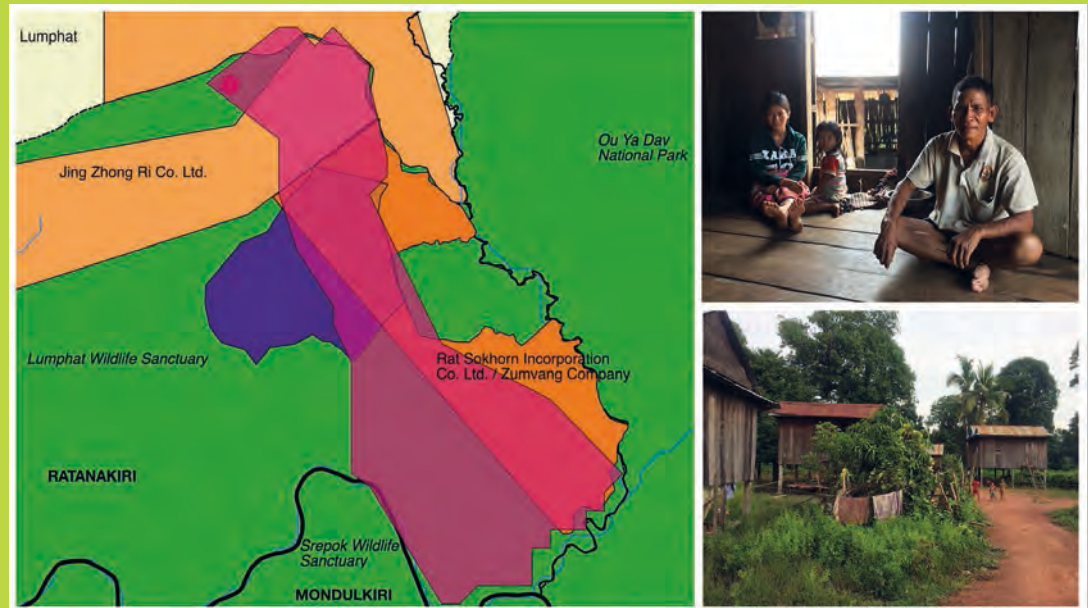


# Large-Scale Land Acquisitions in Rural Cambodia

## The Case of Samot Leu Village in Lumpat District, Ratanakiri Province



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## Abstract

The mechanism of granting Economic Land Concessions (ELCs) to (inter-)national investors for agro-industrial exploitation was the starting point of a wave of large-scale land acquisitions in Cambodia since the Royal Government of Cambodia (RGC) issued a respective directive in 2005.

While ELCs are supposed to combine overall economic benefits on the one hand with poverty reduction and the compliance with environmental standards on the other hand, it turned out that there is a wide gap between the legal framework, which is supposed to govern the granting of ELCs, and its actual implementation on the ground. Eventually, the granting of ELCs led to severe human rights violations and several land conflicts, involving the local population, investor companies, political and economic elites as well as authorities. This situation is especially difficult for the Indigenous Peoples of Cambodia, who not just struggle to claim rights to their lands, but for whom land is also an essential component of livelihood.

Drawing on a literature review and the results of a two-month field study, this thesis aims at shedding light at the relationship between different actors of society and land as a resource in the context of asymmetrical power constellations within the land conflict of Samot Leu Village in Seda Commune, Lumphat District, Ratanakiri Province.

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## List of abbreviations

ADHOC	Cambodian Human Rights and Development Association
ADR	Alternative Dispute Resolution
CCHR	Cambodian Center for Human Rights
CLEC	Community Legal Education Center
CLT	Communal Land Title
CPA	Community Protected Area
CPP	Cambodian People's Party
DLMUPC	Department of Land Management, Urban Planning and Construction, Provincial Level
DoE	Department of Environment, Provincial Level
DRD	Department of Rural Development, Provincial Level
ELC	Economic Land Concession
ESIA	Environmental and Social Impact Assessment
EU	European Union
FPIC	Free Prior Informed Consent
GDP	Gross Domestic Product
ICSO	Indigenous Community Support Organisation
IPM	Interim Protective Measure
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
LWS	Lumphat Wildlife Sanctuary
MAFF	Ministry of Agriculture, Forestry and Fisheries
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MoE	Ministry of Environment
Mol	Ministry of Interior
MRD	Ministry of Rural Development
NGO	Non-Governmental Organisation
NTFP	Non-Timber Forest Products
PLT	Private Land Title
RGC	Royal Government of Cambodia
SCW	Save Cambodia's Wildlife
USD	United States Dollar

## 1 Large-scale land acquisitions: from a global to a Cambodian context

Land as a resource attained central significance in the context of global processes of transformation and crisis - such as climate change, the energy transition, population growth, the liberalisation of markets, the question of global food security and changing patterns of lifestyle with growing consumption rates (cf. von Braun & Meinzen-Dick 2009: 1; Anseeuw et al. 2012: viii; Borras et al. 2016: 8; Quizon 2012: 7 f.; Dhiaulhaq et al. 2014: 205).

This development led actors across the public and private sector to call for increased investments in agriculture. Available data shows that the investors are mostly powerful stakeholders of the Global North as well as from emerging countries, who are usually targeting poorer countries with a weak land governance system, predominately in Africa, followed by Asia and then Latin America (cf. Land Matrix 2016: n. pag.; Anseeuw et al. 2012: vii-ix). Furthermore, evidence points to a growing number of intra-regional and domestic investments, even though research mostly focuses on international cases (cf. Liversage 2010: 3; Anseeuw et al. 2012: viii). Indeed, the overall scale and extent of land deals is hard to grasp since land acquisitions cannot be understood in a static way, but are rather multi-layered and complex processes with fluid actor constellations (cf. Borras et al. 2016: 7).

Land deals differ widely in terms of their underlying motives, sizes and terms of contract (cf. von Braun & Meinzen-Dick 2009: 1). Proponents argue that those deals put land that they define as “vacant”, “fallow” or “under-utilized” into a more productive use. Consequently, they claim that win-win situations are created by generating profits for the private sector, state revenue through taxes as well as employment opportunities and poverty-reducing effects for the local population (cf. Borras et al. 2016: 8). The opponents claim that the targeted lands are usually essential for smallholder farming households and communities to secure their livelihoods (cf. Borras et al. 2016: 35 f.; Liversage 2010: 3-6). They also emphasize how ecological systems are being negatively affected and question the alleged improvements in terms of productivity, job creation and poverty reduction. These negative impacts led scholars to describe large-scale land deals as a new type of the resource curse, according to which “citizens of resource-rich countries may suffer from weak governance and impoverishment not despite, but rather *because of*, their abundant and widely coveted natural wealth” (De Schutter et al. 2016: 14).

However, when it comes to the making of land deals, the question is not merely if the proponents or the opponents have the better arguments for the case-specific context.

Instead, the element of power attains central relevance. Most communities affected by land deals do not formally own the land they are living on, but use it under customary tenure arrangements. Consequently, they possess less bargaining power when it comes to formally claiming possession rights. In combination with a lack of transparency that surrounds most land deals, they easily become subject to intimidation and displacement, while the private sector usually has a stronger position in acquiring land resources, especially in states with a weak governance system (cf. von Braun & Meinzen-Dick 2009: 1 f.; Liversage 2010: 3).

In Cambodia, the interests in land are diverse: 80 % of the Cambodian population lives in rural areas, 23 % of which are living in extreme poverty and thus strongly depend on the land they are living on (cf. Oldenburg & Neef, 2014: 50; Pen & Chea 2015: 18). Around 54 % of Cambodia's labour force is working in agriculture, the sector that contributes 30.4 % to the annual GDP (cf. The World Bank 2010; The World Bank 2014). Different indigenous communities identify land as their central source of livelihood as well, not just for traditional agriculture but also because of its spiritual significance (cf. Oldenburg & Neef, 2014: 50).

On the other hand, the Royal Government of Cambodia (RGC) sees land as a potential source for development and increased productivity. After several decades of communist rule and violent conflicts, Cambodia rapidly started to integrate into the global market economy in the 1990s. Against this background, land became a key commodity and the RGC started to use land to attract domestic and foreign investment and is thereby trying to convert land into capital (cf. RGC 2012 a: 10; Prachvuthy 2011: 6; Prachvuthy & Van Westen 2011: 26; Pen & Chea: 2015: 17; Global Witness 2013: 7; Kampuchea 2012: 42). One instrument, which the RGC implemented to achieve this goal, will be analysed as part of this thesis: the granting of "private state land" through an Economic Land Concession (ELC)<sup>1</sup> contract to a domestic or foreign company to use either for agricultural or industrial-agricultural purposes (cf. Oldenburg & Neef, 2014: 50-52; RGC Ministry of Planning & UNDP Cambodia 2007: 46).

Most ELCs were being granted in rural areas - a practice that often results in overlapping land claims, which are especially difficult to solve since millions of rural Cambodians do not possess legally secured land titles (cf. Global Witness 2013: 7). Between 2004 and 2013, the Cambodian League for the Promotion and Defense of Human Rights (LICADHO) counted 1,162 land conflicts, involving investors, political

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<sup>1</sup> Under the Cambodian Law, several other concessions, "such as mining concessions, port concessions, airport concessions, industrial development concessions, fishing concessions" (RGC 2001: Article 50), exist as well. Those do not fall under the provisions of the Land Law and thus will not be further considered within the scope of this thesis.

and economic elites as well as authorities (cf. Neef & Touch 2016: 124) and resulting in an environmental degradation, human rights violations and an increase in rural landlessness (cf. Neef et al. 2013: 1085).

Contextualizing these developments and drawing on results gained through a two-month field study, by addressing the following research question this thesis aims to assess how the granting of ELCs contributes to land conflicts in rural Cambodia and affects indigenous communities within a complex actor-land nexus:

*What kind of relationship occurs between different actors of society and land as a resource in the context of asymmetrical power constellations within the land conflict of Samot Leu Village?*

Subsequently, this thesis is organized as follows: Chapter 2 looks at the land governance system in Cambodia with a focus on ELCs, more specifically on the mechanisms for allocating ELCs and the impacts on the local population. After having established this essential background knowledge, the empirical section of this thesis is introduced. To this end, chapter 3 first presents the case study region, in which the conflict takes place, namely Samot Leu Village in Seda Commune, which lies in the Lumphat Wildlife Sanctuary (LWS), Ratanakiri Province. Second, an overview of the employed methodology and research philosophy is given. Third, the analytical framework is laid out, which makes use of elements from Political Ecology. The central concern of Political Ecology is that socio-political conditions and environmental changes influence each other, while the element of power plays a key role in the outcome of this interplay (cf. Bohle 2007: 808-810; Krings 2008: 4-9). Thus, when analysing the land conflict in this case, it is crucial to look at its root causes with the role of the state as one major factor, at the costs and benefits for every stakeholder involved and at the types of resistance (cf. Robbins 2004: 11). From this conceptual framework, three research objectives for the case study were derived:

- (1) the identification of the land titling situation in the target area,
- (2) the analysis of the impacts of the ELC for Samot Leu Village, and
- (3) the analysis of the land conflict in terms of resistance, attempts for resolution and the element of power.

Based on this three-part division, chapter 4 presents the findings for each objective. These results are discussed with reference to the above-mentioned overall research question in chapter 5 before the final chapter concludes.

## 2 The land governance system in Cambodia

The granting of land concessions was first introduced under the French colonial system: Already in 1874, so-called “unoccupied” land was granted by the colonial authorities to concessionaires under the condition of cultivation within three years (cf. Oldenburg & Neef 2014: 52 f.). After independence was gained in 1953, the granting of land concessions continued until during the violent rule of the Khmer Rouge Regime from 1975 to 1979, all cadastral documents were destroyed and private land ownership was eliminated. A reintroduction of land concessions came with the Land Law of 1992, which was renewed in 2001 and has been enforced ever since (cf. Oldenburg & Neef 2014: 50, 53; Chamroeun 2012: 316-320).

This thesis focuses on one of the focal points when looking at today’s land ownership situation in Cambodia: ELCs. Accordingly, the following subchapters outline the legal framework for granting ELCs, its implementation, the current state of affairs, the impacts on the local population with a focus on Indigenous Peoples, while also taking into account what kind of land titling opportunities Indigenous Peoples possess. While doing so, this thesis primarily bases the use of the term “indigenous” on the criterion of self-identification as Indigenous Peoples at the individual and the community level. Secondary characteristics are a strong link to surrounding natural resources as well as a distinct language, culture, beliefs and social system (cf. APF & OHCHR 2013: 7).

### 2.1 Legal framework for Economic Land Concessions

The foundations for land ownership in Cambodia are laid out in the Land Law of 2001. Under this law, land is divided into five categories: (1) private land, (2) state public land, (3) state private land, (4) monastery land, and (5) land of indigenous communities (cf. RGC 2001: Articles 4-28).

In the context of this thesis, the third category is of importance because in 2005, Sub-Decree 146 on ELCs was introduced, defining them as a “mechanism to grant private state land through a specific economic land concession contract to a concessionaire to use for agricultural and industrial-agricultural exploitation” (RGC 2005: Article 2). Interestingly, this practice is encouraged by the possibility of converting state public land to state private land whenever it loses its public interest (cf. RGC 2001: Article 16) - even though a definition of “public interest” is not given.

According to the law, the purposes of ELCs are:



*“To develop intensive agricultural and industrial-agricultural activities that requires [sic!] a high rate and appropriate level of initial capital investment. To achieve a specific set of agreements from the investor for developing the land in an appropriate and perpetual manner based on a land use plan for the area.*

*To increase employment in rural areas within a framework of intensification and diversification of livelihood opportunities and within a framework of natural resource management based on appropriate ecological system.*

*To encourage small as well as large investments in economic land concession projects.*

*To generate state revenues or the provincial or communal revenues through economic land use fees, taxation and related services charges.” (RGC 2005: Article 3)*

There are two possible methods for granting an ELC: through a competitive solicited proposal, which by law is the prioritized option, or through an unsolicited proposal by an investor (cf. RGC 2005: Articles 6, 18-24).

Responsible for the granting is the Ministry of Agriculture, Forestry and Fisheries (MAFF) (cf. RGC 2005: Article 29). In cooperation with the Ministry of Environment (MoE), the MAFF has to make sure that all preconditions for granting an ELC are met: As mentioned above, only state private land is eligible. In addition, four other criteria need to be complied with: (1) the land use has to be consistent with the adopted land use plan, (2) Environmental and Social Impact Assessments (ESIA) have to be completed, (3) involuntary resettlements by lawful land holders are prohibited and there have to be solutions for any resettlement issues, and (4) public consultations with local authorities and residents need to be held (cf. RGC 2005: Article 4).

Moreover, the maximum size of an ELC is 10,000 hectares (cf. RGC 2001: Article 59) and the maximum contract duration is by law 99 years<sup>2</sup> (cf. RGC 2001: Article 61). The yearly rental fees for concessionaires are extremely low and range from 2 to 10 USD/ha (cf. Oldenburg & Neef 2014: 57; Prachvuthy 2011: 20; Prachvuthy & Van Westen 2011: 26).

The above-mentioned aims and criteria show that with the granting of ELCs, the RGC tries to combine overall economic benefits on the one hand with poverty reduction and the compliance with environmental standards on the other hand (cf. RGC: Article 5; Oldenburg & Neef 2014: 51, 56). With the emergence of many land conflicts

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<sup>2</sup> In 2015, the RGC declared that all leases will now be limited to 50 years, retroactively cutting already existing ELC contracts in half. However, the legal basis for this decision is still in debate (cf. Vida 2015).

associated with ELCs it became clear that the RGC failed in living up to its own ambiguous objectives.

When land conflicts peaked in 2012, Prime Minister Hun Sen issued Directive 01 on “Measures to strengthen and enhance the effectiveness of management of Economic Land Concessions”, which had three major components: First, a moratorium on the granting of new ELCs was proclaimed. Second, existing ELCs should be reviewed and in cases where they did not comply with the law, they should be withdrawn (cf. ADHOC 2015: 12 f.; Oldenburg & Neef 2014: 66; Schoenberger 2015: 1). Third, the so-called leopard skin policy was introduced, aiming at a co-existence of ELCs and smallholders by demarcating villages and villagers’ farming lands from existing ELCs and assigning these cut out areas back to individual users via private land titles (PLT), each no bigger than 5 ha per household (cf. ADHOC 2015: 10-13; Oldenburg & Neef 2014: 67 f.). In 2014, the Minister of Agriculture and the Minister of Environment added in an interministerial proclamation that not just farmlands but also graveyards and spiritual places should be demarcated during the implementation of the leopard skin policy (cf. Open Development Cambodia 2014; Rabe 2013: 13).

## 2.2 The implementation gap

There is a wide discrepancy between the above-described legal framework for ELCs and its implementation. This begins with the involved institutions: Even though the MAFF is the one responsible for the granting of ELCs, while the MoE is supposed to evaluate and mitigate potential environmental impacts, this practice shifted insofar as the MoE was also tasked to assign ELCs within protected areas (cf. ADHOC 2015: 12; Oldenburg & Neef 2014: 56; Pen & Chea 2015: 18). Additionally, the unsolicited proposal became the norm for granting an ELC, even though the law defines the competitive solicited proposal as the prioritized method (cf. ADHOC 2015: 12).

Moreover, several preconditions for the granting of an ELC were usually not complied with: For instance, the reclassification from state public to state private land did often only take place after the granting of an ELC (cf. Oldenburg & Neef 2014: 57). In other cases, the maximum size of 10,000 ha was by far exceeded because it became common practice that investors used different names and shell companies to claim additional land plots (cf. Oldenburg & Neef 2014: 58; Pen & Chea 2015: 18; Global Witness 2013: 3; LICADHO 2009: 17). Furthermore, ELCs frequently lack consistency with the land use plan as investors often do not cultivate the land, but seek to use it for timber exploitation and leave it fallow afterwards or engage in land speculation (cf. Prachvuthy 2011: 21; RGC Ministry of Planning & UNDP Cambodia 2007: 47; Bickel &

Löhr 2011: 34). In addition, ESAs were rarely carried out and/or public consultations did not take place. If they did, they were often limited to isolated information events without the possibility to veto and/or to actively take part in reshaping the process (cf. ADHOC 2015: 14; Oldenburg & Neef 2014: 58; Beban & Pou 2014: 15; Prachvuthy 2011: 20; Dhialhaq et al. 2014: 211; Nolte & Voget-Kleschin 2013: 1; Borrás et al. 2016: 38).

In most cases, people who were faced with an ELC in their territory were not offered any compensation for their land. If they were, monetary compensation was usually comparatively low, and in case of a relocation, the new land was often smaller, of bad quality and/or far away (cf. Inclusive Development International & Equitable Cambodia 2013: 2; Global Witness 2009: 14; Global Witness 2013: 2; Beban & Pou 2014: iv; Borrás et al. 2016: 38; Prachvuthy & Van Westen 2011: 26; LICADHO 2015 a: 7; ADHOC 2015: 16 f.).

The above-mentioned Directive 01, which froze the granting of new ELCs, called for a review of existing ones and introduced the leopard skin policy, seemed to be a sign of the RGC realizing the conflict potential of the current ELC practice and aiming at an improvement. However, the success of the Directive is in question.

First, because several ELCs were already in the making when the moratorium was announced in 2012, at least 33 ELCs were approved afterwards and two more were granted in 2013 (cf. ADHOC 2015: 12 f.).

Another critique is that in order to implement the leopard skin policy, youth volunteers, who were not sufficiently trained and had no independent supervision, were employed for the demarcation and private titling campaign. The whole procedure was very fast-tracked, bypassed existing regulations for land registration and changed throughout the process. This made it hard for villagers to keep up with the procedure, their options and rights. In combination with the prohibition of civil society groups to monitor the process, villagers thus became easily subject to misinformation and intimidation (cf. ADHOC 2015: 10-14; Oldenburg & Neef 2014: 65-69; Global Witness 2013: 8; Rabe 2013: 8-20; Schoenberger 2015: 3; Pen & Chea 2015: 25).

Moreover, there is no confirmed information on how many ELCs have been revoked in total. There is also debate on whether only inactive ELCs have been reviewed, while the ones surrounded by conflict were less or not at all targeted (cf. Open Development Cambodia n.d. a; Oldenburg & Neef 2014: 68). However, according to government sources, a total of nearly 280,000 ha was cut from 116 ELCs and given back to the villagers in the form of PLTs (cf. Titthara 2014).

Lastly, it is uncertain how the implementation of the Directive will continue in the future. First, because the surveying and demarcation activities are moving slowly ever

since the programme was resumed in November 2013, after it had stopped in June 2013 shortly before the general election took place. And second, because the Directive's terminology allows that the granting of ELCs can be recommenced at any time (cf. Global Witness 2013: 8; Schoenberger 2015: 2; ADHOC 2014: 11; CCHR 2016: 12). All in all, the practice of granting ELCs lags far behind its legal framework. A weak coordination between different government agencies and levels as well as an insufficient harmonization of different instructions result in a selective and arbitrary law enforcement, which lacks transparency and accountability and is characterized by impunity (cf. Kampuchea 2012: 44 f.; Subedi 2012: para. 92; Amnesty International 2008: 44).

### 2.3 Current state of affairs: facts and figures on ELCs

Information on existing ELCs, their granting processes and the stakeholders involved is hard to find and varies greatly due to a lack of complete and consistent documentation (cf. Subedi 2012: para. 82; Global Witness 2013: 12; Prachvuthy 2011: 21; Kampuchea 2012: 45).

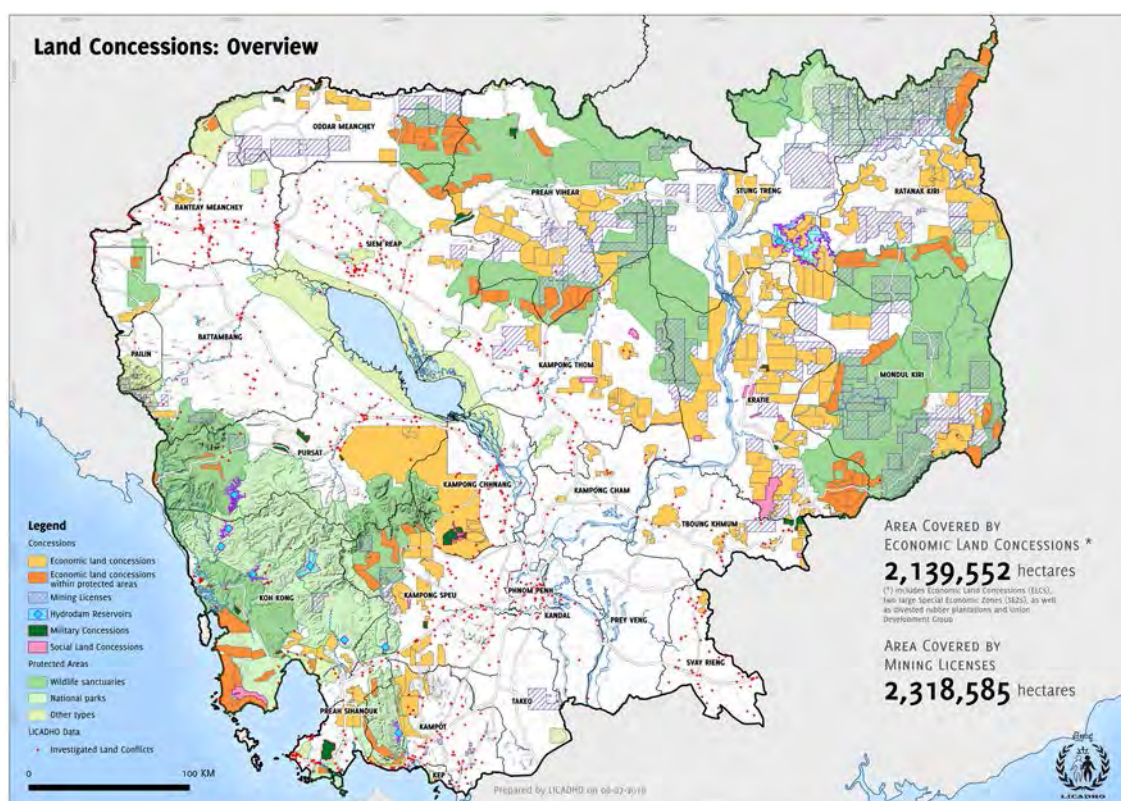


Figure 1: Overview of land concessions in Cambodia (Source: LICADHO 2016 b)

According to a government report of 2015, up until then 1,934,896 ha of land were granted to 230 companies via ELCs. Thereof, 1,316,396 ha were granted to 122

companies through the MAFF, while 108 companies received their concession from the MoE for the remaining 618,500 ha (cf. Kunmakara 2015; Vannak 2015).

As opposed to this, LICADHO claims that by 2016, an area of 2,139,552 ha was leased out in the form of ELCs (cf. LICADHO 2016 b) (see figure 1). This means that more than 50 % of Cambodia's arable land is covered by ELCs, of which most are used for rubber plantations (cf. LICADHO 2016 a; The World Bank n.d.; Global Witness 2013: 5) (see figure 2).



Figure 2: Rubber plantation in Ratanakiri, Cambodia (Source: Bayer 2016)

Looking at the stakeholders involved, it becomes evident that Cambodian investors own the vast majority of ELCs. Second and third, Chinese and Vietnamese companies play a major role (cf. LICADHO 2016 b) (see figure 3) - confirming the existence of a global trend of intra-regional transactions (cf. chapter 1). There are nearly no available numbers on the economic benefits of ELCs. According to newspaper article of 2015, the RGC earned around USD 80 million with granting ELCs as well as forests to private companies between 2012 and 2015 (cf. Kunmakara 2015). The current picture suggests that the prioritisation of large-scale land acquisitions to expand the export market potential and attract foreign investments is likely to continue. This is despite such comparatively low revenue and a widespread belief that the support of smallholders would unlock dormant potentials in terms of employment, local food security, benefits for the national market and poverty reduction (cf. Oldenburg & Neef 2014: 63; Dhialhaq et al. 2014: 206-213).



## 2.4 The impacts of ELCs on the local population

Article 31 of the Constitution of the Kingdom of Cambodia recognizes human rights as outlined in the United Nations Charter, the Universal Declaration of Human Rights and other related conventions. Thereby, the RGC is legally bound to respect, protect and fulfil these rights (cf. Inclusive Development International & Equitable Cambodia 2013: 43.).

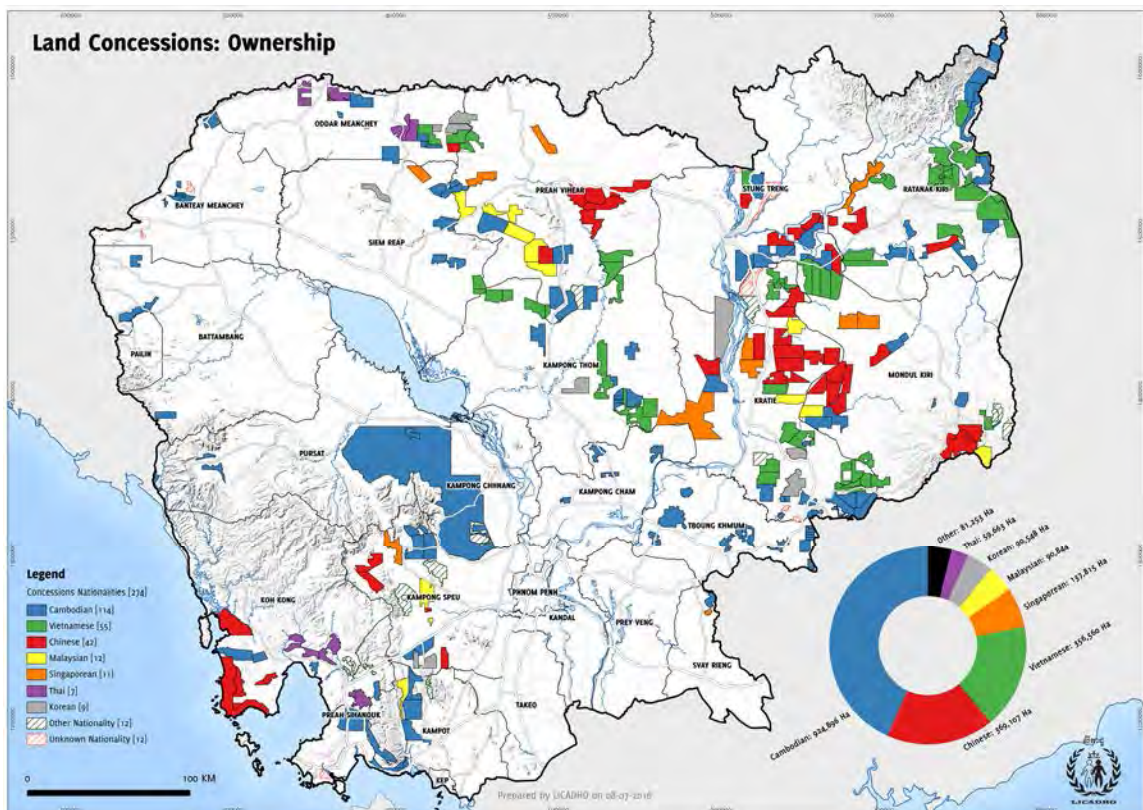


Figure 3: Ownership of Economic Land Concessions in Cambodia (Source: LICADHO 2016 c)

However, the above-described practice of granting ELCs is affecting between 400,000 and 700,000 Cambodians and led to severe human rights violations (cf. Pen & Chea 2015: 4; LICADHO 2015 a: 6). Those include involuntary resettlements and forced evictions of thousands of residents, contributing to a rising level of landlessness, and thereby - amongst others - violating the right to adequate housing, food and nutrition, water and sanitation, health, work, security of person, freedom of movement, privacy and security of home (cf. Open Development Cambodia n.d. a; Inclusive Development International & Equitable Cambodia 2013: 41; Oldenburg & Neef 2014: 60-62; Amnesty International 2008: 2; Herre & Feodoroff 2014: 8; Borras et al. 2016: 36-39; RGC Ministry of Planning & UNDP Cambodia 2007: 47).

Conflicts often resulted in violence on both sides: Resistance of villagers was violently suppressed, often with military involvement. Houses were set on fire, personal belongings destroyed and there is documentation of death threats and even killings of activists. On the other hand, armed villagers started to threaten company workers as well (cf. Global Witness 2013: 38; Amnesty International 2008: 30-42; LICADHO 2009: 20 f.; Borrás et al. 2016: 45-48; LICADHO 2015 a: 6; Dhialulhaq et al. 2014: 211).

Existing dispute resolution institutions implemented by the RGC (cf. Chamroeun 2012: 332-334; ADHOC 2014: 39) seem to fail when it comes to finding solutions which are satisfying for all parties involved. This is because the official procedures are lengthy and often ineffective due to a lack of information sharing and collaboration between different government levels, the communities and NGOs, causing administrative conflicts and stagnation in conflict solution processes (cf. Ngin et al. 2016: 12). Additionally, it is difficult for locals to claim their rights in front of a court due to a lack of monetary means, sufficient information and/or trust in the legal system that is known to be corrupt (cf. Oldenburg & Neef 2014: 59; Amnesty International 2008: 3; Supreme National Economic Council 2007: 12).

Once villagers lose their lands, they often end up renting land, migrating to the city, working as day labourers or illegal loggers (cf. ADHOC 2015: 16 f.; Herre & Feodoroff 2014: 7). In terms of the creation of employment, which was one designated goal of ELCs, it is to say that “while providing some employment opportunities, [...] no evidence of positive income effects of ELCs on households in the areas where ELCs are located [could be found]” (Jiao et al. 2015: 317). The reasons for these shortcomings are that companies often prefer to hire migrant workers and in cases where jobs for locals are provided, they are often temporary or seasonal, provide poor working conditions and/or low wages (cf. Herre & Feodoroff 2014: 6-8; Borrás et al. 2016: 37; Kampuchea 2012: 46; Prachvuthy & Van Westen 2011: 27; Dhialulhaq et al. 2014: 210). In some cases, especially involving Indigenous Peoples, people refuse to work for foreign companies completely (cf. LICADHO 2009: 19, 27; Prachvuthy & Van Westen 2011: 27).

Apart from the negative human rights related effects, severe environmental degradation is another major problem. In fact, ELCs are recognized as the main cause for Cambodia’s high rate of deforestation (cf. Global Witness 2013: 3, 9; Oldenburg & Neef 2014: 62; Dhialulhaq et al. 2014: 208-211; ADHOC 2014: 34). The result of the current land governance situation in Cambodia is that fewer and fewer people exercise control over Cambodia’s land resources: 20 % of all land concession areas are held by just five tycoons of the ruling Cambodian Peoples’ Party (CPP) (cf. Global Witness 2013: 9), pointing to a high level of corruption. Looking at the total surface area of

Cambodia, 20-30 % of the land area is in the hands of just 1 % of the population - an elite that is getting richer while the poor usually do not benefit (cf. Oldenburg & Neef 2014: 62 f.; Open Development Cambodia n.d. a; Global Witness 2013: 2).

## 2.5 Land rights and titling opportunities for Indigenous Peoples

In Cambodia, there are around 179,000 people who belong to 24 different Indigenous Peoples. They manage around 4 million ha of Cambodia's land area and mostly live in the north-eastern provinces of the country - where also 40 % of the ELCs are located (cf. Pen & Chea 2015: 4-6, 15; Prachvuthy 2011: 6; Soth 2012: 403 f.; Prachvuthy & Van Westen 2011: 26; Rabe 2013: 9).

For the Indigenous Peoples in Cambodia, land is a necessary means to survive: not just in terms of activities like shifting cultivation, the collection of Non-Timber Forest Products (NTFP), livestock, hunting and fishing, but also as a concept of identity, culture and belief. Hence, in order to understand Indigenous Peoples' stance in land conflicts, it is important to notice that their lands - especially spiritual and burial forests - are important components in their cultural and religious lives. Land cannot be relocated arbitrarily without damaging the magical and spiritual powers, in which the communities believe (cf. Pen & Chea 2015: 6, 9, 25; The Other Cambodia 2013: 5:51; Beban & Pou 2014: 15; Herre & Feodoroff 2014: 6; Prachvuthy 2011: 10 f.; Soth 2012: 400; Prachvuthy & Van Westen 2011: 26; Rabe 2013: 9; Dhialhaq et al. 2014: 207; Narim: 2016).

On paper, the rights of Indigenous Peoples are recognized by several international instruments, which have been ratified by the RGC. Those are amongst others the UN Declaration on the Rights of Indigenous Peoples and the ILO Convention 169, which includes the right to Free Prior Informed Consent (FPIC) (cf. Pen & Chea: 2015: 4, 9; Amnesty International 2008: 22; Soth 2012: 406-408). Nationally, the 1993 Constitution grants Indigenous Peoples equal protection like all Khmers (cf. Soth 2012: 408). Moreover, the national Land Law protects Indigenous Peoples' land rights:

*“The lands of indigenous communities are those lands where the said communities have established their residences and where they carry out traditional agriculture.”* (RGC 2001: Article 25)

*“Ownership of the immovable properties described in Article 25 is granted by the State to the indigenous communities as collective ownership. This*



*collective ownership includes all of the rights and protections of ownership as are enjoyed by private owners.” (RGC 2001: Article 26)*

This collective ownership is granted via a Communal Land Title (CLT), with which a community can officially register its residential land, agricultural land, reserve land for shifting cultivation, spiritual forest land up to 7 ha and burial ground forest land up to 7 ha (cf. RGC 2009: Article 6).

In addition, the national 2002 Forestry Law states amongst others that the harvest of spirit trees is prohibited and that forests for shifting cultivation are to be reserved (cf. Soth 2012: 410; Dhiaulhaq et al. 2014: 207).

Furthermore, the 2008 Protected Areas Law introduced a zoning system that divides protected areas into core zones, conservation zones, sustainable-use zones and community zones: while in core and conservation zones clearance and construction activities are prohibited, any development activity in sustainable-use zones and community zones needs to undergo ESIA's before being subjected to the RGC's approval (cf. RGC 2008: Article 24, 36). Indigenous Peoples living within or at the border to a protected area are granted the possibility to receive forest land of sustainable-use zones in the form of a Community Protected Area (CPA) by the MoE. To this end, the community enters into an agreement with the Nature Conservation and Protection Administration that entails a self-administrative action plan guaranteeing the sustainable management of the CPA. While the management plan shall be reviewed every 3 years, the CPA agreement is valid for 15 years (cf. RGC 2008: Article 25-28). Nonetheless, the community cannot use the CPA for shifting cultivation or residential land as any clearance activities are prohibited within a CPA (cf. RGC 2008: 26).

However, when it comes to claiming their land rights, Indigenous Peoples form one of the most vulnerable groups in Cambodia, showing that their rights are still not completely recognized and protected (cf. Soth 2012: 411-413). Indeed, many ELCs were granted on indigenous land (cf. Pen & Chea 2015: 13; Global Witness 2013: 2; Borrás et al. 2016: 36; Prachvuthy 2011: 6). One of the contributing factors is the missing harmonization between the Land Law, the Forestry Law and the Protected Areas Law, including a lack of clear distinction between state public and state private land. So if no formal ownership can be proven by the Indigenous Peoples, the land belongs to the state by default and might be leased out via ELCs (cf. Neef et al. 2013: 1087; cf. Pen & Chea 2015: 18; Global Witness 2013: 7-9; Prachvuthy 2011: 15 f.; Soth 2012: 413; Prachvuthy & Van Westen 2011: 26).

This is especially fatal for Indigenous Peoples because the Sub-Decree on CLTs was issued not until four years after the Sub-Decree on ELCs. Moreover, the granting of

ELCs moves fast, while the process of acquiring a CLT is much slower, lacks sufficient enforcement and requires the interaction with three different ministries as depicted in table 1.

No.	Ministry responsible	Simplified steps to obtain a Communal Land Title (CLT)
1	Ministry of Rural Development (MRD)	Identifies and recognizes the identity of the indigenous community as a collective group
2	Ministry of Interior (Mol)	Registers the indigenous community as a legal entity
3	Ministry of Land Management, Urban Planning and Construction (MLMUPC)	Grants the Communal Land Title (CLT) after measuring and demarcating the land

*Table 1: Simplified procedure to obtain a Communal Land Title (CLT) (Source: own draft based on Oldenburg & Neef 2014: 68; Prachvuthy 2011: 16-18)*

The simplified procedure shown in table 1 can be split up to 29 sub-steps, each of which involves extensive administrative work for the Indigenous Peoples - such as setting up working groups and committees to prove that the indigenous community recognizes themselves as such, filling out applications, developing land-use maps and formulating internal rules. Usually, the communities lack the necessary monetary means, information and expertise for this procedure and are dependent on support from NGOs (cf. Pen & Chea: 2015: 12 f.; 25; Prachvuthy 2011: 16-18; Lim & Nan 2015: 2; Kampuchea 2012: 45; CCHR 2016: 17).

Due to the length of the procedure, the indigenous community is to be granted interim protective measures (IPM) in between step two and three, which “include the prohibition of sale, purchase, lease or transfer of lands under application for registration” (Pen & Chea: 2015: 13). However, field study shows that those measures were rarely taken, resulting in a further loss of land for the Indigenous Peoples the longer the process takes (cf. Pen & Chea: 2015: 13, 24).

When the previously mentioned Directive 01 was introduced, things got even more complicated because it caused the CLT process to halt. Thus, communities that already entered the procedure, i.e. were already registered as legal entities, were forced into a waiting position (cf. Oldenburg & Neef 2014: 69 f.). Moreover, individuals from indigenous communities that did not yet enter the CLT process were offered PLTs instead. Due to various negative implications for Indigenous Peoples resulting from those private titles - such as further loss of communal lands since a PLT is limited to 5 ha, a destabilization of community cohesion and solidarity, and an ineligibility to receive a CLT once a PLT is accepted (cf. Pen & Chea 2015: 16, 22-26; Rabe 2013: 7, 23; CCHR 2016: 13) - previous studies state that the vast majority of Indigenous Peoples favours CLTs over PLTs. However, many villagers were put under pressure to accept PLTs, often with the use of intimidation and misinformation as they were told that it

is a PLT or nothing at all (cf. Oldenburg & Neef 2014: 69-73; Pheap & Peter 2013; Pen & Chea 2015: 28; Global Witness 2013: 8; Rabe 2013: 20-24; Peter & Pheap 2013). Recognizing the overlaps between the different titling schemes, the MLMUPC later stated that it would be possible to transform PLTs into CLTs in the future, but it is still unclear how this will be done (cf. Oldenburg & Neef 2014: 72; Rabe 2013: 13).

As a result, of Cambodia's 458 indigenous communities only 11 obtained a CLT by the beginning of 2016 (cf. CCHR 2016: 1). Moreover, there are cases where Indigenous Peoples still suffered encroachment on community land despite them possessing a CLT (cf. CCHR 2016: 38). Again, it becomes evident that there is a wide discrepancy between the legal recognition of Indigenous Peoples' land rights on the one hand, and the poor enforcement of this legal framework on the other hand.

### **3 Studying the actor-land nexus**

The above-described concept of ELCs, used by the RGC as an instrument to promote "development", is one characteristic of a neoliberalisation that led to a successive commodification of land, labour and capital (cf. Springer 2009: 273 f.; Polanyi 1944). These developments are associated with different costs and benefits that are unevenly distributed among society, making the situation prone to conflicts (cf. Springer 2009: 273 f.). The specific conflict, which is analysed within the scope of this thesis, occurs in the form of overlapping claims on land, which are the result of an ELC that was partially granted on indigenous land. Hence, we are looking at an interaction between different parts of society with the environment, while the key factor of influence when it comes to the outcome of this interplay is power.

In order to further analyse this actor-land nexus, the following sub-chapters will first introduce the study region, second explain the methodology that was applied during the fieldwork, and third present the theoretical and analytical framework, from which the research objectives for the case study are derived.

#### **3.1 Study region: Samot Leu Village in Lumphat District, Ratanakiri Province**

Samot Leu Village was established around 1951 and is one of seven villages, which together constitute Seda Commune (cf. Interview Village Chief). The village is located at the north-eastern border of the LWS, which was established in 1993 and comprises an area of 250,000 ha (cf. Open Development Cambodia 2016 a).

While the LWS lies across Mondulkiri and Ratanakiri Province, Samot Leu Village is located in the latter (see figure 4).

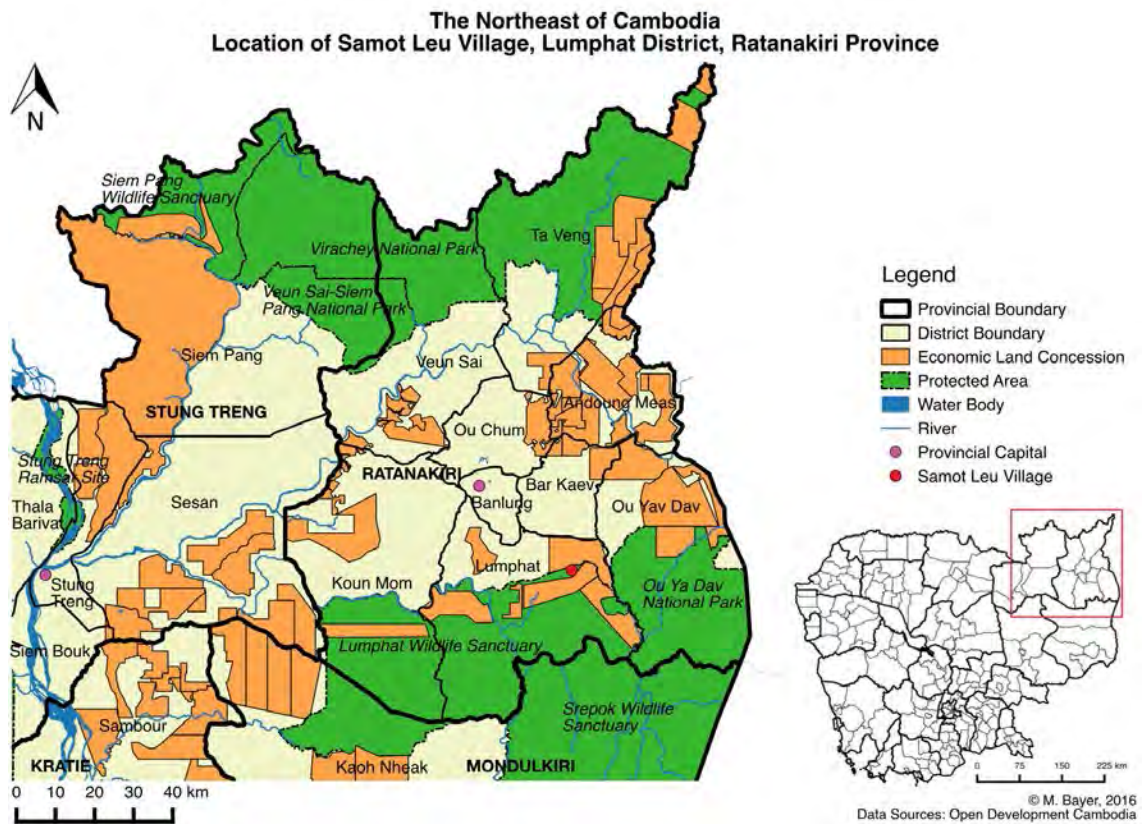


Figure 4: The study region: Samot Leu Village in Lumphat District, Ratanakiri Province, and the surrounding provinces (Source: own compilation based on data from Open Development Cambodia n.d. b)

Prime Minister Hun Sen called the northeast of Cambodia the “fourth economic pole” (after Phnom Penh, Siem Reap and Sihanoukville), because of its potential for agro-industrial development. Indeed, Ratanakiri’s high soil quality makes it extremely attractive for agro-industrial companies and thus ELCs (cf. Rabe 2013: 6, 11; Pheaktra 2008). According to the village chief, the village itself comprises 200 ha (see figure 5 & 6).



Figure 5: Residential area of Samot Leu Village (Source: Bayer 2016)



Figure 6: Residential area of Samot Leu Village (Source: Bayer 2016)

Additionally, there are 800 ha of rice fields and farmland (cf. Interview Village Chief). The agricultural land is distributed among the villagers in a way that one family usually cultivates a field of circa 1 to 2 ha, and farmland of 1 to 5,5 ha (cf. Interview Villager 1-16).

There are around 864 people living in the Samot Leu, of which 442 are female (cf. Open Development Cambodia 2008). The vast majority of the villagers belong to the Tumpoun ethnicity, with some Khmer, Jarai and Lao inhabitants, who usually moved to the village for marriage reasons (cf. Interview CPA Committee Member 1; Interview Village Chief; Interview Villager 1-16). One household is made up of one to four families living together (cf. Interview Village Chief; Interview Villager 1-16) (see figure 7 & 8).



Figure 7: Household in Samot Leu Village  
(Source: Bayer 2016)



Figure 8: Household in Samot Leu Village  
(Source: Bayer 2016)

In terms of access to water and sanitation, there are two public water pumps in the village but apart from this, there is neither running water nor are there any latrines. Moreover, there is no electricity supply and only few families own a small generator (cf. participant observation at Samot Leu).

The villagers used to practice traditional shifting rice cultivation in a three-year rotation cycle.

However, due to the changing land ownership situation in the area that leads to shrinking available land resources, they needed to change this pattern to a stationary form of rice cultivation (cf. Interview Village Chief; Interview Villager 1-16) (see figure 9 & 10).

Moreover, they diversified their crop to cassava, mung beans and cashew nuts (cf. Interview Villager 1-16), and some mango, sugarcane, banana, chili, lemongrass and peanuts (cf. Interview Villager 4, 6), which they usually sell, while using the rice for subsistence. Besides the agricultural activities, the villagers usually own some cattle, pigs and chicken and they engage in fishing, hunting and NTFP collection to supplement



their diet (cf. Interview CPA Committee Member 1; Interview Village Chief; Interview Villager 1-16).



Figure 9: Rice field in Samot Leu Village  
(Source: Bayer 2016)



Figure 10: Drying rice in Samot Leu Village  
(Source: Bayer 2016)

### 3.2 Research methodology

This study employs a qualitative approach. The first step was an extensive desk-based literature review, which was conducted to provide background information on the land governance system in Cambodia and to develop the analytical framework so the outcomes of the fieldwork could be properly contextualized.

During the fieldwork, which took place in October and November 2016, data was primarily gathered through semi-structured problem-centred interviews. Table 2 provides an overview of the interviewed people<sup>3</sup>.

The interviews were based on written guidelines of questions (see annex 1-6), which were prepared in advance with reference to the research objectives and adjusted in the field. Thereby, it was possible to generate comparable data, but at the same time the medium openness that characterizes this type of interview allowed to follow new leads during the interview (cf. Bernard 2000: 191; Lamnek 1995: 70-75; Witzel 1989: 230-255). All interviews also contained some unstructured and more open conversational phases with the aim “to get people to open up and let them express themselves in their own terms, and at their own pace” (Bernard 2000: 191).

Save Cambodia’s Wildlife (SCW)<sup>4</sup> functioned as a supporting partner in this research in terms of providing background information as well as facilitating the interview appointments with the relevant NGOs and local authorities and joining these interviews for translation.

<sup>3</sup> Unfortunately, despite several efforts the investor company involved in the land conflict refused to meet for an interview.

<sup>4</sup> SCW is a registered Cambodian NGO since 2002. Its mission is the conservation of natural resources and wildlife habitats by engaging primarily in the areas of education and community mobilization as well as integrated alternative livelihoods (cf. SCW 2016 b).

Spokesperson	Corresponding organisation / authority / group	Date & location	Type of data gathering & reference used in this thesis
<b>Non-governmental organisations (NGOs)</b>			
Mr. Chan Vicheth, Programme Manager	Save Cambodia's Wildlife (SCW)	10.10.2016, Banlung	Interview SCW
Mr. Bov Sophea, Head of Office	Cambodian League for the Promotion and Defense of Human Rights (LICADHO)	10.10.2016, Banlung	Interview LICADHO
Mr. Lok Chhay Thi, Ratanakiri Provincial Coordinator	Cambodian Human Rights and Development Association (ADHOC)	12.10.2016, Banlung	Interview ADHOC
Mr. Hub Borin, Communal Land Titling Project Coordinator	Indigenous Community Support Organisation (ICSO)	13.10.2016, Banlung	Interview ICSO
Mrs. Chan Than, Ratanakiri Provincial Programme Manager	Indigenous Community Support Organisation (ICSO)	27.10.2016, Banlung	Presentation ICSO
Mr. Kit Touch, Senior Good Governance Programme Officer	Community Legal Education Center (CLEC)	13.11.2016, Phnom Penh	Interview CLEC
Mr. Ali Al-Nasani, Country Director	Heinrich-Böll-Stiftung	5.12.2016, Phnom Penh/ Berlin via Skype	Interview Heinrich-Böll-Stiftung
<b>Local authorities</b>			
Mr. San Sanny, Deputy of Lumphat Wildlife Sanctuary	Lumphat Wildlife Sanctuary (LWS)	24.10.2016, Banlung	Interview LWS
Mr. Tun Sovanny, Vice Director of the Office of Planning	Department of Environment, Provincial Level (DoE)	24.10.2016, Banlung	Interview DoE
Mr. Me Phorn, Deputy Director of the Rural Community Development Office	Department of Rural Development, Provincial Level (DRD)	25.10.2016, Banlung	Interview DRD
Mr. Tim Sinath, Deputy Director	Department of Land Management, Urban Planning and Construction, Provincial Level (DLMUPC)	01.11.2016, Banlung	Interview DLMUPC
Mr. Seieng Sokny, District Governor	Lumphat District	26.10.2016, Lumphat	Interview Lumphat
<b>Ministries</b>			
Mr. Siphath Touch, Deputy Director of the Community Development Department	Ministry of Rural Development (MRD)	04.11.2016, Phnom Penh	Interview MRD
Mr. Chou Sophark, Director of the Protected Areas in the Eastern Mekong Region Department	Ministry of Environment (MoE)	23.11.2016, Phnom Penh	Panel discussion MoE
<b>Indigenous People</b>			
Male CPA Seda Committee Member and villager	CPA Seda Committee; Samot Leu Village	11.10.2016, Samot Leu	Interview CPA Committee Member 1
Female CPA Seda Committee Member and villager	CPA Seda Committee	11.10.2016, Samot Leu	Interview CPA Committee Member 2
Village Chief	Samot Leu Village	18.10.2016, Samot Leu	Interview Village Chief
16 separately interviewed villagers (7 male, 9 female), each representing a different household	Samot Leu Village	18.-19.10.2016, Samot Leu	Interview Villager 1-16

Table 2: Primary data collection (Source: own compilation 2016)

While the interview with the representative of the MRD was held in English, a private translator, who belonged to the Tumpoun ethnicity, was employed for the fieldwork in Samot Leu Village.

Since ELCs are a very sensitive and controversial issue in Cambodia, the interviews were conducted without recording so that the informants were not placed in any risk due to their cooperation and were more likely to answer freely.

In Samot Leu Village, direct participant observation was used to supplement the information gained through the interviews, especially in terms of the relevance of land for the villagers in their daily lives. Because the observations were performed without standardisation it was possible to change perspectives during the fieldwork without being constrained by a prior selection of specific aspects (cf. Reuber & Pfaffenbach 2005: 123-127).

Lastly, the attending of a panel discussion on the impacts of ELCs and a presentation of the Indigenous People Support Organisation (ICSO) on their work (see table 1), as well as the continuous review of newspaper articles during the fieldwork contributed to developing a deeper understanding of the issue.

Of course, the approach used in this research has its limitations: Constraints in time and resources for data collection naturally limit the scope of this study, resulting in a lack of generalizability of the research findings.

Another issue is the risk of being misinformed. This might have happened unintentionally or in the form of purposely giving inaccurate responses and holding back information due to the controversy of the topic in the current public discourse. Furthermore, information may have gotten lost or misrepresented due to the language barrier, which required a translator in most of the interviews.

Closely connected to these limitations is the reflection on the role of the researcher during the fieldwork. As the research topic is an on-going conflict, it was important to not get involved in the conflict solving process, but to keep a certain distance, which was necessary to equally take into account the viewpoints of all conflict parties and to live up to the researcher's rather passive role of understanding and documenting instead of actively engaging. However, it is important to be aware of the fact that the interviewed people inevitably had certain pre-defined images and assumptions about the researcher, whose presence might have given rise to certain expectations and has influenced the acting and answering of the interviewees.

Additionally, the researcher's own background needs to be critically reflected: A common position of international scholars in the context of Cambodia's land sector is a sharp critique on its underlying development model, primarily because it goes hand in hand with high deforestation to make room for large-scale plantations. While this



may seem to be a reasonable argument, one has to be aware of the fact that this critique mostly comes from a normative Eurocentric viewpoint, i.e. from nations, whose development model was based on high deforestation as well when they transformed from agrarian to industrial societies.

The employed overall research philosophy follows an interpretative paradigm, meaning that this study seeks to comprehend the socially constructed realities of the people involved in the land conflict. Since the interpretive researcher adopts relativism, all these realities are considered to be equally valid (cf. Neumann 2014: 109). Vice versa, as the western researcher brings her own world views and narratives to the study environment, qualitative research is inevitably the researcher's subjective interpretation of the interviewees' individually experienced realities. Therefore, it needs to be pointed out that the worldview of the observed and interviewed people can never be fully accessed by the above-mentioned methodology and absolute neutrality and objectivity cannot be claims of this research (cf. Lamnek 2010: 32; Reuber & Pfaffenbach 2005: 107-115; Mosse 2006: 949 f.). Keeping this in mind, this study's objective is to better understand and put into context the experienced realities of the stakeholders involved in the land conflict.

### **3.3 Political Ecology as analytical framework**

This study is embedded in the research perspective of Political Ecology. The central concern of Political Ecology is the relationship between socio-political conditions on the one hand and environmental changes on the other. The core hypothesis is that social and political processes as well as varying power structures and interest constellations always in part determine the characteristics of an environmental change (cf. Bohle 2007: 808-810; Krings 2008: 4-9). Vice versa, those changes result in costs and benefits for different stakeholders, producing an asymmetrical distribution of "winners" and "losers" (cf. Robbins 2004: 11). This reciprocity of human-nature-interaction takes place on and across the local, regional, national and global level (cf. Schmidt 2014: 21).

Political Ecology identifies the state as one major stakeholder in this scenario and claims that the state and related actors governmentalize nature and "thereby enhancing control over both natural resources and rural/indigenous people" (Neef & Touch 2016: 127). To help explore the strategies, which the government employs to do so, Robbins defines the state on three different levels: First, the state's way of thinking and acting is characterized by a simplification of environmental issues. This narrowing of vision is sometimes necessary to take certain steps of action, but bears

the risk of failed planning since it partially ignores local realities (cf. Robbins 2008: 206-209; Neef et al. 2013: 1090). Second, the state is in constant interaction with different stakeholders as well as nature as a non-human element. This creates a complex network, within which the state is prone to different external influences that might lead to changes in his own course of action (cf. Robbins 2008: 209-212). Lastly, the state has major influence on the production and propagation of (environmental) knowledge. Hence, he plays a key role when it comes to shaping the prevalent public discourse and development model (cf. Robbins 2008: 212-216).

This means that a discussion about nature has always a political component. In fact, this is true for any kind of definition of nature since people think - consciously or unconsciously - in political categories, as they understand nature as something worth protecting, something finite and/or something exploitable. Against this background, the stance of this thesis is that the perception of nature is a social construct and statements on nature base on an anthropocentric understanding of the very same (cf. Siebert 2005: 11; Schmidt 2014: 21). The awareness of this constructivism allows revealing the diverse interests that underlie the actions of different stakeholders in human-nature-scenarios by employing tools of Political Ecology.

Robbins describes these tools with the metaphor of the “Hatchet and Seed”. Hatchet means that Political Ecology questions prevalent views on nature and critically deconstructs phenomena in terms of their inherent political and individual power structures as well as interest constellations. Seed is a metaphor for the normative stance of Political Ecology, i.e. the belief that there are alternative ways to act and react in situations of human-nature-interaction. Hence, Political Ecology is not just a way of diagnostic analysis but also aims at proposing alternatives of action in terms of a future resource management (cf. Robbins 2004: 12-16; Mayer-Tasch 1999: 14-16; Forsyth 2003: 276).

The overall goal of Political Ecology is to reveal the political dimension of environmental systems by exploring (1) the root causes of an environmental change and/or conflict, (2) the ways in which people are benefitting and/or suffering from it, and (3) the forms of resistance and/or socio-political movements that arise as a reaction to change or conflict (cf. Robbins 2004: 11).

In terms of the in number (1) mentioned root causes it is important to not just look at the proximate causes but also to pay attention to the more distant factors that eventually led to the outbreak of conflict (cf. Wisner et al. 2003: 87). Within the Cambodian land sector, the governance system and its in part dysfunctional institutions, which are characterised by corruption, is one central issue to consider in

this context because land deals and corruption seem to not just co-exist but are mutually reinforcing (cf. Global Witness 2016: para 4).

Even though there is no universally accepted definition of corruption, one can differentiate petty corruption from grand corruption: While the former includes the exchange of small amounts of money and the granting of favours, the latter takes place on a larger scale and also involves the highest levels of government (cf. UN Office on Drugs and Crime 2004: 1). Corruption may take transactional forms like bribes and can also be institutionalised, e.g. when decision-making in state bodies is skewed to the advantage of companies or political elites (cf. Global Witness 2016: para. 3). Evidence suggests that both forms take place in Cambodia, which ranks on place 150 of 167 of Transparency International's Corruption Perceptions Index (cf. Transparency International 2016). It lies in the nature of corruption that it is kept secret and is thus hard to identify and to measure.

However, previous studies showed that corruption may occur at six stages of the land acquisition process: (1) the demarcation of land and titling procedures, (2) the design of land use schemes and the classification of land as e.g. "underutilized" or "vacant", (3) the use of "public interest" provisions to justify land deals, (4) the selling or leasing of land to investors, (5) the employment of remedies in land conflict complaints, and (6) the monitoring of company obligations after the acquisition (cf. De Schutter et al. 2016: 24-29). Concerning the issue of social movements and resistance, Scott defines resistance as any acts by e.g. a community that are intended to change certain claims made by other stakeholders that would affect the community (cf. Scott 1986: 22). Thus, resistance aims at bringing about a positive change (cf. Sokphea 2016: 192). Within the context of land conflicts, this change is a direct outcome like getting land back or receiving compensation. The acts of resistance to achieve this outcome can be targeted at both the government and/or the companies directly (cf. Soule 2009: 51). Moreover, they do not necessarily take the form of collective action (cf. Scott 1986: 22) and might be hidden or public, peaceful or violent, spontaneous or organized (cf. Neef & Touch 2016: 139). A general differentiation can be made between the employment of institutional and non-institutional tactics. While the former are e.g. petitions or peaceful protests, the latter take the form of more violent illegal acts (cf. Sokphea 2016: 187-191).

In the context of this thesis, getting support from NGOs, which can be described as an institutional tactic, is important to mention. This tactic falls under what Tria Kerkvliet calls advocacy politics and "involves direct and concerted efforts to support, criticise, and oppose authorities, their policies and programs, or the entire way in which resources are produced and distributed within an organisation or a system of

organisations” (Tria Kerkvliet 2009: 232). The advocates are often organisations but might also be individuals or unorganized groups (cf. Tria Kerkvliet 2009: 232).

The government has the choice to respond to these acts of resistance by either ignoring them, concession, repression, or a combination of the latter two (cf. Piven & Cloward 1986: 50). The companies on the other hand choose between ignoring and concession, depending on if they are addressed directly, if their reputation or revenue is threatened and/or if the government does or does not concede (cf. King 2008: 7).

Taking the above-described elements of Political Ecology into consideration and transferring them to the context of the land conflict the following research objectives guide the empirical study:

- (1) Identifying the land titling situation in the target area,
- (2) Analysing the implications of the ELC for the Indigenous Peoples of Samot Leu Village, and
- (3) Analysing the characteristics of the conflict situation in terms of resistance, attempts for resolution and power imbalances.

## 4 Results

To answer the above-mentioned three research objectives, the following chapter draws on the results gained during the fieldwork phase. Subsequently, the different land use claims and (ongoing) titling schemes will be examined first. Second, the impacts of the ELC on Samot Leu Village will be analysed from the perspective of the villagers as well as the local authorities. Third, the tactics of resistance, attempts for resolution and the element of power within the conflict situation will be investigated.

### 4.1 Overlapping land use claims

The land titling situation in and around Samot Leu Village is hard to properly identify. As previously mentioned, during the Khmer Rouge Regime all cadastral documents were destroyed. Since then, the RGC developed national maps of the surface area including residential and cultivated land, but those land use plans are mostly incoherent, non-transparent and the community boundaries stated in these plans are often not accepted by the communities themselves (cf. Presentation ICSO; Interview Lumphat). Thus, overlapping land use claims are bound to occur.

#### 4.1.1 Economic Land Concession

In this case, we are looking at an overlap between community land and an ELC. This ELC was granted in June 2012 - only one month before the moratorium on ELCs was announced - to the Cambodian tycoon Rat Sokhorn for the purpose of “agro-industry and rubber plantation investment” (cf. RGC 2012 b). In total, the ELC comprises 9,000 ha of land and was initially granted for 70 years by the MoE (cf. RGC 2012 b) (see figure 11).

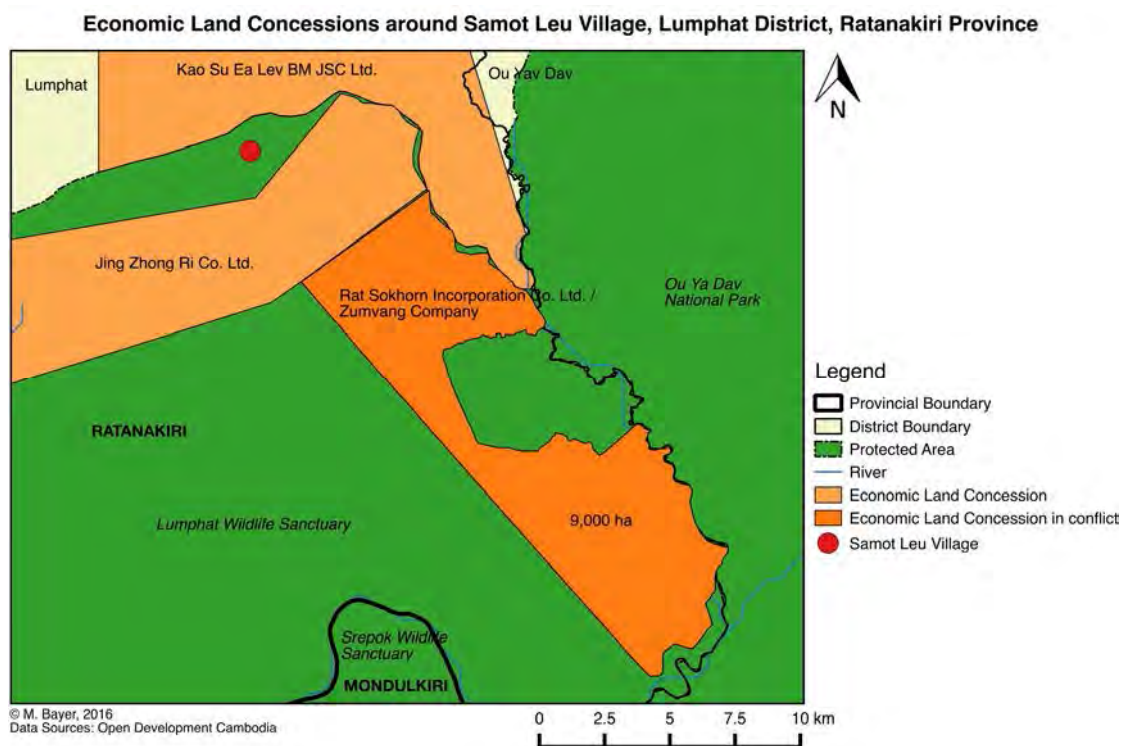


Figure 11: Location of the Economic Land Concession (ELC) (Source: own compilation based on data from Open Development Cambodia n.d. b)

Interestingly, the sub-decree on the reclassification of the respective area as state private land - which is a necessary precondition that needs to be fulfilled before an ELC can be granted - was issued not until two months after the granting (cf. RGC 2012 c). At the time of the fieldwork, the company already cleared the majority of the forestland within the ELC boundary and started to plant cashew nut trees in parts of the area (cf. Interview CLEC). As the ELC lies within a sustainable-use zone of the LWS, according to the 2008 Protected Areas Law, additional ESIs needed to be carried out. However, no ESIs or consultations with the residents took place prior to the granting of the ELC (cf. Interview CPA Committee Member 1; Interview CPA Committee Member 2; Interview Villager 8). It becomes evident that the granting decision was made on a national level without taking the local reality of the actual land use situation into account, leading inevitably to conflicts on the ground: To be precise, around 2,000 ha

of the ELC area is on land, which the villagers of Samot Leu claim to be theirs (cf. Seangly 2016; SCW 2016 a: 3). Of this 2,000 ha, the company already cleared between 500 and 1,000 ha (cf. Interview ICSO; Interview ADHOC; Interview LWS; Interview DoE). Two more recent developments need to be mentioned when looking at this particular ELC: First, in 2015, the contract duration of the ELC was reduced to 50 years based on results of an inter-ministerial committee meeting for assessment, measurement and evaluation of some ELCs (cf. RGC 2015). Second, in mid 2016, the ELC was transferred from Rat Sokhorn to the Chinese Zumvang company (cf. Interview SCW; Interview LWS; Interview Lumphat). The circumstances of this ownership transfer remain opaque as no interviewed stakeholder had information on this matter. Generally, those transfers are prohibited (cf. Open Development Cambodia 2012), but as they bring benefits for the companies, “they found a way to make it look legal” (Mr. Siphat Touch, MRD). Aside from this already granted Rat Sokhorn / Zumvang ELC, there are three other types of land titles which are relevant in this case: an on-going CLT application, a CPA process and already issued PLTs for some villagers.

#### **4.1.2 Communal Land Title**

In terms of the CLT, the process for Samot Leu started already in 2008, facilitated by ICSO (cf. Interview ICSO). As described in chapter 2.5, a CLT is an official certificate, with which Indigenous Peoples can prove their land ownership.

Yet, the CLT application for Samot Leu has been on-going for more than eight years now because it is made up of 29 sub-steps, which involve the interaction with three different ministries and require extensive administrative work, making NGO support inevitably (cf. chapter 2.5): For instance, several steps - like certain dissemination and endorsement events - require the presence of government representatives, who often postpone those events and thereby delay the entire process. Another reason for the length of the procedure is that there are only two government employees at the provincial level of the Mol, who are in charge of the registration of indigenous communities as legal entities (cf. Presentation ICSO). Moreover, it is difficult to draft the CLT map because the notions of the RGC, the village and the neighbouring villages on where the border should run usually differ, resulting in a lengthy re-drafting and re-verifying cycle (cf. Presentation ICSO; Interview Lumphat).

Apart from the workload and complexity, money is a major obstacle in the application process. It is estimated that the first part of the procedure, i.e. the identity recognition by the MRD (see table 1), costs between USD 10,000 and USD 20,000 (cf. CCHR 2016: 18). Another matter of expense that becomes relevant at several points of

the process are travel expenses for government representatives, who need to come to the village for certain events as mentioned above. All these costs need to be covered by the NGOs, which facilitate the application, because the MoI and the MRD do not allocate any funding for CLT purposes (cf. Interview CLEC; Interview DRD; Interview DLMUPC). The MLMUPC is the only ministry that has some budget reserved for the CLT process (cf. Interview DLMUPC): USD 300,000 per year for the final step of the CLT procedure for up to 10 communities (cf. CCHR 2016: 19) - which is not much considering that around 447 indigenous communities still do not have a CLT (cf. CCHR 2016: 1).

As Indigenous Peoples heavily depend on NGO budgets for the CLT application, the NGOs are dependent on international funding to fulfil this task. However, this international funding is not a reliable and constant source of monetary input, making the CLT programme prone to disruptions. According to the Heinrich-Böll-Stiftung in Phnom Penh, this becomes especially evident when looking at the recent dispute between the German government and the RGC, in which the former wanted the RGC to strengthen the CLT program, i.e. issue more CLTs per year. But because the RGC refused to prioritize CLT applications, Germany eventually decided to withdraw funding from the land sector completely (cf. Interview Heinrich-Böll-Stiftung).

Communal Land Title (CLT) request of Samot Leu Village			
Type of land	Eligible for a CLT by law	Requested seize	Surplus amount
Residential land incl. meeting hall	Yes	24.65 ha	-
Agricultural land	Yes	1,076.92 ha	-
Reserve land for agriculture	Yes	1,728.55 ha	-
Spiritual forest	Yes, up to 7 ha	37.12 ha	30.12 ha
Burial ground	Yes, up to 7 ha	23.09 ha	16.09 ha
Protected forest	No	9,696.17 ha	9,696.17 ha
Private land	No	133.13 ha	133.13 ha
Reserve residential land	No	88.81 ha	88.81 ha
Reserve land for a health centre	No	34.12 ha	34.12 ha
Reserve land for a pagoda	No	27.83 ha	27.83 ha
Reserve land for a primary school	No	1.17 ha	1.17 ha
Reserve land for a secondary school	No	32.14 ha	32.14 ha
<b>TOTAL</b>		<b>12,903.7 ha</b>	<b>10,059.58 ha</b>

Table 3: Communal Land Title (CLT) request of Samot Leu Village (Source: own compilation based on RGC 2009 and CLT draft map by ICSO)

For Samot Leu Village, ICSO completed step 26 of 29 in October 2016, meaning that they submitted the CLT application to the Department of Land Management, Urban Planning and Construction on the Provincial Level (DLMUPC) and are now waiting for the department to go to the field to verify the GPS points of the proposed CLT area (cf. Interview ICSO).

However, when interviewing Mr. Tim Sinath, the Deputy Director of the DLMUPC, he was quite sceptical about the application's chances of success: First, because the total requested CLT seize is 12,903.7 ha (see table 3 and figure 12), and he claims that this would be too much for just one village (cf. Interview DLMUPC; Interview DRD 2016). Yet, except for the regulations depicted in Table 3, the Land Law contains no paragraph on the total maximum amount of land that a community can get in the form of a CLT (cf. Interview DLMUPC). This makes a decision on CLT applications even more complicated, because the company's idea of drawing the boundary based on the villagers' current farm- and residential land clashes with the villagers' traditional notion of including burial grounds, spiritual forests and land for shifting cultivation - land, which only looks vacant to the eye of someone not living in the area (cf. Interview MRD).

However, considering the provision that for a CLT only residential land, agricultural land, reserve land for shifting cultivation, spiritual forest land up to 7 ha and burial ground forest land up to 7 ha are eligible (cf. chapter 2.5), it becomes obvious that the application of Samot Leu does indeed exceed the allowed limits in terms of burial ground and spiritual forest land by around 46 ha (see table 3).

Additionally, the application includes the request for 9,696.17 ha of protected forestland and circa 184 ha of reserve residential land for housing and specific social infrastructural buildings - purposes that are not mentioned as eligible for a CLT in the respective Sub-Decree at all (see table 3).

When looking at previously granted CLTs in Cambodia and putting the square measures in relation to the village sizes one can derive an average CLT size of 8.7 ha per family (cf. Open Development Cambodia 2016 b). Transferred to Samot Leu, which comprises around 220 families, this would add up to a CLT of 1,914 ha - which is nearly 11,000 ha less than requested.

Second, most parts of the requested area are classified as conservation zone within the LWS (cf. Interview LWS; Interview DLMUPC). This means that any clearance and construction activities - which would inevitably take place within a CLT as the villagers would use the land for agriculture and building houses - are prohibited according to the Protected Areas Law (cf. RGC 2008: Article 23).



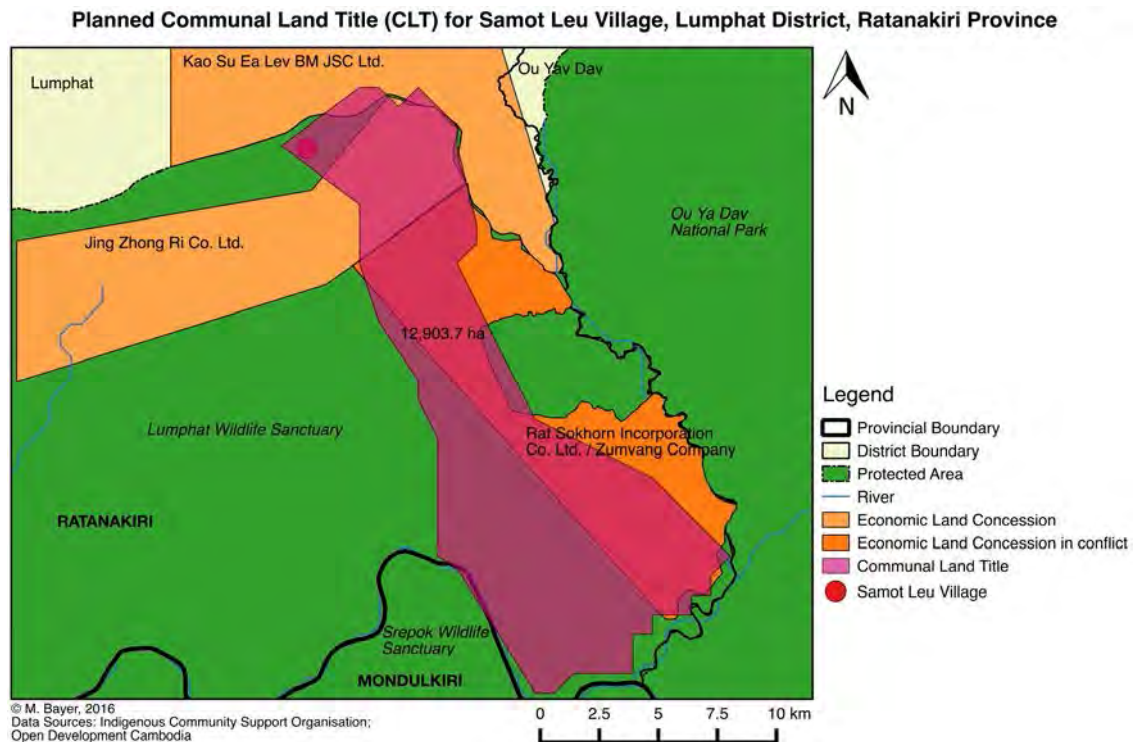


Figure 12: Area requested for a Communal Land Title (CLT) by Samot Leu Village (Source: own compilation based on data from Interview ICSO and Open Development Cambodia n.d. b)

As such, the granting of this area as a CLT will be less likely or at least more complicated, because a reclassification of the land would be necessary.

#### 4.1.3 Community Protected Area

Since March 2014, SCW is working on a CPA application for two villages, including Samot Leu, under the name “CPA Seda” (cf. Interview SCW; Interview DoE). As described in chapter 2.5, a CPA is a forest area, which is granted to a community by the MoE and is protected by the residing villages for a period of 15 years through a self-administrative management plan. While SCW and the Department of Environment (DoE) are working together on the establishment of the CPA, the budget comes entirely from SCW (cf. Interview Lumphat). Table 4 depicts the necessary steps for its establishment, showing that the application procedure for a CPA is by far easier than the one for a CLT, mostly because it is only needed to interact with one ministry. By November 2016, CPA Seda was in step 5 of the process. That the procedure is taking two and a half years already can be explained by two complications, the first one being an overlap with ICSO’s work: SCW’s targeted CPA was overlapping with ICSO’s targeted CLT area for Samot Leu. As both SCW and ICSO received funding from Oxfam America at the time, they held a conflict meeting in summer 2014, during which it was decided that SCW should look for another area suitable to establish a CPA.

No.	Steps for the establishment of a Community Protected Area (CPA)
1	Assessment of potential CPAs involving interested communities
2	Community meetings to discuss the CPA establishment
3	Forest assessment with community representatives
4	Definition of the CPA boundary
5	Formation of a CPA Committee
6	Conduct of a CPA needs assessment and forest inventory
7	Development of a CPA management plan
8	Entering in an agreement with the Ministry of Environment (MoE)
9	Monitoring and evaluation of the CPA

Table 4: Procedure to obtain a Community Protected Area (CPA) (Source: own compilation based on Interview SCW 2016)

However, when by 2015 the CLT application was still not successful and the Rat Sokhorn / Zumvang company started to clear community land to the dismay of the villagers, the DoE requested SCW to continue their CPA plans in the originally targeted area (cf. Interview SCW; Interview CPA Committee Member 1).

Second, there was an overlap of 2,018 ha between the targeted CPA and the ELC. Thus, the CPA process was halted until on 11 October 2016, SCW held a joint meeting with representatives of Samot Leu Village, the DoE and the LWS. During this meeting, it was unanimously decided to exclude the overlap area from the CPA application and take new GPS points for the remaining 3,157 ha of targeted CPA land to proceed with the application (see figure 13) (cf. participant observation at Samot Leu; Interview CPA Committee Member 1; Interview CPA Committee Member 2; Interview DoE 2016).

SCW as well as the DoE seem assertive that the application will be successful now that the disputed area is excluded (cf. Interview SCW; Interview LWS; Interview DoE). On the contrary, one of the CPA Committee Members does not feel confident concerning the outcome of the CPA application because of the length of the process so far (cf. Interview CPA Committee Member 1).

When looking at the regulations outlined in the Protected Areas Law, it is to say that the targeted CPA is - like the targeted CLT area - a conservation zone, and thus, by law not eligible for a CPA unless the area would be reclassified as a sustainable-use zone beforehand.

#### 4.1.4 Private Land Titles

Having described the on-going CPA and CLT procedures, the third and final land titling scheme in the target area are PLTs: The interviews with the villagers of Samot Leu revealed that some of them (4 out of 16 villagers) received PLTs in the course of the

leopard skin policy implemented as part of Directive 01 (cf. chapter 2.1) (cf. Interview Village Chief; Interview Villager 2, 5, 6, 12, 16).

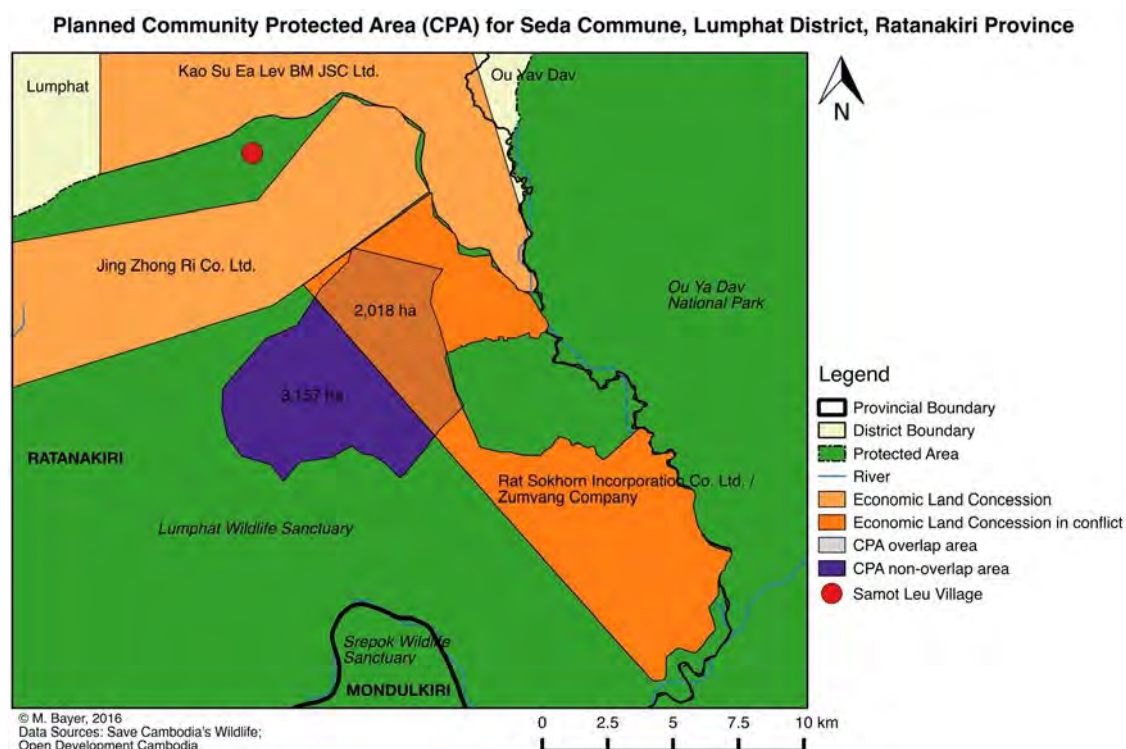


Figure 13: Targeted Community Protected Area (CPA) for Seda Commune (Source: own compilation based on data from Interview SCW and Open Development Cambodia n.d. b)

Different from other studies' findings stating that Indigenous Peoples often were pressured into taking PLTs and generally preferred a CLT over a PLT (cf. chapter 2.5), the Indigenous Peoples of Samot Leu were very satisfied with their PLTs because these titles offered them immediate protection at least for some of their farmland (cf. Interview Villager 5, 6, 12, 16):

*"The Prime Minister is more powerful so we did have to take the title. But we also wanted it."* (Villager 5)

*"If they want to clear my land now, I can show the paper."* (Villager 12)

The satisfaction with the PLTs is especially understandable when taking into account that the villagers are witnessing the lengthy CLT process for years now with no sign of success so far - and even worse, already lost some land to the Rat Sokhorn / Zumvang ELC.

As the PLTs were only issued for farmland that lies within ELC areas, some villagers are hoping that they might receive a PLT for some of their land in the near future as well because more and more land conflicts with ELCs are arising (cf. Interview Villager 4, 5, 16).

However, the villagers were not aware of the fact that by law, the PLTs could interfere with the success chances of Samot Leu's CLT application, of which most of them did not have any knowledge anyway (cf. Interview Villager 6, 8, 10-16). Then again, no evidence could be found that the PLTs are in fact hindering the ongoing CLT process as ICSO and the DLMUPC only named other reasons for the length and complexity of the respective application (cf. chapter 4.1.2).

Criticism on the PLTs comes mostly from stakeholders outside the village: For instance, it was pointed out that the PLTs were implemented because the RGC realized that the rising number of land conflicts could have a negative effect on the outcome of the general election. Consequently, the PLT scheme was supposed to win back some votes from the people affected by land conflicts (cf. Interview MRD). Moreover, PLTs make it easier for their owners to sell their land, which might be done to get money on a short term (cf. Interview MRD). Additionally, PLTs can easily be used as collateral to get a loan from a bank. Yet, this practice might result in a loss of the land when it needs to be sold in order to fulfil the payment requirements (cf. Ngin et al. 2016: 14). One interview revealed however, that a land certificate issued by the village chief was also sufficient to use as collateral for borrowing money at a private bank (cf. Interview Villager 7).

Be that as it may, all asked villagers stated that they would not sell their land even if the company would make them an offer because they want to keep it for themselves and their children as a necessary basis for survival (cf. Interview Villager 3-16):

*“If I sell my land, this means that I would sell my pot.”* (Villager 16)

#### **4.1.5 Perception and reality of the current land titling schemes**

Aside from the incomplete awareness of the implications of the PLTs, the interviewed Indigenous Peoples were mostly not informed about the definition of a CLT and CPA. Of course, during the above-mentioned meeting with SCW, the DoE and the LWS at Samot Leu, the CPA concept was discussed and the villagers became aware of the long term benefits of a CPA title because it serves as a tool for forest preservation. However, there were only around 23 villagers present at the meeting (cf. participant observation at Samot Leu). The interviews that were conducted at Samot Leu one week later revealed that only 1 out of 16 interviewed villagers was aware of the CPA concept (cf. Interview Villager 14). There was also no knowledge on the current status of the respective applications and some villagers did not even know that the village engaged in CLT and CPA requests (cf. Interview Villager 6, 8, 10-16).

This demonstrates that the RGC's and the NGO's distribution of land rights related information reaches just a few village representatives and there is definitely no area-wide knowledge of land rights and titling opportunities among the Indigenous Peoples of Samot Leu. Considering the numerous land related laws and directives as well as the different and in parts overlapping working areas of the NGOs that come to the village for assistance, it is understandable that the Indigenous Peoples struggle to keep up with the titling schemes, as the bureaucracy of the application procedures is usually far off their daily reality of life (cf. Interview DoE; Interview Villager 5, 8, 10, 12-16). Be that as it may, the villagers of Samot Leu did draw the conclusion that they need an official land title to defend themselves as they experience daily the negative implications of being surrounded by ELCs. The desirability of private titles that was found in the interviews (cf. chapter 4.1.4) shows that land security is a key concern but that this goal does not necessarily need to be achieved in the form of collective ownership. Either way, the villagers are usually unable to take the pertinent steps of action as they do not possess the necessary means and knowledge on how to get a secure land title (cf. Interview Villager 2, 7-9, 14-16):

*“If I had a title, I could show the paper and say ‘this is my land, you cannot take it’ [...] If I knew how, I would apply for a land title.”* (Villager 2)

This lack of information becomes even more dangerous as some villagers seem to not just have insufficient but also incorrect information on land titling: Some think that a land title issued by their village chief would protect them sufficiently, even though this is not a lawfully title but rather serves to distribute land areas within the village to prevent disputes among the villagers (cf. Interview Village Chief; Interview Villager 1, 3-5, 8, 9, 13). Only one villager explicitly questions the informal character of a land title by the chief, pointing to corruption even within the village:

*“A government title would mean safety, but a title from the chief is not powerful enough. Because when the company would give money to the chief and the chief would agree, the land would be gone.”* (Villager 11)

All in all, the main problem of the land titling situation in and around Samot Leu is that the already issued Rat Sokhorn / Zumvang ELC is overlapping with community land. However, the community was so far unable to legally claim this overlap area because the CLT request is still on-going. In fact, the success of both the CLT and CPA requests are unclear, not just due to the already granted ELC but also due to the nature of the applications (see figure 14).

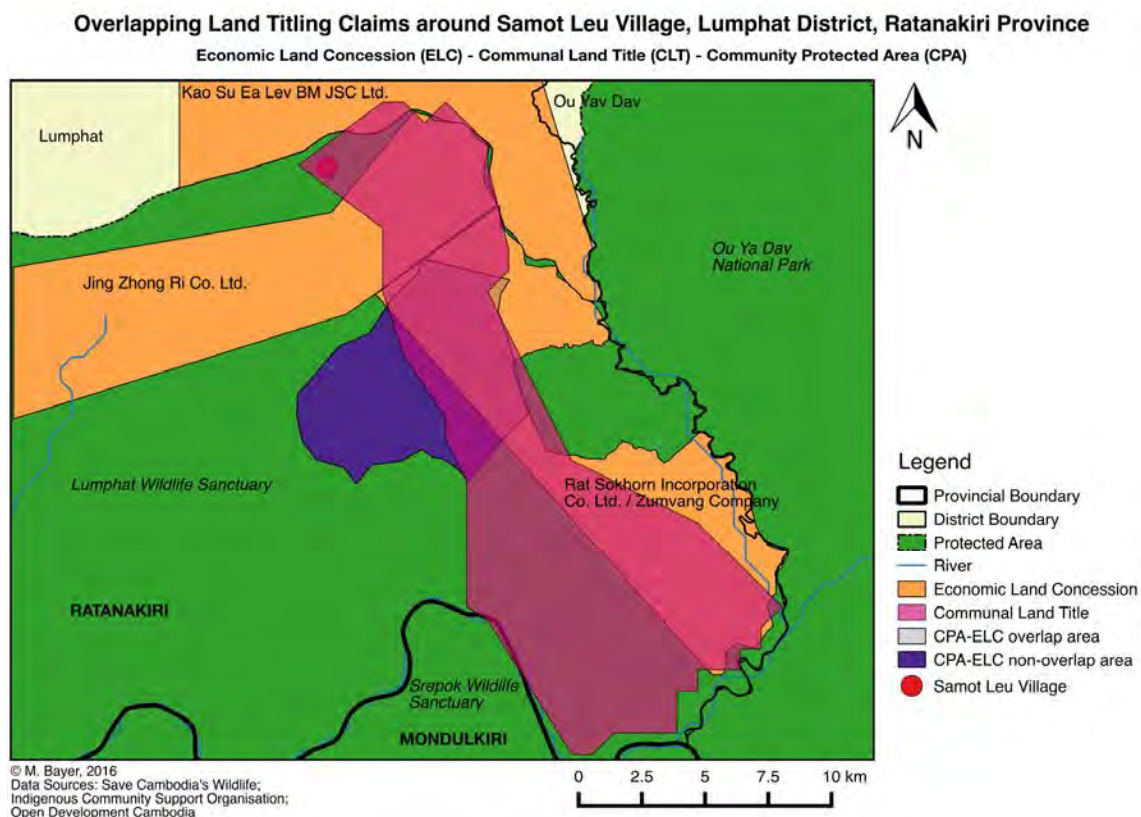


Figure 14: Overlapping land titles and title requests for and around Samot Leu Village (Source: own compilation based on data from Interview SCW, Interview ICSSO and Open Development Cambodia n.d. b)

First, some of the responsibilities of the assisting NGOs are overlapping and they are working in the same area using different maps that do not match each other. For instance, it is unclear if the protected forestland that is requested in the CLT application should be granted additionally to the forestland of the CPA request. These circumstances might lead to complications when the requests are submitted to the decision making authorities. Second, the requested areas are conservation zones, which is especially impedimental for the granting of the CLT that eventually entails clearance activities when it comes to an agricultural and residential use of the land. In the aggregate, except for some PLTs issued to only a few villagers for their personal farmlands, the current situation leaves the villagers of Samot Leu with no legal land certificate to claim ownership of their community lands.

## 4.2 The impacts of the ELC on Samot Leu Village

The already granted ELC in combination with the lack of a land title for Samot Leu Village to defend their communal lands holds several implications for the livelihood situation of the villagers. Those implications can be categorized into socio-economical, cultural, environmental and infrastructural changes, which will be analysed in this

chapter. Primarily drawing on insights gained through the interviews with the villagers, the partially differing viewpoints and arguments of the government authorities on this matter will be presented afterwards.

#### 4.2.1 The villagers' perception of change

All interviewed villagers are aware of the Rat Sokhorn / Zumvang ELC that is overlapping with their land (cf. Interview Villager 1-16).

In order to understand the impacts of the ELC on the villagers of Samot Leu, it is important to consider the relevance of land for the Indigenous Peoples of Cambodia. One villager emphasized this relevance by a comparison with the western way of life:

*“Where you [the researcher] come from, it is different. You need work to survive. Here, you need land to survive, land is life.”* (Villager 11)

From this it can be concluded that land is closely linked to Indigenous Peoples' identity and can be interpreted as the focal point of their livelihood. This holds true for the cultural as well as the socio-economic aspects of life.

In regard to the socio-economic sphere, the villagers stressed that their land is their essential means to survive as they grow food on it (cf. Interview Villager 1, 2, 7, 9, 10). When asked about the changes resulting from the conflict with the Rat Sokhorn / Zumvang company, the main problem identified by the villagers was the loss of reserve land for future generations as the village population is growing (cf. Interview CPA Committee Member 1; Interview Village Chief; Interview Villager 1-16):

*“Life will be difficult for the children in the future because there will be no more land left for them.”* (Villager 8)

In this context, a link between the availability of the disputed land area and the village's survival came up quite often during the interviews (cf. Interview Villager 1, 2, 4, 5, 8, 11-16):

*“Land makes us alive. If we have no land, we will die.”* (Villager 2)

This problem of a shrinking availability of land resources will lead to cultural changes as well because the daily life of the next generations is very likely to change and thus will be characterized by a less close relation to land:

*“When I was younger, I could get my own land, but my grandchild might have to work for someone else because land is rare and expensive.”* (Villager 5)



However, concerning the topic of culture, not just the Rat Sokhorn / Zumvang ELC but rather all surrounding ELCs can be seen as causing factors contributing to a deterioration of traditional beliefs and rituals among the villagers. Generally, the villagers believe that trees are the houses of spirits and that once one cuts a tree and thereby destroys the spirit's home, it leaves. The large-scale deforestation activities within ELC areas all around Samot Leu led the villagers to believe that most of the spirits left the area already (cf. Interview Villager 8, 10). Even before the here examined ELC was granted to Rat Sokhorn, the villagers lost their spirit forest around ten years ago due to other agro-industrial deforestation activities (cf. Interview Villager 1, 8, 14).

However, the villagers' land management is still shaped by those spirits, who are believed to watch over the land and the people. So most of the interviewed villagers still perform different ceremonies and traditional animal sacrifices when building a new house and cultivating a new field or farm. They also believe in the relevance of their dreams in terms of crop yield and choosing the right spot for a field or farm. In turn, bad incidences and illnesses are associated with spirits as well (cf. Interview Village Chief; Interview Villager 1-6, 8, 12, 14, 15). Nonetheless, the interviews revealed that nowadays, the practice of traditional land related rituals becomes less important, especially for the younger generation (cf. Interview Villager 9-11, 13, 14, 16).

The finding that the villagers' main problem concerns the life of their children's generation may lead to the conclusion that their current livelihood situation is not as much affected - an interpretation that proved to be incorrect because the villagers are already experiencing changes due to the neighbouring ELCs:

As forestland was and still is diminishing, the villagers changed from their slash and burn agricultural practices to a stationary form of crop farming and strategic plantation (cf. chapter 3.1). They also have difficulties to find sufficient wood, which they need for house construction and handicraft, because the Rat Sokhorn / Zumvang company prohibits them to cut trees within the ELC area (cf. Interview Village Chief; Interview Villager 1, 3, 4, 8, 11, 13-16). Furthermore, ELC induced deforestation caused a loss of hunting grounds as well as areas for NTFP collection (cf. Interview Village Chief; Interview Villager 1-4, 6, 7, 11, 13-16).

Besides, the villagers cannot let their cattle run freely anymore because if they do and company workers find it within an ELC area, it might be shot by the workers since it can cause damages to the plantations (cf. Interview Village Chief; Interview Villager 1).



Additionally, some villagers pointed out that sometimes rivers are being blocked by the companies and that waterways are more polluted due to the use of chemicals within the companies' agro-industrial plantations (cf. Interview Villager 6, 10, 12, 14), resulting in problems for the villagers' fishing activities (cf. Interview Villager 1, 7, 10-16). Moreover, this pollution is also an environmental impact of ELCs, adding up to the overall loss of vegetation due to ELC induced deforestation<sup>5</sup> (cf. Interview Villager 4, 12, 15).

As a last point, it was mentioned that the company blocked some roads with barriers, restricting the mobility of the village population and thus worsening their infrastructural situation (cf. Interview Villager 1, 2, 10, 11, 13).

The above-mentioned changes result in a slow alienation of land in terms of cultural rituals and severely impair the socio-economic situation of the villagers, leading to an overall feeling of insecurity, which the villagers expressed by their fear that even more land will be lost to the Rat Sokhorn / Zumvang company (cf. Interview Villager 5, 8, 10, 11, 14, 16)<sup>6</sup>.

#### 4.2.2 The authorities' perception of change

While the villagers only identified negative changes, some provincial authorities as well as some representatives of the national ministries emphasized how ELCs can function as a means for development.

To be precise, they stressed that ELCs can bring infrastructural improvements to the area, such as new and better roads, health centres and schools (cf. Interview Lumphat). However, those improvements could not be identified for the case of the Rat Sokhorn / Zumvang ELC. Quite the contrary, the afore-mentioned road blockages can be seen as a degradation of the infrastructural situation of Samot Leu.

Additionally, the benefit of employment creation was brought forward by some of the interviewed authorities (cf. Interview Lumphat; Interview DoE; Panel Discussion MoE).

Mr. Seieng Sokny, Governor of the Lumphat District, claims:

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<sup>5</sup> The statement on environmental impacts of ELCs is based on the villagers' perception and not on a scientific assessment, which would go beyond the scope of this thesis.

<sup>6</sup> One has to acknowledge that the villagers do not perceive all ELCs in the same negative manner: While they unanimously painted a negative picture of the Rat Sokhorn / Zumvang ELC, they have a more positive perception of the Vietnamese Kao Su Ea Lev BM JSY Ltd. company, which owns a ELC close to the village as well (cf. Interview Village Chief 2016; Open Development Cambodia n.d. a). According to the villagers, this company engaged in a dialogue with the villagers, allowed them to hunt and collect NTFP within the ELC boundary and gave them some material gifts such as clothes and fish sauces (cf. Interview Village Chief; Interview Villager 1-3, 5-9, 12, 13, 15, 16). However, this company is involved in another land conflict, in which it is accused to have cleared parts of another village's community land (cf. ICSSO 2011: para. 2).

*“ELCs create job opportunities and thus prevent the migration of Cambodians to other countries for work.” (Seieng Soky, Lumphat District)*

This argument is in accord with the benefits of ELCs as defined in the law (cf. chapter 2.1) but does not hold true in this case: First, there is just one person of Samot Leu, who has a job at the Zumvang company (cf. Interview Villager 3, 8). The villagers stated that they were not offered a job but that the majority of them would also not want to work at the company anyway due to poor working conditions and because they prefer to work for themselves, on their own land (cf. Interview Villager 3, 5-9):

*“Working for someone is a bad life but if you have your own land, it is yours, you make your own living.” (Villager 5)*

*“In the company, you have 7 to 12 working hours. But if you work for your family on your land, you are free.” (Villager 6)*

Some authorities are aware of the fact that this particular ELC does not result in an income generation for the Indigenous Peoples of Samot Leu (cf. Interview LWS), and that in general, the ELC companies often hire workers from outside the area (cf. Interview MRD).

So, if the alleged advantages of ELCs in the form of employment creation and infrastructural improvements are not in any way a reflection of the reality in this case, how does the RGC still justify the existence of ELCs in the area? When asked why ELCs were granted in Protected Areas like the LWS at all, Mr. Chou Sopheak, the MoE’s Director of Protected Areas east of the Mekong River, commented at a panel discussion:

*“We wanted to build a green wall. Now the companies contribute to environmental protection.” (Mr. Chou Sophark, MoE)*

He specified his statement by explaining that in the past, Protected Areas often suffered from encroachment and illegal logging by indigenous communities, so the ELCs were granted around the community boundaries in order to prevent villagers from those illegal practices (cf. Panel Discussion MoE).

The question of the economic benefits of ELCs for Cambodia - especially considering the comparatively low rental fees that the companies need to pay - was answered by Mr. Chou Sopheak as well:

*“I am not an economist, but I think it depends on the crop [...]. As long as they [the ELC companies] produce local products and export them, we can impose tax on that.” (Mr. Chou Sophark, MoE)*

However, the vagueness of this statement by a representative of the ministry that used to grant ELCs and the lack of availability of transparent numbers on the economic revenues, leaves room for doubt on the actual advantages of ELCs.

### **4.3 Resistance, resolution and the element of power**

Having established how the Rat Sokhorn / Zumvang ELC is affecting the Indigenous Peoples of Samot Leu, the following chapter will take a closer look at the acts of resistance employed by the villagers and the attempts of resolution that were made until the end of the fieldwork phase, i.e. the end of November 2016. Afterwards, the conflict situation will be analysed with regard to the element of power.

#### **4.3.1 Acts of resistance and attempts for resolution**

The starting point of the conflict was the granting of the ELC on land that the villagers claim to be their reserve land, even though they only learned about the ELC when the company started to clear parts of the area (cf. Interview CPA Committee Member 1; Interview Villager 8, 11; Interview ICSO) - an act that can be seen as the point, which led the villagers to take action.

While the Indigenous Peoples would describe their resistance to be targeted at the company because it is the trigger of their anger, it is indirectly also targeted at the government as a secondary target because the villagers are aware that the company's presence is only possible due to the RGC's approval (cf. Interview Villager 1, 8). However, resistance against the RGC is usually not carried out openly and people often do not dare to publicly criticize the government. According to Mr. Siphath Touch from the MRD, this is because "the democratic idea just starts to mainstream" and many Cambodian people's mind-set is still characterized by the belief that "simple people have to respect higher people" (Mr. Siphath Touch, MRD). This interpretation gets underpinned by some interviewed villagers being scared to protest, e.g. because they do not speak Khmer or think that they are powerless if someone richer comes and wants to take their land (cf. Interview Villager 2, 6, 15).

The villagers of Samot Leu employed institutional as well as non-institutional resistance tactics. They went to the border of the disputed area around three times, protested peacefully and tried to stop the company from further bulldozing (cf. Interview CPA Committee Member 1; Interview Village Chief; Interview Villager 1, 3-5, 8, 10, 13-16; Interview ADHOC; Interview ICSO). When these institutional tactics

were not successful and the company cleared parts of the overlap area anyway, the tension between the villagers and the company erupted. As a result, non-institutional tactics were employed: Some villagers stated that they went to the ELC border, set fire to company buildings and fled the scene afterwards (cf. Interview Villager 2, 5). As none of those strategies were a success, the villagers employed the probably most common institutional strategy in the context of land conflicts in Cambodia: the involvement of NGOs. In this case, the villagers called the NGOs LICADHO, CLEC and ADHOC for help (cf. Interview Villager 4; Interview ADHOC; Interview LICADHO). This strategy can be described by what Tria Kerkvliet names advocacy politics (cf. chapter 3.3). Hence, the NGOs are functioning as advocates for the villagers, trying to support their claim and to find a conflict solution by filing complaints with the provincial authorities and facilitating negotiation meetings (cf. Interview ADHOC; Interview LICADHO). All NGOs favour alternative dispute resolution (ADR) mechanisms instead of involving the national court system, which is known to be corrupt (cf. chapter 2.4 and 3.3). According to Mr. Kit Touch, this preference does not just apply to the NGOs:

*“The companies feel the same as the communities in this matter: they both don’t trust the government; they don’t want to spend more money [on the government to solve the conflict].”* (Mr. Kit Touch, CLEC)

However, he states that corruption is also prevalent in Cambodia’s sub-level government entities, meaning that companies might pay off local authorities to solve a land conflict in their favour (cf. Interview CLEC).

The representatives of the CPA Committee stress the importance of joint stakeholder meetings as well - not just in terms of conflict resolution but also for the purpose of raising awareness among the villagers on the different land titling possibilities and procedures (cf. Interview CPA Committee Member 1; cf. Interview CPA Committee Member 2). In this case, ADHOC, LICADHO, ICSO, SCW and CLEC held several joint stakeholder negotiation events with the participation of local authorities, the company, the community and representatives of the RGC, aiming at finding a solution that is acceptable to all parties involved (see table 5).

At the meetings, different options like finding another reserve land area for Samot Leu Village or cutting the disputed area out of the ELC and giving it back to the village were discussed. Yet, the proposed alternative areas did not satisfy the villagers because of worse soil quality or due to a new conflict potential as the proposed land was classified as Protected Area (cf. Interview LICADHO; Interview SCW; Interview CLEC). The company did not give in either - quite the contrary, they argued that the

NGOs had no grounds on being involved in the conflict and blamed ICSO for wrongfully mapping of the region (cf. Interview CLEC 2016).

Conflict resolution meetings	
Date	Event
15. & 16.3.2016	<ul style="list-style-type: none"> <li>- Conflict resolution meetings on CPA Seda               <ul style="list-style-type: none"> <li>o Attended by representatives of SCW, Rat Sokhorn company and the MoE</li> <li>o Collection of GPS data by the MoE</li> </ul> </li> </ul>
19.5.2016	<ul style="list-style-type: none"> <li>- NGO meeting between SCW, LICADHO and ADHOC to find a solution for the conflict</li> </ul>
6.6.2016	<ul style="list-style-type: none"> <li>- NGO meeting between ICSO, SCW, LICADHO, ADHOD and CLEC to understand the nature of the land conflict               <ul style="list-style-type: none"> <li>o Discussion of the development that the company started bulldozing the land under a new name (from Rat Sokhorn to Zumvang)</li> </ul> </li> </ul>
22. & 24.6.2016	<ul style="list-style-type: none"> <li>- 2-days-Seda Peace Table on the land conflict               <ul style="list-style-type: none"> <li>o Attended by 14 participants, including representatives of the MLMUPC, MAFF, provincial authorities, NGOs, the company and the village</li> </ul> </li> </ul>
16.8.2016	<ul style="list-style-type: none"> <li>- CPA land conflict mediation meeting               <ul style="list-style-type: none"> <li>o Attended by 26 participants, including villagers, representatives of the company, the DoE and the LWS</li> <li>o Zumvang company promised not to advance any bulldozing until the authorities found a solution</li> </ul> </li> </ul>
11.10.2016	<ul style="list-style-type: none"> <li>- CPA land conflict meeting at Samot Leu Village               <ul style="list-style-type: none"> <li>o Attended by villagers, SCW, representatives of the DoE and the LWS</li> <li>o Decision made to exclude the CPA-ELC overlap area from the CPA request</li> </ul> </li> </ul>

Table 5: Alternative Dispute Resolution (ADR) events (Source: own compilation based on Interview SCW 2016; Interview CLEC 2016)

Since it lies in the nature of ADR mechanisms that they do not possess any authority and legitimacy to make binding decisions, none of the meetings was able to come up with a final solution. At the end of the fieldwork phase, the most recent status concerning the negotiations was an agreement made in August, saying that the company will not clear further land until a final solution is reached (cf. Interview LICADHO; Interview SCW).

So, if the ADR methods failed to solve the conflict, why did the responsible state authorities not make a binding decision so far?

One key problem are weak institutions when it comes to the implementation of the regulations outlined in the national Land Law: There are no guidelines to ensure that these regulations are put into practice on the local level so land conflicts are bound to occur (cf. Interview MRD). These conflicts are difficult to solve afterwards because there is no transparent decision mechanism on who should get the right to the land and because responsibilities of government entities, who are involved in the land sector, are overlapping vertically between different national and subnational levels as

well as horizontally within both (cf. Interview LWS; Interview Lumphat; Interview DoE; Interview DRD; Ngin et al. 2016: 32). As a result, the information needed to solve the land conflict in this case is distributed among different authorities, leading to a stagnation of the solution finding process as responsibilities partially overlap, tasks are being pushed back and forth and decisions are made on a higher level without sufficient knowledge of the situation on the ground (cf. Panel Discussion MoE). As Mr. Siphath Touch describes the problem, “the government needs to do more research to understand what is happening and what is the challenge before they are doing something” (Mr. Siphath Touch, MRD).

Since the conflict resolution is stagnating on the side of the government entities, the company is less likely to compromise as well, because the company’s willingness to concede largely depends on the RGC’s behaviour and on the question if its reputation is on the line (cf. chapter 3.3). Yet, neither seems to be the case: the public pressure is currently not big enough to be a serious threat to the company’s reputation and the company can still refer to its contract with the RGC that grants it the official right to the land.

One can conclude that the resistance of the villagers and the ADR methods of the NGOs managed to postpone a further clearing of the disputed land area but all efforts seem not to be strong and effective enough to reshape the behaviour of the company and/or to bring about change in the government’s priorities. Thus, the villagers fear that the company will resume their clearing activities at the end of the rainy season because no written agreement was made so far (cf. Interview Villager 1, 3, 4, 10, 12, 14, 16; Interview Village Chief). The NGOs are also sceptical of for how long the company will halt their activities because the ELC contract includes a binding timeframe for the agro-industrial development of the land, which the company needs to follow (cf. Interview LICADHO; Interview ICSO; Interview LWS).

#### **4.3.2 Power imbalances**

Given the fact that the Cambodian law outlines that Indigenous Peoples possess a right to their communal lands (cf. chapter 2.5) and that this right needs to be respected when it comes to the granting of ELCs (cf. chapter 2.1), one should think that there would be enough grounds for Samot Leu Village to successfully claim back the disputed area, especially since they are receiving NGO support for around nine years now. The previous chapter already argued that one of the reasons why this is not the case are weak institutions and overlapping responsibilities among government entities. Apart from these explanations, the argument of power needs to be further examined.

More precisely, an asymmetrical distribution of power among the different parties involved in the land conflict can be observed, causing an unequal distribution of the ELC's benefits and losses to the disadvantage of Samot Leu. What becomes most evident is that the villagers possess the least power even though they are living on and using the land in question for the longest time. They are completely aware of their dependency on the RGC to concede and of their weak bargaining position caused by a lack of a formal land title as opposed to the official land title owned by the company (cf. Interview CPA Committee Member 1), even though they do not completely understand the underlying reasons for the current developments:

*“If the government comes to help us, it [stopping the company from further clearing] will work; if the government does not help us, it won't work.”*  
(Villager 10)

*“We only see the company coming and clearing the land. We don't see what is going on behind this.”* (Villager 1)

The frustration that goes hand in hand with this awareness of powerlessness is shown by the following statement:

*“Maybe we are like chicken for them [the government and the company]: if you want to kill them, you kill them, if not, not.”* (Villager 1)

Consequently, the villagers have different perceptions on if the RGC will support them in the conflict: While some doubt that the RGC will act in their favour, because so far “it is only talk and no results” (CPA Committee Member 1), others hope that Ly Thuch, the national representative for Disaster Management and national focal person for rural issues in Ratanakiri, will come again to the village (as he did in 2015) to make a binding boundary agreement with the company (cf. Interview Village Chief; Interview Villager 3-5, 8, 12, 16).

The company on the other hand is in a good bargaining position because it can always refer to the ELC contract, which officially grants them the right to the disputed land area. As stated in chapter 3.3, the company's reaction to resistance largely depends on the reaction of the government. This lends credence to the interpretation that land investments bear some risks for genuinely working companies in Cambodia as well due to the arbitrary and thus partially unpredictable law enforcement on behalf of the RGC - one example being the recent reduction of ELC contract durations from 99 to 50 years (cf. chapter 4.1.1). However, the fact that in this case, the company managed to perform some kind of ownership transfer, which is generally forbidden (cf. Interview MRD), as well as the lack of government pressure on the company to solve the Samot Leu conflict, are indications for the large scope of action, which the companies seem to possess in Cambodia's land sector.

The RGC possesses the most power in this scenario but several signs cast doubt on if the RGC uses this power for the welfare of the population: First, the fast-tracked ELC process contrary to the slow and complicated CLT process point to the RGC favouring the companies over the communities in land conflicts. This assumption is backed up by the lack of an adequate law enforcement when it comes to the implementation of the ELC regulations that would at least partially consider environmental and social concerns. The final indicators are hints to the widespread issue of corruption in Cambodia's land sector as companies seem to have strong ties to powerful political elites:

*“My concern is that some [people working at the MLMUPC] know very well [...] which land can be sold to local investors to make money with it - corruption can be an issue.”* (Mr. Siphath Touch, MRD)

The final stakeholders in this scenario, the NGOs, function as advocates for Samot Leu Village by facilitating meetings, enforcing ADR mechanisms and initiating land titling requests. Yet, their decision-making power is limited so they can either try to convince the RGC to relent or they can try to create enough public pressure that forces the RGC to give in. During the fieldwork, it became evident that both tactics are employed by different NGOs as they follow slightly different working philosophies: For instance, LICADHO and ADHOC are known for a more confrontational approach, involving open protest in front of the Council of Ministers' Office (cf. Interview CLEC). Yet, Mr. Kit Touch, Senior Officer of the Governance Programme at CLEC, thinks that such an approach causes the RGC to cancel negotiation events and drop land conflict cases completely. So instead, CLEC tries to build trust and a good relation to the government level to remind them of their responsibility towards the local communities while at the same time providing legal consultation to the communities (cf. Interview CLEC). Both tactics might have their justification, but they also cause the NGOs to appear as no unified front. As Mr. Siphath Touch from the MRD put it with regard to the work of Cambodian NGOs in general, “they often don't work together, even on the same goals” (Mr. Siphath Touch, MRD). In combination with the lack of consultation between the involved NGOs in terms of the CPA and CLT applications (cf. chapter 4.1.5), this might weaken their power potential even more.



## 5 Discussion

As introduced in chapter 1, the superordinate research question of this study is what kind of relationship occurs between different actors of society and land as a resource in the context of asymmetrical power relations within the here examined land conflict. To shed light on this particular actor-land nexus, the following chapter will synthesize the results analysed in chapter 4 with the literature review of chapter 2 and discuss these findings by putting them into the analytical framework and research perspective of Political Ecology presented in chapter 3.

### 5.1 The relationship between non-state actors and land as a resource

The relationship between the non-state actors on the one hand and the land resources on the other hand can be described as a reciprocity, which is shaped by the different stakeholders' interests in the disputed land area, the use of land resources that takes place as these interests are transformed into action, and the resulting environmental change that then again takes effect on the actors. In this chapter, this general description will be filled with content for the here analysed case of the Samot Leu land conflict.

In terms of land, the relevant entity are 2,000 ha<sup>7</sup> of forestland, which form the overlap area between the Rat Sokhorn / Zumvang ELC and the communal land of Samot Leu (cf. chapter 4.1.1). Regarding the non-state actors, one can differentiate between three main stakeholders: (1) the Rat Sokhorn and later Zumvang company, (2) the indigenous population of Samot Leu Village, and (3) the five different NGOs, who are involved in the current land titling procedures and conflict resolution events. Of course, it needs to be kept in mind that defining these interest groups is an act of generalization. For instance, in the case of Samot Leu Village, intra-community tensions and clashes of opinion are probable, but lie beyond the scope of this thesis. Thus, the simplistic definition of interest groups serves as a necessary tool for further analysis and interpretation.

So what interest does each stakeholder have in the respective land area? Both the company and the village have a direct interest in the form of an appropriation of nature. This appropriation has - depending on the stakeholder - a different scale, intention and impact on nature.

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<sup>7</sup> Based on the fieldwork interviews, it was decided to define 2,000 ha as the relevant size of the overlap area, even though the analysis of the ongoing land titling requests in chapter 4.1 suggest that the overlap area might be even bigger than 2,000 ha.

In case of the company, the intention is an agro-industrial exploitation on a large scale, which is characterized by an extensive deforestation and eventually rubber and cashew nut cash crop plantations, resulting in a severe environmental change in the area. Thus, the land possesses primarily a commercial value for the company and the expected output are monetary benefits, probably resulting from selling the lodged timber and exporting the crop - however, this is just a speculation based on the assumptions made by the interviewees and previous studies because the company itself was not open to an interview.

Regarding the villagers of Samot Leu, their interest in the 2,000 ha in question concerns the near future scenario of a growing village population, who will need the disputed land area as a livelihood basis. The use of this land will thus eventually be characterized by a deforestation as well because it would mainly serve as land for cultivation, apart from a smaller area that is planned to be used as residential land. Hence, the impact on nature would be less invasive compared to the company's plans as the deforestation would probably take place on a smaller scale, but the consequence would also be an environmental change for this particular area that would entail a loss of vegetation. The expected output is a secured livelihood, both physically and spiritually: Physically in the form of a secure place to live and fields and farmland to grow food on, and spiritually because a close relation to the land including the exercise of land related rituals could be maintained if the respective area would be in the possession of the villagers.

The five NGOs do not have a direct interest in the land but because they function as advocates for the Indigenous Peoples of Samot Leu (cf. chapter 4.3.1), it can be concluded that they are supporting the same interests. However, even though a deeper analysis of the NGOs' intentions lies beyond the scope of this thesis, considering their different working spheres, ethics and approaches, small differences can be observed: For instance, SCW's commitment for the establishment of a CPA reflects their focus on the conservation and preservation of natural resources, while ICSO also supports the villagers' need for land to cultivate.

Comparing the opposing interests of the company and the villagers it becomes clear that they are incompatible and mutually exclusive, at least if every stakeholder insists on their expected output. The results of research objective (1), i.e. the identification of the land titling situation in the target area (cf. chapter 4.1), showed that the interests of the company currently outweigh the ones of the villagers because the company possesses the legal right to the disputed area as they own the ELC contract, while the CLT for Samot Leu is still in progress.

Turning to the question of how the relationship between the non-state actors and the land resources will finally turn out, i.e. by which stakeholder's interest the particular approbation of nature will be shaped, a third entity needs to be considered: the state and its land policy enforcement.

## 5.2 The state as an actor

The state possesses the power to make the decision on which interest group should have the right to the disputed land area. As the state has no interest in directly using the land, it needs to be considered what benefits the state expects from the two scenarios of awarding the land right to the company or to the village, i.e. what indirect interests the state possesses in the land.

The results of research objective (2), i.e. analysis of the implications of the ELC for the villagers (cf. chapter 4.2), made clear that this particular ELC brings no positive developments for Samot Leu. Consequently, the only positive output that the RGC could expect from taking sides with the company is an enhancement of state revenue through taxation, potentially gains from corrupt practices such as bribes, and the propagation of an image, which shows Cambodia as an investment-friendly country. On the other hand, the output for the RGC from taking sides with the villagers would be a self-sufficient rural population as well as a preservation of indigenous culture and traditions. Additionally, an environmentally sustainable use will probably rather be given when the land is used by the Indigenous Peoples compared to the large-scale plantation of the company.

The analysis of resistance, resolution and power imbalances within research objective (3) revealed that all signs point to the RGC favouring the first scenario over the second one, i.e. acting in support of the company (cf. chapter 4.3). The reason for this inclination becomes clearer when coming back to Political Ecology and Robbins' threefold definition of the state in terms of (1) a simplification of environmental issues, (2) a predisposition to external influences, and (3) a control of the prevalent development model (cf. chapter 3.3). All three characteristics can be detected for the case examined in this study:

First, the justification of ELCs as a "green wall", which is supposed to serve as a protection against illegal logging by the Indigenous Peoples (cf. chapter 4.2.2), can be interpreted as an example of the RGC's simplification of environmental issues because this argumentation shows a severe understatement of the environmental impacts of ELCs. Generally, it is questionable if logging for the purpose of home construction and subsistence farming done by Indigenous Peoples can be defined as illegal encroachment

at all. And more importantly, it remains debatable if the encirclement of indigenous communities by ELCs is the right way to secure Protected Areas from illegal logging since ELCs themselves inevitably involve large-scale deforestation. This doubt is supported by some reports on companies that use ELCs to cover up their engagement in illegal logging activities in- and outside their ELC area (cf. Interview ADHOC; Interview Heinrich-Böll-Stiftung). Another example of the ecological simplification by the state is the classification of land areas as state property - or more generally, as land of public interest. This can be seen as an appropriation of nature by the state itself, which does not have a direct interest in the land but uses this (re-)classification as a tool to exercise the power of decision over land areas regardless of whether they are inhabited or protected by land titles.

Second, the RGC seems to be unable to provide convincing numbers on the economic benefits of ELCs and continuously holds on to ELCs' alleged advantages of employment creation, infrastructural development and economic value, despite the existing evidence that states otherwise (cf. chapter 4.2.1). Moreover, the state fails to force the companies to comply with the ELC preconditions and to concede when faced with land conflicts like the one of Samot Leu Village. This lends credence to the interpretation that corruption and the involvement of high ranking personalities play a major part in land deals, allowing a glimpse at to what extent the RGC is prone to external influences and incentives. On the other hand, the influence of the NGOs' advocacy and lobby work for Indigenous Peoples' land rights seems to be not strong enough to change the RGC's political course, even though there is a big coverage of the issue by different organisations (cf. chapter 4.3.2).

Finally, the above-mentioned understatement of the environmental impacts of ELCs and the continuous propagation of their alleged benefits, shows that environmental protection is no priority of the RGC, but that it is rather using its power to propagate a development model shaped by economic business growth and opportunities, representing Cambodia's ongoing neoliberalisation.

### **5.3 The actor-land nexus**

Combining the above-described relationship between the non-state actors and land with the role of the state, the result is a complex actor-land nexus, in which the RGC determines the outcome of the land conflict by the (non-)enforcement of its own laws (see figure 15).

As the RGC seems to favour the company (cf. chapter 5.2), it uses its available regulatory tools, i.e. the granting of an ELC or a CLT, in a way that allocates power to the companies rather than to the villagers.

Thus, the villagers are left in a position that gives them nearly no scope of action as the pace and outcome of their efforts to receive a land title depend on other stakeholders: These are the NGOs, who have not yet succeeded in bringing about a fundamental change in the RGC's actions and the state authorities, who often work inefficiently due to overlapping and unclear defined responsibilities (cf. chapter 4.3). Furthermore, at the local level they usually do not possess the necessary knowledge and power to make binding decisions in land conflicts. Moreover, the case of Samot Leu revealed that even if power would be decentralized, different local authorities have different perspectives on whether the villagers or the company should get the right to the disputed area (cf. Interview Lumphat; Interview DLMUPC).

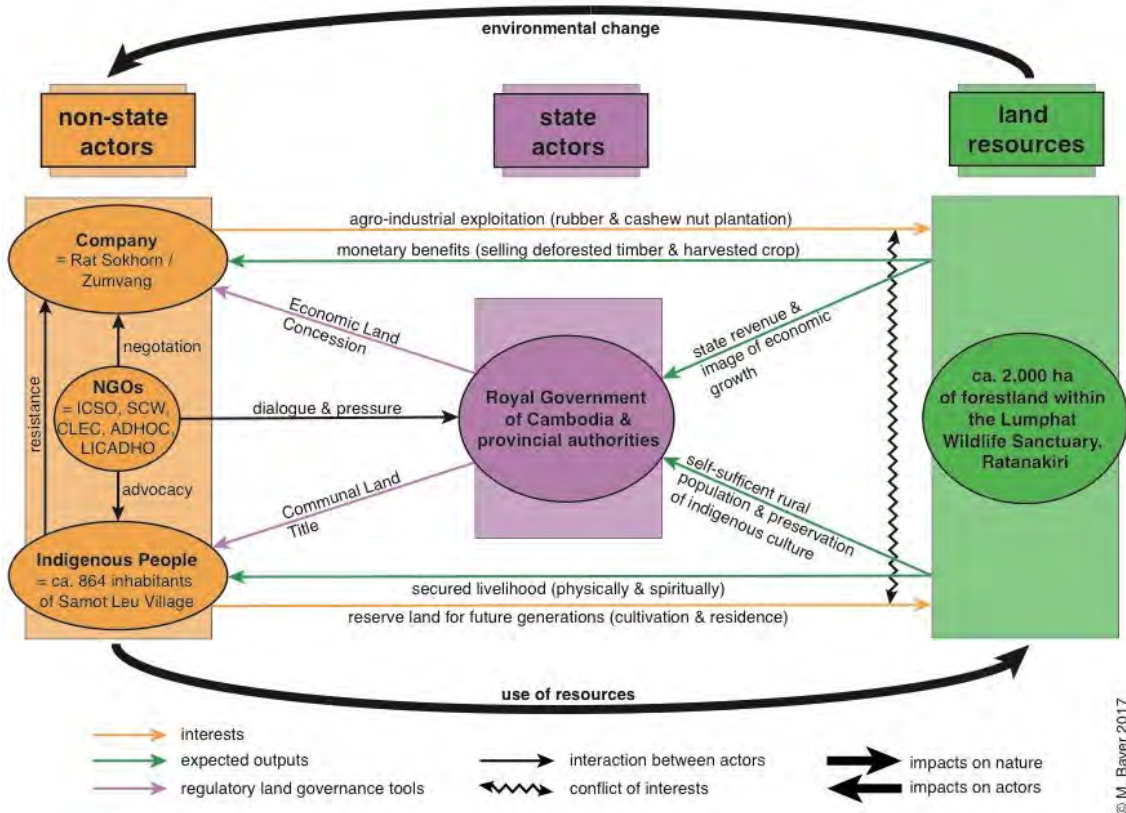


Figure 15: The actor-land nexus in the context of the Samot Leu land conflict (Source: own compilation 2017)

This bias is in line with the local authorities being confident about the success chances of the CPA while being sceptical about the CLT request, even though by law, both titles are not eligible for the respective area.

So what is missing is a qualified public administration to develop a coherent land use plan with the participation of the people, who actual live on the land, as well as strong

institutions, which make sure that consultations are taking place to avoid land conflicts in the first place and if they do occur, that they are solved in a just, transparent and accountable manner.

In the aggregate, the actor-land nexus is characterized by different attempts of an appropriation of land, all of which underlie different direct or indirect interests, chances of success and forms of realisation, depending on the respective actor. The resistance tactics employed by the Indigenous Peoples of Samot Leu as well as their engagement in the CLT procedure can thus be defined as defensive because they are basically a reaction to the land use change brought about by political decisions in the course of a neoliberal development model, which forced the Indigenous Peoples of Samot Leu to engage in the contemporary state system in order to pursue their traditional life style outside of this very same system.

## **6 Conclusion: Changing the face of Cambodian land policy?**

When looking at Cambodia as a prime example of large-scale land acquisitions to the detriment of the local population, the narrative of the bad company versus the good local people is ready to hand in the current public discourse and in lots of previous studies. But in order to understand Cambodia's land policy that goes hand in hand with a growing number of land conflicts as well as to find sustainable solutions for those conflicts, it is necessary to think about what is really causing the conflicts. This is why this study tried to move beyond the popular argument of blaming the company to a more holistic approach: Through the use of Political Ecology it was possible to show which value land as a resource possesses for each of the involved stakeholders and how these values are transformed into action, leading to an environmental change that then in turn takes effect on all stakeholders. The key element when it comes to the outcome of the interplay between these different interests is the state and its specific land policy enforcement. Consequently, the state is as much a major driver of land acquisitions in Cambodia as the companies are, because it possesses the power to reshape the land law enforcement in support of the Indigenous Peoples but does not make sufficiently use of this decision power.

So if the most pressing challenges that arise alongside the growing number of large-scale land acquisitions - like the security of rural livelihoods and a sustainable use of natural resources - should be solved, the question of good governance needs to be as much addressed as the one of corporate social responsibility (CSR), because so far, it

seems that an enforcement of the latter is depending on the existence of binding regulations as well as punishments in the case of non-compliance.

To address these issues and make land acquisitions a win-win situation, a wide range of stakeholders is calling for an internationally accepted code of conduct, which should include principles of transparency, respecting (customary) land rights, sharing of benefits, environmental sustainability and adherence of national trade policies (cf. von Braun & Meinzen-Dick 2009: 3 f.; Quizon 2012: 16). However, in order to make such a code of conduct work, strong institutions that supervise and control the implementation and compliance with all principles are needed - a precondition, which Cambodian land related institutions do not fulfil so far. Moreover, it is doubtful that investors and the RGC will follow such (voluntary) guidelines when they do not even follow compulsory domestic and international laws that already exist. Enforcing these existing regulations requires a clear distribution of responsibilities within the different governmental bodies, vertically as well as horizontally. To avoid a failed planning that does not sufficiently take into account the local realities, a decentralization of power as well as a stronger knowledge basis would be necessary. A step in this direction could be the Environmental Code, which was put before the Environment Minister for final approval on 25 December 2016. This code aims at aligning different policies with regard to agriculture, fisheries and protected areas and at bringing the RGC and the communities together to protect Cambodia's natural resources (cf. Down 2016 a). However, critics fear that this will only be another law that looks good on paper but lacks sufficient implementation - a fear that is backed up by a new draft of the Agricultural Land Law, which will give the MAFF the power to classify any land in Cambodia as agricultural land and lease it to companies in arrangements similar to ELCs (cf. Down 2016 b).

Probably the most pressing precondition for an improvement of the land policy situation is a strong political will. On the one hand, this holds true for international stakeholders like the World Bank or the European Union (EU), who are calling for increased investments in agriculture, an opening of borders for trade and capital and who continue their technical and financial support for in parts controversial land registration programmes in Cambodia (cf. Oldenburg & Neef 2014: 64 f.; Springer 2009: 271) and thereby providing incentives for practices like ELCs. This is why these stakeholders should take a pro-active role in assuring that international regulations and standards in terms of human rights compliance and environmental sustainability are realized (cf. Global Witness 2009: 58; LICADHO 2009: 17; Global Witness 2013: 34).

On the other hand, a national political will is required from the RGC, which needs to make sure that its own laws are enforced because the alleged overall goal of poverty reduction will not be reached if the RGC continues to encourage an exploitation of natural resources, which creates a revenue that only benefits the ruling elite and does not translate into an improvement of the livelihood situation of “the poor”.

This thesis does not deny the importance of increased investments in agriculture. However, these investments need to be adapted to the specific cultural, social, economic and environmental context, and the findings of this study cast serious doubt on whether ELCs as they were put into practice in the past are an appropriate way for these investments in Cambodia. Instead, a shift from large-scale land investments and export markets to small-scale investments and their potential for national markets, food security and poverty reduction could be useful (cf. Liversage 2010: 6 f.; Bickel & Löhr 2011: 33-35). Moreover, this study showed the importance of considering the specific value of land when thinking about land investments and land conflicts: Looking at the relationship of the Indigenous Peoples of Samot Leu with land, it becomes clear that for them, land is not just “ground” for agricultural and residential purposes. In fact, the relationship is also characterized by a co-existence with the forest around the villagers that forms their livelihood basis as they use it for NTFP collection or hunting as well as to connect with the spirits they believe in. Thus, land conflicts often cannot be simplified to a modern way of thinking in boundaries, which could be drawn around the lands that the villagers are currently using for agriculture, so that the remainder can be leased out to companies, because this way of thinking does not do justice to the Indigenous Peoples’ traditional way of life.

All these issues need to be sufficiently studied, transformed into available knowledge and taken into consideration by the national level when they are formulating and issuing new regulations and directives, which are at the moment characterized by overlapping and partially contradicting content and arbitrary enforcement. So far, the RGC lacks the above-mentioned necessary political will and instead promotes an increased commodification of land by employing a narrative of national economic development, employment creation, poverty reduction and infrastructural improvement to justify the desirability of large-scale land deals in the form of ELCs. Changing this narrative and initiating a shift of the RGC’s priorities will be a long process and requires not just the continuous efforts of the civil society advocating the rights of the local population, but also decisive actions against the wide-spread corruption, with which the best drafted land policies are useless.



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