sources suggesting that ‘outsiders’ were benefitting from the Order 01 campaign and claiming titles for newly acquired lands, this research found that for the most part beneficiaries of land titles were long term residents and land users. There were many accounts of individual ‘outsiders’ obtaining land titles, and sometimes over large areas of land, but in terms of volume it appears likely that local people received most titles. Kratie was the province where respondents were most likely to report that outsiders received 01 titles, but elsewhere the vast majority of respondents said most beneficiaries were local people. Household questionnaire data indicates that those who occupied their land for over 25 years were most likely to receive titles, and the most recent arrivals were least likely to receive titles.

15. Some households have not received titles since the completion of the Order 01 survey

At the time the research was conducted the team heard that the gap between public display and title distribution was variable from place to place. In some areas officials stated that the title ceremony was held a mere 10 days after the public display was complete. However, there were also cases where it took up to 6 months. More importantly, the team met households that still held only land survey receipts or provisional titles, and were still awaiting final titles. These individuals did not know when the final title would come. In some areas, over 90% of interviewees stated that they did not receive land titles for all of the land that they had surveyed. The MLMUPC statistics for Order 01 indicate that there was a big gap between the number of communes that were surveyed (357) and the number of communes that reached the public display stage (314). It is unclear why such a large discrepancy exists.

16. There is evidence to suggest that Order 01 has resulted in a reduction in new land disputes during its implementation

Data gathered in the field, and NGO Forum’s national statistical analysis of land disputes, suggests that in the year following Order 01’s adoption the incidence of new disputes dropped dramatically. In the six study provinces new disputes dropped by almost 50% between 2012 and 2013, and nationwide, according to NGOF statistics, the drop was approximately 40%. It must be noted that neither sets of data are definitive, and the results for this study apply to a sample of 480 households, whereas the NGOF figures are based only on media reports and

reports from network members. However, both indicate that the campaign resulted in a reduction in new land conflicts immediately after and during its implementation. More recent statistics suggest that this success may have been short-lived, and in February 2015, the local rights group LICADHO reported that in 2014 it recorded a “surge” in new disputes (LICADHO, 2015). If accurate, these figures suggest that Order 01 only had a short term impact on the occurrence of new disputes.

17. The implementation of Order 01 in indigenous areas was highly problematic

The manner in which Order 01 approached indigenous areas was problematic for a number of reasons. As discussed above, there appears to have been inadequate preparation before Order 01 survey teams were deployed, and the guidance for survey teams operating in indigenous areas was still developing during the early stages of the campaign. After a month of Order 01 activity, an Instruction was issued that removed collective land from the survey process. However, this still allowed for indigenous people to agree to “live as private individuals outside the community” and give up all claim to collective rights associated with the community land. Many indigenous communities face chronic tenure insecurity and threats to their traditional lands, and given the choice, many people clearly decided to sign this declaration and accept the individual titles. The decision to leave the community and waive rights to traditional lands could have potentially devastating impacts on community cohesion and culture, and could leave once communal lands vulnerable to further alienation. Indeed, the research team heard from a number of sources that after Order 01 passed through an area, several companies moved in and began to claim areas that were not titled to villagers, despite those lands still being regarded as community land by local people.

18. It is hard to draw strong conclusions on the impact of Order 01 on Community Forest and Community Protected Areas

The research suggests that there was indeed Order 01 survey work within Community Forests, but it was not possible to comprehensively map the scale of this due to a lack of access to information and limited time in the field. One thing that did become very clear from discussions with local people and officials is that the Community Forest mechanism is often struggling to slow the pace of deforestation. Many communities are unable to complete the registration process before the forest is already illegally degraded, and in some cases even after recognition is granted, CF areas still face threats from illegal loggers and plantations. Very few respondents stated that Order 01 surveys proceeded in Community Protected Areas, but similar concerns were raised that the CPA mechanism was not always effective in protecting land from encroachment and

exploitation. A more thorough study is required which explores this issues further, looking at the role of Order 01 in more depth, but assessing more generally what the threats are to CF and CPA, examining both successful and problem cases, and identifying factors that hinder the mechanisms' effectiveness.

19. Only 40% of questionnaire respondents reported livelihood improvements after receiving Order 01 land titles, but the issue of rural debt requires further investigation

Just 40% of land title recipients reported improvements in their livelihood after receiving Order 01 land titles, while more than half reported no change in their situation, and 7% said it was worse. When explored further, responses from questionnaire respondents and interviewees suggested that perceived livelihood improvements were tied to tenure security and access to credit. The issue of rural debt came up on numerous occasions, and the research found that almost 30% of title recipients had already used their land titles as loan collateral. While increasing access to credit is seen as a positive outcome of land titling, there are serious concerns that rural debt is rising, which potentially exposes people to further impoverishment if they default on repayments. This is an issue in urgent need of more detailed investigation.

20. Respondents strongly identified land titles with increased tenure security

Questionnaire respondents overwhelmingly linked Order 01 titles with tenure security. Of those people who received land titles, 86% of people reported feeling more secure. Of those who did not receive land titles, two thirds said that they felt *less* secure. However, in some areas with histories of dispute, and where 'powerful' actors are seen to have interests in the area, it was seen that both villagers and local officials were less sure that land titles would be able to protect the land of local people from future alienation.

21. The fast pace of the campaign is likely to have impacted on the quality of the outcomes

The fast pace of the Order 01 campaign may have impacted negatively on its outcomes. Interview respondents in Oddar Meanchey stated that prior to the campaign beginning there was a lack of understanding about the various land categorizations and how to identify them, and that there had been no in-depth study of the land situation prior to the arrival of the survey teams, which led to some still forested areas being surveyed (ODM8, 31/07/2014; ODM1, 31/07/2014). Elsewhere, local officials stated that the process of preparing for surveys was hectic, as explained by one village chief in Koh Kong:

I was in a rush when the Order 01 team arrived and I was not well prepared. People did not have enough documents, so they had to do it very quickly ... There was not much information made available here about the process of Order 01, we were just told that they were coming. Most of us, including me, were not aware of the process, but we just try to follow the instructions from the technical team and the students (KK3 26/07/2014).

In Anlong Veng district of Oddar Meanchey, a village chief stated that the process was too fast for people to prepare and many people did not have the necessary documents ready (ODM7 11/07/2014). In some cases local people struggled to understand the details of the process and the content of the adjudication record that was put on public display. This was likely exacerbated by the fact that no comprehensive education campaign was conducted around Order 01. Finally, while many people hoped that the campaign would solve long-standing disputes, it is evident that in many cases this was impossible. Several officials put this down in part to the fast pace of the campaign. One commune councillor from Koh Kong stated that Order 01 flushed out disputes, but “The fast process made it difficult for dealing with land problems. Many cases of problems that occurred during Order 01 could not be resolved and continue today” (KK4 26/07/2014).

10.2.4 Beyond Order 01

22. Those left untitled after Order 01 are potentially exposed to further tenure insecurity

The research team heard worrying accounts from Ratanakiri that after the Order 01 teams left, some lands that were not titled were claimed and cleared by concessionaires active nearby. In one case (discussed in case study 4.1) the villager claiming the land requested that Order 01 teams survey his land but they refused. Nonetheless, he was told that his land was safe, but after the 01 teams left the area, the company moved in and began to clear his Chamkar. Similar accounts were also heard elsewhere, and there appears to be an assumption in some areas that those who were not titled by Order 01 are in fact illegal occupants of their land, which is likely to lead to further conflict.

If untitled people are indeed being regarded as illegal occupants for the simple reason that they did not receive land titles, the legacy of Order 01 could become extremely problematic, and the tenure security of those who were excluded or skipped over could be drastically reduced. The research team came across many people living within Order 01 areas that did not have their land surveyed, or who had their land surveyed but did not receive a final title. As mentioned above, MLMUPC statistics also show that up to 20 June 2012, 357 communes were adjudicated but only 314 were subject to public display. This indicates that 43 communes that were surveyed through Order 01 never proceeded past the

public display stage, and this presumably resulted in no titles being issued. Strong measure will need to be taken in the future in order to complete land surveys within former Order 01 areas, and ensure that all those with legitimate land rights are properly treated.

23. There may be long-term challenges associated with Order 01 that have not yet materialized

The fieldwork for this study was conducted just one year after the major survey activities of Order 01 had finished. This is a small window of time, and while a wealth of useful information was gathered, some of the long term impacts of the campaign (both positive and negative) may take more time to become apparent. A major issue in some areas is that the campaign is seen as unfinished by many local people and officials. For various reasons, people were excluded or unable to access the survey process, and in many of these cases people were told to wait for the next phase of the campaign. However, promises of further land survey work were not fulfilled, and in some areas Order 01 has resulted in a mosaic of land that has been surveyed and titled, surveyed and un-titled, and overlooked entirely. The research team talked with local officials in Kampong Speu, Ratanakiri, Pursat and Kratie who all stated that only half of their village's land was surveyed before the campaign was put on hold in the run up to the elections.

It is still unclear what will come next for areas such as these, and whether or not these areas will be returned to at a later date for systematic land registration. At the time this research was conducted many officials were hoping that the teams would return. In O'Chum district, a village chief stated: "if they won't come again, the conflict will continue for those people [who did not get titles] and they will live with fear of losing their land ... It has to all be done, it cannot stay like this" (RTN7 3/07/2014). These issues must be dealt with in the coming years, or Cambodia is likely to face a new wave of disputes again in the future involving those who were not covered by Order 01.

24. It remains unclear what will happen to cancelled and reduced concessions

Announcements regarding cancelled and reduced concessions state that the land will revert to the MoE or MAFF, depending on its location, but beyond that it is unclear what will happen to the land in the future. In one interview conducted with a human rights worker in Phnom Penh, the authors heard that despite one ELC in Mondulakiri being cancelled, the concessionaire continued to utilize the land. More clarity is needed on how reclaimed areas will be dealt with by the RGC, and this will require a much higher level of transparency than was previously the case with concessions granted prior to Order 01.

25. *It remains to be seen what impact the campaign will have on the future implementation and management of land concession*

At the time of writing, the suspension on granting new concessions remains in place, however, according an MoE spokesperson, 32 new concessions were issued in the six months following the suspension because they were already “in the pipeline” at the time Order 01 was issued (Aun, 2014a). For these new concessions and the older concessions that remain active, the MAFF and MoE has issued a joint prakas in an attempt to improve ELC management.¹⁴³ However, many of the measures included in this regulation already exist in the Land Law and Sub-decree on ELCs, but have simply not been followed or enforced. State land should be managed for the benefit of the country and the people, and the chaotic nature of Cambodia’s concession system, the associated conflicts, deforestation and lack of actual agricultural development, clearly indicate that to date this has not been the case. Moving on from Order 01, clear measures will have to be taken to ensure that the problems that the campaign purportedly aimed to resolve do not reoccur.

26. *Further development of Cambodia’s state land management capacities is required*

The lack of coordinated state land management has been a long standing concern in Cambodia. Inadequate state land mapping, classification and registration, means that encroachment and mismanagement of state land has been widespread. Opportunistic reclassification of state land areas has resulted in a patchwork of land uses, with potentially harmful projects approved in sensitive areas – including heavily forested zones. Following on from Order 01, the RGC has made public commitments to improve the country’s state land management capacities. The Minister for Land Management stated in a 2012 speech that the Order 01 campaign will “lead to the undertaking of state land mapping that will enable competent state land authorities at both national and sub-national level to easily manage and monitor all pieces of land under its jurisdictions more effectively.” If the campaign does indeed lay a foundation for coordinated state land mapping to commence, it could lead to a reduction in future conflicts and improved management of state land. However, it goes without saying that these activities should be conducted in full compliance with the legal framework and in a manner that respects the rights of local people.

Cambodia’s National Strategic Development Plan for 2014-2018 includes a number of priority actions in the land sector which includes:

¹⁴³ Ministry of Agriculture, Forestry and Fisheries and Ministry of Environment, *Inter-ministerial Prakas #177/#206 on Strengthening Economic Land Concession Management* (9 May 2014).

Further promoting the establishment of the database of land management and land use to provide the basis for the proper planning of land use and land classification under the following categories: agriculture, industry, tourism, rural areas, town, residential areas and protected areas, with the view to rationalize land use and avoid inappropriate use or conversion of land. The focus will be to further study and classify land according to different agricultural potential in each geographic area.

Transparency will be key to ensuring the success and accountability of future efforts to implement improved state land management and oversight of land concessions, which could be greatly enhanced by developing and making available to the public the contents of this database.

27. The effectiveness of the 'leopard skin strategy' requires further study

One of the major goals of the Order 01 campaign was to implement the 'leopard skin strategy', excising already occupied land from within concession and other state land areas and registering those areas to the occupants. While this approach could potentially provide solutions for the many thousands of disputes between local people and concessionaires, it also comes with risks. In Ratanakiri the research team heard how after Order 01 survey and titling, some concessionaires simply bought the land from local people. In some cases these people were surrounded on all sides by concessions, and will most likely have had limited bargaining power in agreeing the terms of the land transfers. In one area of Kampong Speu, villagers involved in conflict with an ELC company had been left occupying islands of land within the concession and with access to that farm land limited by irrigation canals. The company then tried to buy the land from the people. In this case, Order 01 did not survey the land due to the dispute between the villagers and the ELC, but even had they received title it would not have solved the restricted access that they faced due to the ELC activities going on around them. Such cases may point to limitations in the leopard skin strategy, and are worthy of further investigation.

10.3 Recommendations

10.3.1 To the Royal Government of Government

Publish detailed breakdown of Order 01 outputs: A comprehensive and detailed breakdown of the outputs of Order 01 should be made public, including statistics for the number of plots surveyed, publicly displayed and titles issued in each province, district, commune and village. Maps of adjudication and survey areas should also be shared. It would also be useful to make clear the locations of the 100,000 land parcels that were surveyed and publicly displayed but have not yet been awarded title. This would facilitate follow-up activities and clearer

communications with community members and local authorities about the future of those plots. Also, it would be extremely useful to have fine-detailed information that includes villages where only a portion of households received title in order to make clear where titling was truly complete and where follow-up efforts are needed.

Publish a comprehensive list of ELCs that have been reduced or cancelled since Order 01 was issued: The list should include the name and location of all concessions that have been reduced or cancelled. In cases where land has been cut, information should be provided on how much land has been cut and how it was reclassified (e.g. as private land, state public land, etc). In cases where an ELC has been cancelled it should be clear which state body will take authority over the land. Clarity around the future land tenure for any inhabitants on land that is part of these cancellations is also very much needed.

Clarify what will happen to cancelled concessions: At present it is unclear what will happen to cancelled concessions. The RGC should make clear to the public what will happen to those areas. Any future measures (such as granting new concessions in the area) should be conducted in full compliance with the law and respect the legitimate rights of any people occupying land within those areas.

Publish all data related to Economic Land Concessions, including those that have been cancelled or reduced, and those that are still active: Efforts should be made to publish all data regarding concessions, regardless of which ministry is responsible for issuing them. This data should include maps and data on size, duration, purpose and ownership of each ELC. Increased access to information will increase the scope for public oversight and reduce the risk of future violations of the ELC mechanism. This could be achieved by creating and maintaining an up to date and comprehensive concessions database that is accessible to the public.

Publicize the work of the inter-ministerial commission on ELCs: So far the work of the commission responsible for investigation ELCs has taken place behind closed doors and the results have only become public in cases where investigated ELCs have been cancelled or reduced. In the interests of transparency and in order to improve accountability, the work of the commission should be better publicized. This should include lists of ELCs investigated, the findings of the investigation, and the commission's final recommendation.

Continue to investigate and cancel any concessions that fail to abide by legal requirements and/or concession contracts: Beyond the implementation of Order 01, the RGC should continue to enforce laws and regulations related to concessions. This includes conducting ongoing monitoring of activity within

concessions, and taking active measures to resolve remaining disputes around ELCs. This should be done in a manner that respects existing land rights of affected people, and protects their fundamental rights.

Utilize the data gathered during the Order 01 campaign to update forest cover maps: Cambodia's forest cover maps have become dated and no longer reflect the reality on the ground. Order 01 was active in and around forest land, and the data generated through the campaign could be used to update existing forest cover maps. Publishing these updated forest cover maps can play an important role in increasing transparency around forest management.

Return to Order 01 adjudication zones and complete unfinished work: Land registration teams should return to Order 01 zones and complete all unfinished work, for example, by granting titles to all those who were surveyed and found to have legitimate rights over their land. This includes people holding land survey receipts and provisional titles. All households that were not surveyed should be reconsidered for land surveys. If it is decided that for legitimate reasons some people do not have the right to land titles, the reason must be clearly stated.

Ensure that the rights of people in disputed areas are protected: In areas of dispute, steps should be taken to ensure that those who were not surveyed or titled due to the presence of land disputes are not denied the rights to due process in the resolution of these disputes in the future, and it must be made clear that companies are not allowed to continue land clearance in disputed areas.

Expedite the process of developing a process for converting private land titles to collective titles in indigenous areas: In the JMIs for 2014, the RGC has committed to develop a system for converting individual titles granted in indigenous areas into collective titles. The process of developing this process should be expedited, after which the process should be publicized and explained to affected people and the relevant subnational authorities.

Ensure that civil society organizations, community based organizations and researchers are not impeded from conducting fieldwork and meeting freely with the Cambodian public: Researchers working on this study faced intimidation on more than one occasion during the implementation of this research – from both authorities and employees of a private company. Intimidation of this nature is unacceptable and should be strongly opposed by all levels of government.

10.3.2 To civil society and development partners

Conduct surveys of those living within Order 01 areas who were untitled:

NGOs that are active in areas that were covered by Order 01 should survey villagers and document all those people that were left untitled and why. This information can be used to liaise with local land management offices to help ensure that post-01 land tenure is made more even throughout affected areas. If and when land registration teams return these surveys can be used to support additional land surveys and registration.

Monitor still active concessions: The RGC has made commitments to improve the management of those ELCs which are still active. Given the number of concessions and the fact that they are spread across the country, it will be challenging for the government to closely monitor all. NGOs can also play a monitoring role, and using the existing legal framework and 2014 joint MAFF/MoE prakas NGOs should monitor and assess compliance of ELC implementation. Developing and publicizing maps of the new shapes of ELCs after Order 01, or which indicate ELCs that have been affected by the Order, would also be useful to NGOs, civil society, government and the private sector.

Conduct awareness raising with indigenous communities around the difference between individual and collective land titles:

There is some evidence to suggest that in some cases indigenous community members were persuaded that individual titles were more beneficial than collective land titles. This suggests that additional awareness raising may need to be conducted around the different types of title and the implications of reach. The government is preparing mechanisms to convert private 01 titles held by indigenous peoples into communal land title. If approved, there is important awareness raising to be done to prepare households and communities to evaluate the desirability of this and to contribute to the fair implementation of the process.

Deepen understanding of the intersection between livelihood security and land security:

Both Cambodian and international NGOs have been working for a number of years on both rural livelihood issues and land tenure security issues, but often in isolation. More needs to be done to understand the link between the two, and collaboration between groups working on livelihoods and groups working on land rights should be explored further. Land titling has in many cases given people more secure tenure, yet without fairer access to agricultural markets and traditional agricultural extension activities these livelihoods may continue to be highly precarious. This issue needs to be explored further.

Assess scale and drivers of rural indebtedness: This research found that a large proportion of rural Cambodians are in significant debt. More should be done to understand the scale, drivers and solutions to the issue of rural indebtedness.

Land titles are often used as security for loans, and research is needed to assess the linkages between debt and land tenure security. People interviewed expressed fear of future landlessness due to loan defaults with MFIs. Work is needed to guide villagers in evaluating loans and developing strategies for repayment, coupled with strengthening rural livelihoods as suggested above to both increase the capacity for debt repayment and to lighten the pressures driving farmers into debt.

Build an understanding of Order 01's impacts on state land and forest concessions: Nearly half of the land reclassified by Order 01 was in the category of 'state land and forest land' and yet there is almost no publicly available information (whether in the form of research reports, newspaper articles, or government statements) about where this took place and what forest land was actually affected. Environmental and conservation NGOs have a strong role to play in helping to generate this data and to assemble a picture of how forest and land has been altered by Order 01.

Develop understanding of factors helping and hindering implementation of Community Forests and Community Protected Areas: Numerous respondents suggested to the research team that CFs and CPAs were struggling to prevent forest clearance and encroachment. NGOs should investigate in more detail the extent to which these mechanisms have been successful, and what factors have been a barrier to their success. A number of CFs had already failed prior to Order 01 becoming active. Why this happened needs exploration along with the trend of failed efforts to gain CF recognition, which was striking in Kratie province in particular.

Assess the extent to which the leopard skin strategy is viable: The foundation of the Order 01 land titling campaign was the implementation of the leopard skin strategy, but there is limited information available regarding the viability of this approach. NGOs should further examine cases where land has been cut from concessions and granted to villagers and assess the extent to which it is possible for families to continue to live and make a living in the midst of a concession and how being a spot on the leopard's skin may impact everyday access to farmland and water resources.

Promote an open dialogue around planning for cancelled ELC and forest concession land: At present the future prospects for cancelled ELC and forest concession land is unclear, particularly those that have been cancelled after the intense Order 01 land surveying activities. How any inhabitants will secure land rights and the future of their tenure security needs to be researched, understood and accounted for. Both civil society and development partners can promote openness around this issue by seeking disclosure and transparency from the RGC.

Generate understandings of how unfinished survey activities will proceed in the future: Many communities reported that the survey activities were incomplete. An inventory at the level of households, villages, and communes that were unable to access the land surveying activities, or that have not received a title is needed. Collaboration and resources may be needed to ensure that an uneven mosaic of land titles (and associated tenure security) is not the legacy of Order 01 in the coming years.

References

ADHOC (2013). *A Turning Point? Land, Housing and Natural Resources Rights in Cambodia in 2012*, Phnom Penh: ADHOC

Aun, P. (2014a, 30 December). Despite ELC Ban, Minister Talks of New Land Deals, *The Cambodia Daily*. Retrieved from <http://www.cambodiadaily.com/news/despite-elc-ban-minister-talks-of-new-land-deals-68632/>

Aun, P. (2014b, 26 December). Student Volunteers to Be Retired From Gov't Land Title Program, *The Cambodia Daily*. Retrieved from <https://www.cambodiadaily.com/news/student-volunteers-to-be-retired-from-govt-land-title-program-74875/>

Aun, P (2014c, 17 March) Mondulkiri Authorities Torch Illegal Dwellings, *The Cambodia Daily*. Retrieved from <https://www.cambodiadaily.com/archives/mondolkiri-authorities-torch-illegal-dwellings-54292/>

Aun, P. (2015, 22 January) Government Cancels More Land Concessions, *The Cambodia Daily*. Retrieved from <https://www.cambodiadaily.com/news/government-cancels-more-land-concessions-76508/>

Aun, P. and Hul, R. (2014, 19 August). Officials Trade Blame Over Kratie Land Dispute, *The Cambodia Daily*. Retrieved from <https://www.cambodiadaily.com/news/officials-trade-blame-over-kratie-land-dispute-66774/>

Aun, P. and Peter, Z. (2013, 25 April). Minorities Decry Loss of Land Under National Titling Scheme, *The Cambodia Daily*. Retrieved from <https://www.cambodiadaily.com/archives/minorities-decry-loss-of-land-under-national-titling-scheme-19968/>

Aun, P. and Wright, G. (2014, 5 September). Seventeen Families Denied Plots in Kratie Land Reallotment, *The Cambodia Daily*. Retrieved from <https://www.cambodiadaily.com/news/17-families-denied-plots-in-kratie-land-reallotment-67512/>

Bernard, H.R., (2011) *Research Methods in Anthropology: Qualitative and Quantitative Approaches* 5th ed., Lanham: AltaMira Press.

Biddulph, R. (2014) *Cambodia's Land Management and Administration Project*. United Nations University - World Institute for Development Economics Research, WIDER Working Paper 2014/086

Cambodia New Vision (2012, 26 June). *Selected Impromptu Statements and Comments During the Meeting with Youth Volunteers for Land Measuring Missions for the People: 1,100 Youth Volunteers in New Actions on Existing Policies*. Retrieved from <http://cnv.org.kh/en/?p=504>

Cambodian Centre for Human Rights (2013). *Cambodia: Land in Conflict - An Overview of the Land Situation*, Phnom Penh: CCHR.

Cambodian Human Rights Action Committee (2009). *Losing Ground: Forced Evictions and Intimidation in Cambodia*, Phnom Penh: CHRAC.

Chan, M. (2014, 8 July). Companies warned over slow development of ELCs, *The Phnom Penh Post*. Retrieved from <http://phnompenhpost.com/national/tougher-elc-oversight-pledged>

Chey, P. (2014, 29 March). Prime Minister Orders to Cancel Land Concession Investment Projects Not Abide By Contracts, *Agence Kampuchea Presse*. Retrieved from <http://www.akp.gov.kh/?p=43694>

Dwyer, M. (2013). *The Formalization Fix? Land Titling, State Land Concessions and the Politics of Geographical Transparency in Contemporary Cambodia*, Land Deal Politics Initiative Working Paper 37.

Equitable Cambodia and Inclusive Development International (2013). *Bittersweet Harvest: A Human Rights Impact Assessment of the European Union's Everything But Arms Initiative in Cambodia*, Phnom Penh: EC & IDI

FAO (2011). *Southeast Asian Forests and Forestry to 2020: Subregional Report of the Second Asia-Pacific Forestry Sector Outlook Study*, Bangkok: Food and Agriculture Organization of the United Nations

Focus on the Global South (2013). *Moving Forward: Study on the Impacts of the Implementation of Order 01BB in Selected Communities in Rural Cambodia*, Phnom Penh: Focus on the Global South. Retrieved from <http://focusweb.org/sites/www.focusweb.org/files/Student%20Volunteers%20Report%20ENG.pdf>

Global Witness (2013). *Rubber Barons: How Vietnamese companies and international financiers are driving a land grabbing crisis in Cambodia and Laos*, London: Global Witness

Grimsditch, M. and Henderson, N. (2009). *Untitled: Land Tenure Insecurity and Inequality in the Cambodian Land Sector*, Phnom Penh and Geneva: Bridges Across Borders Southeast Asia, Centre on Housing Rights and Evictions & Jesuit Refugee Service

Grimsditch, M., Kol, L. and Sherchan, D. (2012). *Access to Land Title in Cambodia: A Study of Systematic Land Registration in Three Cambodian Provinces and the Capital*, Phnom Penh: NGO Forum on Cambodia

Human Rights Watch (2013, 12 June). *Cambodia: Land Titling Campaign Open to Abuse - Without Transparency and Accountability, Scheme Allows Corruption, Land Grabs*. Retrieved from <http://www.hrw.org/news/2013/06/12/cambodia-land-titling-campaign-open-abuse>

H.E. Im Chhun Lim (2012), Senior Minister and Minister of Land Management, Urban Planning and Construction and Chairman of Council for Land Policy, at the 19th Meeting of the Government-Development Partner Coordination Committee, Phnom Penh, 26 September 2012. Retrieved from http://www.cdc-crdb.gov.kh/cdc/gdcc/nineteenth/agenda5_gov_en.htm

Indigenous People NGO Network (2010), *The Rights of Indigenous Peoples in Cambodia*, Phnom Penh: NGO Forum on Cambodia.

Kaing M. and Phorm B. (2012, 24 December). Government Looking to Hire Student Volunteers. *The Cambodia Daily*. Retrieved from <http://sahrika.com/2012/12/24/government-looking-to-hire-student-volunteers/>

Khan, S. (2015, 8 January). RGC Revokes Economic Land Concession Licenses from 23 Companies, *Agence Kampuchea Presse*. Retrieved from <http://www.akp.gov.kh/?p=56430>

Khuon, N. (2012, 5 December). Hun Sen Says Students High Maintenance, *The Cambodia Daily*

Khuon, N. (2013, 8 April), Hun Sen Thanks Student Land-Titling Volunteers, *The Cambodia Daily*

Khuon, N. (2015, 7 January). Try Pheap Concessions Among 26 Cancelled by Ministry in 2014, *The Cambodia Daily*. Retrieved from <https://www.cambodiadaily.com/news/trypheapconcessionsamong26canceledbyministryin201475534/>

Kuch, N. (2013a, 31 December), After Protest, Government Speeds Up Land Titles for Kratie Families, *The Cambodia Daily*, 31 December. Retrieved from <https://www.cambodiadaily.com/archives/after-protest-government-speeds-up-land-titles-for-kratie-families-49768/>

Kuch, N. (2013b, 26 May). Hun Sen Warns of Doomsday Scenario if CPP Defeated, *The Cambodia Daily*. Retrieved from <https://www.cambodiadaily.com/archives/hun-sen-warns-of-doomsday-scenario-if-cpp-defeated-26698/>

Kuch, N. and Willemyns, A. (2013, 5 August). Rural Discontent Helps Bolster Opposition, *The Cambodia Daily*. Retrieved from: <https://www.cambodiadaily.com/archives/rural-discontent-helps-bolster-opposition-38383/>

LICADHO (2015, 19 February), *Statement: Renewed Surge in Land Disputes Must be Addressed Not Denied*. Retrieved from <http://www.licadhocambodia.org/pressrelease.php?perm=374>

Lim, N. (2014, 30 December). More Economic Land Concessions Abrogated, *Agence Kampuchea Presse*. Retrieved from <http://www.akp.gov.kh/?p=56161>

Lim, N. (2015a, 22 January). RGC Abrogates More Economic Land Concession Projects in Stung Treng Province, *Agence Kampuchea Presse*. Retrieved from <http://www.akp.gov.kh/?p=57155>

Lim, N. (2015b, 27 January) Cambodian Minister of Agriculture Meets EU Ambassador to Cambodia. *Agence Kampuchea Presse*. Retrieved from <http://www.akp.gov.kh/?p=57385>

May, T. (2012, 3 August). Despair in Pursat as Land Policies Backflip, *The Phnom Penh Post*. Retrieved from <http://www.phnompenhpost.com/national/despair-pursat-land-policies-backflip>

May, T. (2013a, 13 January). Big goal set for Hun Sen's volunteers, *The Phnom Penh Post*. Retrieved from <http://www.phnompenhpost.com/national/big-goal-set-hun-sen%E2%80%99s-volunteers>

May, T. (2013b, 7 May). Old Soldiers Won't Fade Away, *The Phnom Penh Post*. Retrieved from <http://www.phnompenhpost.com/national/old-soldiers-won%E2%80%99t-fade-away>

May, T. (2013c, 13 December). Land-title Program 'Ineffective', *The Phnom Penh Post*. Retrieved from <http://www.phnompenhpost.com/national/land-title-program-%E2%80%98ineffective%E2%80%99>

May, T. (2013d, 27 May). Villagers Camp Out to Protest 'Land Grab', *The Phnom Penh Post*. Retrieved from <http://www.phnompenhpost.com/national/villagers-camp-out-protest-%E2%80%98land-grab%E2%80%99>

May, T. (2014a, 30 September). 'Delinquent' companies lose ELCs, *The Phnom Penh Post*. Retrieved from <http://phnompenhpost.com/national/%E2%80%98delinquent%E2%80%99-companies-lose-elcs>

May, T. (2014b, 3 December). Companies stripped of ELCs, *The Phnom Penh Post*. Retrieved from <http://www.phnompenhpost.com/national/companies-stripped-elcs>

Milne, S. (2013). "Under the leopard's skin: Land commodification and the dilemmas of Indigenous communal title in upland Cambodia", *Asia Pacific Viewpoint*, Vol. 54, No. 3 (pp.323-339)

Ministry of Agriculture, Forestry and Fisheries (2014). *2013-2014 Annual Report*, Phnom Penh: MAFF

Müller, F. and Zülsdorf, G. (2013). *Old Policies – New Action: A Surprising Political Initiative to Recognize Human Rights in the Cambodian Land Reform*, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). Paper prepared for presentation at the Annual World Bank Conference on Land and Poverty, April 8-11

NGO Forum on Cambodia (2006). *Indigenous Peoples in Cambodia*, Phnom Penh: NGO Forum

NGO Forum on Cambodia (2014). *Statistical Analysis of Land Disputes in Cambodia, 2013*, Phnom Penh: NGO Forum

Oldenburg, C. and Neef, A. (2014). "Reversing Land Grabs or Aggravating Tenure Insecurity? Competing Perspectives on Economic Land Concessions and Land Titling in Cambodia", *Law and Development Review*. Volume 7, Issue 1, Pages 49–77.

Phak, S. (2013, 4 April). Villagers Deliver Plea for Help, *The Phnom Penh Post*. Retrieved from <http://www.phnompenhpost.com/national/villagers-deliver-plea-help>

Phorn, B. (2013, 7 January). Hun Sen Fetes Student Volunteers With Lavish Party, *The Cambodia Daily*. Retrieved from <https://www.cambodiadaily.com/archives/hun-sen-fetes-student-volunteers-7329/>

Rabe, A. (2013). *Directive 01BB in Ratanakiri Province, Cambodia - Issues and impacts of private land titling in indigenous communities*, Chiang Mai: Asia Indigenous Peoples Pact

RECOFTC (no date). *Challenges for Cambodia*, retrieved on 18 January 2015 from <http://www.recoftc.org/country/cambodia/basic-page/challenges-cambodia>

RECOFTC (no date). *Community and Forests in Cambodia*, retrieved on 18 January 2015 from <http://www.recoftc.org/country/cambodia/basic-page/community-forestry-cambodia>

Royal Government of Cambodia (2010). *National Strategic Development Plan Update 2009-2013*, Phnom Penh: RGC

Royal Government of Cambodia (2014). *National Strategic Development Plan 2014-2017*, Phnom Penh: RGC

San, S.L. (2006). "Indicating Success: Evaluation of Community Protected Areas in Cambodia" in Mahanty, S. et al (eds.) (2006), *Hanging In the Balance: Equity in Community-Based Natural Resource Management in Asia*, pp.14-27, Bangkok: RECOFTC / Honolulu: East-West Center

Subedi, S.P. (2012). *Report of the Special Rapporteur on the situation of human rights in Cambodia*, Surya P. Subedi, Addendum: A human rights analysis of economic and other land concessions in Cambodia, Geneva: UN Human Rights Council 21st Session

Thach, P. (2013, 9 May). RGC Grants Some 1.5 Million Hectares for Economic Land Concession, *Agence Kampuchea Presse*. Retrieved from <http://www.akp.gov.kh/?p=32987>

UNCERD (2010). *Committee on the Elimination of Racial Discrimination Seventy-sixth session (15 February -12 March 2010): Consideration of reports submitted by States parties under article 9 of the convention, Draft Concluding observations of the Committee on the Elimination of Racial Discrimination, Cambodia*, Geneva: UNCERD

Vong, S. (2013, 29 January). PM Claims Land Scheme Win, *The Phnom Penh Post*. Retrieved from <http://www.phnompenhpost.com/national/pm-claims-land-scheme-win>

Vong, S. (2014, 29 December). Government axes some 58,000 hectares in ELCs, *The Phnom Penh Post*. Retrieved from <http://www.phnompenhpost.com/national/governmentaxesome58000hectareselcs>

Woods, B. and Kuch, N. (2013, 7 February). National Land Program Dropped Communal Titles, *The Cambodia Daily*. Retrieved from <https://www.cambodiadaily.com/archives/national-land-program-dropped-communal-titles-9480/>

World Bank (2002). *Project Appraisal Document on a Proposed Credit in the Amount of SDR 19.3 Million (USD 24.3 Million Equivalent) to The Kingdom of Cambodia for a Land Management and Administration Project*, 29 January 2002, Washington DC: World Bank East Asia and Pacific Region

Wright, G. and Aun, P. (2014, 11 August). Kratie Case Exposes Flaws in Land-Titling Scheme, *The Cambodia Daily*. Retrieved from <https://www.cambodiadaily.com/news/kratie-case-exposes-flaws-in-land-titling-scheme-66131/>

Appendix

Full text of Order 01



**Kingdom of Cambodia
Nation Religion King
Royal Government of Cambodia**

Order 01BB on the Measures Strengthening and Increasing the Effectiveness of the Management of Economic Land Concessions (ELC)

On the basis of the policy on strengthening of the land management, distribution and use stipulated in the Rectangular Strategy, the 2nd Phase of the RGC and also on the basis of the plenary session of the Council of Ministers dated 27 April 2012, especially seeing the need and urgency ahead in order to equity, strengthen and increase the effectiveness of ELCs Management the RGC issues the order for ministries, institutions and competent authorities concerned to implement as follows:

1. Provisionally suspend the granting of ELC;
2. Ministries, institutions and concerned competent authorities shall very effectively implement the policy and all the conditions of the RGC decisions on the granting of ELC and pay attention to the implementation of the ELC contracts, and in particular implement the policy of the “leopard skin formula”, without affecting community land of indigenous minorities and local people’s livelihood, with the aim to have these ELC provide real and sustainable benefits to the country and its citizens;
3. RGC shall seize ELC where companies/concessionaires that have already been given agreements from the RGC have not complied with the existing legal procedure or with the contract, in particular by having cut trees for sale but not having done the concession developments, having encroached on additional land, having let part of the land unexploited for sale, having undertaken business deals that violates the conditions of the contract, having taken land from local people or indigenous community. The reverting concessions shall be under the direct management of the State;
4. In case an ELC has received agreement in principle from the RGC before the date of this order, the additional legal principles and existing procedures shall be implemented.

Ministries, Institutions and competent Authorities concerned shall carry out this Order very thoroughly and effectively from the date of signature onward.

Signed and Sealed by Prime Minister Hun Sen
7 May 2014

Unofficial translation from MLMUPC published manual.

Example of MLMUPC Notification on Order 01 Results



Ministry of Land Management,
Urban Planning and Construction

KINGDOM OF CAMBODIA
NATION - RELIGION - KING

NOTIFICATION

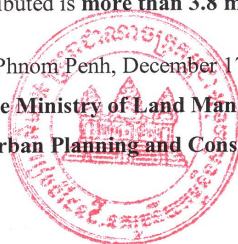
In contributing to the implementation of the Royal Government's Rectangular Strategy, the Ministry of Land Management, Urban Planning and Construction is honored to inform the public as below:

- By the end of November 2014, results achieved for the implementation of New Actions on Existing Policies for Land Sector, in accordance with RGC's Order 01, particularly on surveying land and issuing land titles are: **357** communes adjudicated; **more than 710,000** declaration forms filled in; **710,000** parcels surveyed; **710,000** parcels displayed to the public; and **610,000** land titles delivered.
- By the end of November 2014, with regard to the legal framework established in this campaign, Royal Government has cut off and reclassified the total area of **nearly 1.2 million ha**, **more than 380,000 ha** of which is cut out of **134** ELC companies; **more than 270,000 ha** out of **17** forest concession companies; and **more than 530,000 ha** out of state land and forest land confiscated with provincial order, in order to provide ownership to citizens, through **102 royal decrees**, **732 sub-decrees**, and **796 decisions** of Royal Government.
- By the end of November 2014, results achieved for the implementation of systematic land registration through Land Administration Sub-Sector Program (LASSP) throughout the 25 Capital/Provinces, covering **100** districts, **437** communes and **3,886** villages are: **more than 3.1 million** parcels data-entried, **more than 2.9 million** parcels displayed to the public; and **2.6 million** land titles delivered.
- By the end of November 2014, the result achieved for the implementation of sporadic land registration is **more than 600,000** land titles distributed.

In conclusion, the total number of land titles distributed is **more than 3.8 million titles**.

Phnom Penh, December 17, 2014

The Ministry of Land Management,
Urban Planning and Construction



Form confirming desire to leave indigenous community

Form used to confirm willingness of indigenous community member to leave the community and receive individual land title (unofficial translation from MLMUPC published manual).

Unofficial Translation

**Kingdom of Cambodia
Nation Religion King**

Contract of willingness to live as individual person

I, the undersigned named sex:..... born on the date of, being of nationality and holding the ID number..... being married with..... holding ID number..... and having a family of members (attached Family Book) and being originated from the indigenous community of from..... village.....communedistrict.....province

wishes to certify voluntarily and in writing that:

Myself and my family are really willing to live as private individuals outside of the indigenous community and guarantee that we are not claiming the rights and/or any benefit over the properties belonging to the indigenous community such as shifting cultivation land, spiritual land, burial land, ...etc.

This contract is established with free willingness and no constraint. Myself and my family have read, listened to what has been read, understood the translation made in our native language and understood clearly the meaning of this contract.

This contract is made in 3 copies (1 for the individual, 1 for the village chief, 1 for the concerned commune/Sangkat).

This contract is made in.....dated.....
Name and thumbprint

Husband Wife

Witness
(same ethnicity or community head)

Name and thumbprint

Source: Council for Land Policy, Instruction #020 on Implementation of RGC Order 01BB Dated 7 May 2012 - In Relation to Areas of Indigenous Communities (26 July 2012).

The research tool used for the fieldwork portion of this study are available on the NGO Forum website at:

www.ngoforum.org.kh/2015.05HHQuestionnaires01Study.docx.

The NGO Forum on Cambodia

Address: #9-11 Street 476 Sangkat Toul Tompoung 1,
Khan Chamkar Morn, Phnom Penh City, Cambodia.

P.O Box: 2295 Phnom Penh-3

Tel: (855-23) 214 429

Fax: (855-23) 994 063

E-mail: ngoforum@ngoforum.org.kh

Website: www.ngoforum.org.kh