‘Dei Chea Chivit’ Land is Life –
Access to Land Rights for Indigenous People in Cambodia

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Orkun Sharan!
Executive Summary

Indigenous communities, who live in natural resource-rich regions of Cambodia are some of the country’s poorest populations (AIPP, 2010). They live in remote areas, speak different languages from the Khmer majority and live different lifestyles. These factors create a series of distances between the state and the indigenous citizen: geographic, political, economic, and cultural. Land for indigenous people is ‘life’. They hold a special attachment to land because it is directly linked to their identity and way of life as indigenous people (Inman, 2015). Yet, the value of land for the Cambodian state and for it’s elite population has been reduced to a factor of production leading to the stripping of public assets (Global Witness, 2007). As a result, widespread land conflict in Cambodia has deeply affected the lives of indigenous communities across the country (Licadho, 2014).

The purpose of this thesis is to investigate the dynamics of factors affecting indigenous people’s access to land rights in Cambodia. The term ‘access’ is meant to describe a freedom from the powers of exclusion such as the market, force, legitimation and regulation (Hall, Hirsch & Li, 2011). Using a legal framework approach, this study employs Tuori’s conceptual framework for the relationship between power and the law that support the manifestation of the powers of exclusion affecting indigenous people’s access to land rights (Tuori, Bankowski & Uusitalo, 1997; Hall, Hirsch & Li, 2011).

Among the dynamics affecting indigenous access to rights, are the historical implications of Cambodia’s current state institutions and government structures. An examination of Cambodia’s modern history, from the 1700s to the present, forms the foundation for understanding the current dynamics between actors of the Cambodian nation state. A tradition of patronage networks, corruption, centralization of power and reimagining of the nation-state are key historical threads which continue to underpin the legal and institutional framework of the Cambodian state. The formation of the current Cambodian government and state institutions can be attributed to historical processes that have strengthened the influence of powerful actors including: the international community through UN bodies; the Association of South East Asian Nations (ASEAN), particularly through Chinese investments; and the Cambodian ‘kleptocratic’ elite. Cambodia’s current government is elitist, despotic, centralized and hierarchical. The disparity between what is written in its laws and the implementation of those laws, along with the influence of powerful actors on the law, have confounded the exclusion of indigenous communities from access to the legal framework of the state.

In order for indigenous communities to gain access to the legal protection of land rights, they must participate in power negotiation. Negotiating power is dependent on coercive and persuasive factors and is also influenced by social, economic and political factors specific to relevant economic cycles (Hall, Hirsch and Li, 2011). Indigenous communities in Cambodia participate in a series of advocacy activities, exhibiting resistance against the neoliberal modernization of the agrarian sector that has facilitated land grabbing.

This study employs a five-stage approach to data collection using informational interviews, desk-based research, community-based data gathering, fieldwork and direct observation to gain an understanding of access to land rights for indigenous communities. The results of this study present three cases of indigenous land rights violations highlighting the struggle for power negotiation between indigenous communities and the state. Unfortunately, the broader geopolitical and macroeconomic structures that affect indigenous people’s access to land rights such as the ‘global land grab’ and the neoliberal world order determine the development
pathway of a state with a weak commitment to respecting human rights. The convergence of all these factors undermines the capacity of indigenous communities to breach elitist structures of exclusion through power negotiation. Thus, indigenous communities become trapped in a rapacious cycle of exclusion leading to their displacement and dispossession.
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<tr>
<td>3SPN</td>
<td>3 S (Sesan, Srepok, Sekong) Rivers Protection Network</td>
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<td>AIPP</td>
<td>Asia Indigenous People’s Pact</td>
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<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<tr>
<td>BOT</td>
<td>Build-Operate-Transfer</td>
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<td>CIYA</td>
<td>Cambodia Indigenous Youth Association</td>
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<td>CPK</td>
<td>Communist Party of Kampuchea</td>
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<tr>
<td>CPP</td>
<td>Cambodia People’s Party</td>
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<td>CSO</td>
<td>Civil Society Organization</td>
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<tr>
<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<td>ELC</td>
<td>Economic Land Concession</td>
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<td>EMRIP</td>
<td>Expert Mechanism on the Rights of Indigenous People</td>
</tr>
<tr>
<td>EVN</td>
<td>Electricity Vietnam</td>
</tr>
<tr>
<td>EVNI</td>
<td>Electricity Vietnam International</td>
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<tr>
<td>Ha</td>
<td>Hectares</td>
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<tr>
<td>HLP</td>
<td>Housing, Land and Property Rights</td>
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<tr>
<td>ICP</td>
<td>Indo-Chinese Communist Party</td>
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<td>IP</td>
<td>Indigenous People</td>
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<tr>
<td>IHRDA</td>
<td>Indigenous People’s Human Rights Defenders and Advocacy</td>
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<tr>
<td>IPO</td>
<td>Indigenous People’s Organization</td>
</tr>
<tr>
<td>Km</td>
<td>Kilometres</td>
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<tr>
<td>Licadho</td>
<td>Cambodian League for the Promotion and Defense of Human Rights</td>
</tr>
<tr>
<td>LS2</td>
<td>Lower Sesan 2</td>
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<tr>
<td>NGO</td>
<td>Non Governmental Organization</td>
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<tr>
<td>NSDP</td>
<td>National Strategic Development Plan</td>
</tr>
<tr>
<td>NTFP</td>
<td>Non-Timber Forest Products</td>
</tr>
<tr>
<td>MIME</td>
<td>Ministry of Industry, Mines and Energy</td>
</tr>
<tr>
<td>MOE</td>
<td>Ministry of Environment</td>
</tr>
<tr>
<td>MW</td>
<td>MegaWatts</td>
</tr>
<tr>
<td>PRK/SOC</td>
<td>People’s Republic of Kampuchea/ State of Cambodia</td>
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<tr>
<td>RCAF</td>
<td>Royal Cambodian Armed Forces</td>
</tr>
<tr>
<td>RGC</td>
<td>Royal Government of Cambodia</td>
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<tr>
<td>RS</td>
<td>Rectangular Strategy Phase III</td>
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<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<td>UNTAC</td>
<td>United Nations Transitional Authority in Cambodia</td>
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Chapter One - Introduction

1.1 Problem Statement

Large-scale land acquisitions by outsider companies, individuals and governments, or land grabs, are widespread in Africa, Latin America and Asia (Cotula, 2012b). Along with these internationally-driven ‘land grabs’ lie a host of implications for rural and minority people. Some believe that agricultural development fueled by foreign investments in land will lead to new livelihood opportunities for those in lower income countries and contribute to poverty reduction (Hall, 2011). Others are concerned that the environmental and social impacts of large land grabs on rural people specifically can include a loss of land and may marginalize family farming (Cotula, 2012b). The Royal Cambodian Government’s (RGC) development strategies have exacerbated the need for land regulations. Prioritizing investment and modernization of the agricultural sector, is an important part of the government’s strategy and its policies on land concessions (Hall, 2011).

By 2009, just over a third of Economic Land Concessions (ELCs) in Cambodia had gone to foreign investors (Socheth, 2012). The United Nations Food and Agriculture Organization and the International Tropical Timber Organization’s 2010 report on Foreign investment in Agriculture in Cambodia, ranked it as the nation with the third most primary forest cover loss in the world (Socheth, 2012). The RGC’s development plans for modernization of the agricultural sector have led to a dramatic transformation of Cambodia’s landscape (see Figure 1).
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Forest Cover in 1973 vs. Forest Cover in 2014

*Source: US Geological Survey (USGS)*
These changes have predominantly occurred as the result of ELCS that have been awarded to foreign and local investors for large-scale plantations, mining, and for the construction of hydroelectric power dams (Socheth, 2012). These concessions pose a threat to the biodiversity and food security of the country. Large swathes of primary forest land are replaced either by mono-crop plantations or are logged and flooded for dam reservoirs. The most predominant crop types planted include rubber, cashew, sugarcane, acacia and pine trees (Hall, 2011). Because Cambodia lacks the facilities to process these crops, they are exported as primary products and sold back to Cambodia as imported products or exported to those countries who have invested in ELCS (Mareth, 2012). These crops do not contribute to the country’s food stocks and effectively wipe out the crop diversity characteristic of primary forests. De Shutter (2011) discusses whether ELC’s can have a positive affect on the development of a nation to be further discussed in Chapter Two of this thesis.

Economic Land Concessions also force the displacement of many indigenous people from their sacred burial lands, spiritual forests and farming lands (Borras & Franco, 2013). The state views land in Cambodia as a means to the economic development of the nation (The Council for the Development of Cambodia, 2013). Consequently, the legal institutions and
policies of Cambodia do not reflect the spiritual significance and communal attachment to land of indigenous people. Save for the 2001 Land Law and the #79 sub-decree on community forest management, communal land rights do not appear in the legal framework of the country. Moreover, the laws mentioned above carry caveats limiting the circumstances in which they apply according to the community’s ability to register and acquire formal land titles (The Council for the Development of Cambodia, 2001). In practice, the legal process associated with acquiring communal land titles is slow and at the time of this study, less than 10 communal land titles had been granted to indigenous communities country-wide. Foreign investors and national elites in collaboration with government officials vying for land control are able to acquire land through the support of the country’s legal and political framework. Minority populations, especially indigenous communities struggling for legal recognition, are left fighting for the protection of their land rights in the climate of a weak and centralized democratic government. In a country where many of the same people benefitting from economic land concessions are also in control of how those land concessions are awarded, minority populations are often confronted with very little support in the protection of their rights (Ingwanzo, 2014). The confluence of power and the law compound the marginalization of indigenous communities in terms of their access to land rights. The meaning of justice for indigenous people in Cambodia is diluted by the state’s unsubstantiated goal of affording justice to its people. The Cambodian state’s legal framework on land and property rights is underpinned by an understanding that all land in Cambodia is state-owned.¹

Although Cambodian national and international legal mechanisms protect indigenous rights over land and territories, there is a clear reluctance from powerful national affiliated with the government to ensure that these resources are protected, especially since they are incredibly profitable and in high demand from foreign investors. The strong link between national elites and government officials weakens the democratic state and many citizens experience difficulty accessing representation (Ehrentraut, 2011). For indigenous citizens, access to the government is mediated by two forms of distance. First, indigenous people live in remote areas that are geographically far from the political centres of the country and second, their lifestyles and beliefs are culturally distant from the state and its institutions (Ehrentraut, 2011). The meaning

¹ Her Excellency, General Director from the Ministry of Land Management, Urban Planning and Construction, Madam Ou Vuddy stated that all land in Cambodia is state owned during her speech at a consultation regarding indigenous women’s issues in Phnom Penh on June 5th, 2014.
indigenous people attach to land and their understanding of customary legal processes are quite different from those of the state. For example, indigenous people in Cambodia deal with disputes within their villages through mediation of village chiefs. If a dispute arises between villagers they will try to solve the matter on their own. If they cannot reach a resolution, they will seek the assistance of a village elder or village chief. All parties will present their perspective and the village elder or chief will determine an appropriate resolution. In most cases, one party will need to pay a fee to another party usually in the form of an exchange of livestock. In other cases, the party at fault will need to offer an animal sacrifice in order to be absolved of their wrongdoing. Once the debt is paid, the villagers are expected to forgive and forget their dispute and continue living in peace and harmony with one another. In contrast, the state’s judicial processes require an in-depth understanding of legal procedures and laws. For many indigenous people, the high financial costs associated with acquiring necessary legal assistance prevents populations from accessing protection from the state’s legal framework (International Labour Organization, 2010).

Indigenous people in Cambodia comprise approximately 1.6% of the nation’s total population, and for these minority populations, dependence on land is far broader than solely for its livelihood benefits (Padwe, 2013). For Indigenous people in Cambodia, ‘dei chea chivit’ ‘land is life’, is a phrase often uttered to describe this special relationship. All aspects of life are dependent on the existence of land and biodiversity abundance (AIPP, 2010). Further, indigenous customs, beliefs and practices are spiritually tied to specific plots of land, forests, and plants (AIPP, 2010). Additionally, indigenous people in Cambodia rely on traditional agricultural methods which are land intensive, such as shifting cultivation, for their farming practices (FAO, 2010). The Cambodian government’s economic development strategy through agrarian reform is meant to improve the nation’s poor infrastructure and to encourage growth through foreign investment (Royal Government of Cambodia, 2014). In practice, this national development plan has led to a continually increasing inequality between the urban elite and the rural poor (Hall, 2011). As Polanyi (1957) posits, also followed by others (AIPP, 2010; Corbera, 2012), land is not an ordinary commodity but the basis of life, especially for indigenous peoples’ whose identities are so closely tied with land. Cambodia’s development strategy is directly transforming the most significant aspect of indigenous life and by consequence threatens the existence of indigenous people.
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Indigenous people in Cambodia are not quietly accepting their displacement, land grabs, and the destruction of their sacred burial lands and spiritual forests. Along with the support of Indigenous People’s Organizations (IPOs), NGOs and CSOs, community representatives from across the country have become indigenous right’s activists, defenders and advocates. This study uses information gathered by IPO’s surrounding open cases of land rights violations for Indigenous Peoples in Cambodia who are fighting for the protection of their rights to land, territories and natural resources. The study applies the documentation of the Indigenous People’s Human Rights Defenders and Advocates (IPHRDA) project in Cambodia to further explore the question of access to land rights for indigenous people. This study offers an analysis of three cases of indigenous land rights violations associated with Economic Land Concessions. The first case involves instances of land grabbing occurring in Preah Vihear province due to an economic land concession for agricultural development by a Chinese enterprise. The second case involves instances of land grabbing in Koh Kong province occurring as a result of the construction of a hydropower dam within a protected forest. The third case involves instances of land grabbing in Stung Treng owing to the construction of a hydropower dam with impacts to the Mekong region. The study provides a broader view of the Cambodian context including an investigation into the history, culture, economics and politics of land rights. Ultimately, this study seeks to understand the dynamics that affect access to rights for indigenous people in Cambodia.

1.2 Aim and Objectives

The aim of the study is to explore the geopolitical, cultural, historical and economic factors that affect indigenous people’s access to rights in Cambodia, based on a case study on access to land rights. More specifically, the study has the following objectives:

1. To analyze the context of access to rights in Cambodia and how it is played out socio-politically.
2. To analyze access to rights for indigenous people in the region of South East Asia.
3. To investigate the factors undermining indigenous rights in regards to economic land concessions and the construction of hydropower dams in the country.
4. To explore indigenous peoples responses to violations of human rights, as well as the state’s reaction to advocacy activities for indigenous people.

1.3 Significance
The existing research on contemporary land issues in Southeast Asia leaves many questions unanswered, especially relating to the interaction between indigenous people and the Cambodian state. In addition, very few studies that I am aware of focus on the perspectives of indigenous communities themselves in their struggle for land rights protection, and even fewer studies have investigated the state’s responses to indigenous advocacy activities (Borras and Franco, 2013; Hall, 2011). This study could be of significance to organizations whose projects seek to use local advocacy strategies for the protection of land rights for indigenous people in Cambodia. Many projects employed by IPOs, NGOs and rights organizations in this context follow a similar advocacy approach with very little success. For example, the IPHRDA project approach implemented by CIYA in Cambodia includes training of indigenous community representatives on relevant laws, rights and advocacy mechanism; protests and demonstrations; and government consultations and media mobilizations through community statements and press conferences. All stakeholders should understand that this advocacy strategy does not directly target the factors which impede access to rights for indigenous people and reinforces those power structure which create systemic inequality within the Cambodian justice system. The wider application of this study is to highlight that there may be more effective advocacy strategies which directly target the issues that impede access to rights and justice for indigenous people in Cambodia.

1.4 Research Design
Due to the variety of data sources that comprised the study, I have elected to incorporate a variety of qualitative methods to data collection and to use a case study approach. The idea is that this should help me to better understand the multitude of levels at which access to rights for indigenous people is mediated. The approach taken relies on both the historical-hermeneutic and critical sciences in development studies (Scheyvens & Storey, 2003). The purpose of these approaches is to focus on non-explicit processes and relations that are affecting indigenous people’s access to land rights. In communicating these findings to people that may act upon them, the study may lead them to improve society by considering ways to support indigenous
people’s access to land rights (Scheyvens & Storey, 2003). The case study allows both the researcher and the audience to emphasize relationships and the process rather than only the outcomes within specific instances providing an understanding of why certain outcomes may occur (Denscombe, 2007).

The research design was initially informed by a regional project led by the Asia Indigenous People’s Pact (AIPP) and implemented in Cambodia through the Cambodia Indigenous Youth Association (CIYA). The project entitled Indigenous Peoples Rights Defenders and Advocates (IPHRDA), was implemented across CIYA’s provincial networks in villages where members of CIYA reside. The IPHRDA project involved documentation of indigenous rights violations and training of key indigenous leaders on UN indigenous rights mechanisms and national laws and policies. My role in this project helped to shape questions asked during interviews and focus groups.

1.4.1 Sampling Strategy

The researcher worked at CIYA over the course of 11 months as a Youth Development Advisor. The role of the researcher was primarily to develop the capacity of local staff in project management. The researcher worked closely with CIYA’s IPHRDA team and became deeply involved in the project’s activities. The cases selected for this study were chosen among many indigenous rights violations documented by CIYA, because the researcher was undertaking work with these groups before and during the study. The selection of these cases is described by Denscombe (2007) as convenience sampling, where selections are based on easier accessibility as determined by financial limits and time constraints, among others.

Purposive sampling was also incorporated as the researcher already had some knowledge about the specific communities and cases of rights violations and knew the cases would produce valuable data (Denscombe, 2007). The researcher selected the communities which highlighted the three most varied types of cases of indigenous land rights violations because they produced the most thorough and sufficient evidence for analysis. The three cases of indigenous rights violations examined in this study were chosen according to the researcher’s understanding of those cases before the study began. The cases selected all involve indigenous community members who had demonstrated interest in advocating for their rights through a variety of channels, significant media coverage of the cases, and the involvement of other NGOs.
supporting the communities in question. Subjects of informational interviews were chosen based on their involvement with both the IPHRDA project and as leaders within their communities. Key informants were selected because they are representatives of the communities that were studied and have also received training from CIYA on the documentation of rights violations and on relevant laws and policies which protect indigenous rights in Cambodia. These key informants are farmers who have become activists as a result of the indigenous rights violations they have endured.

1.4.2 Data Collection

This study incorporates five different methods for gathering qualitative and quantitative data. Informational interviews, desk-based research, community-based data gathering, fieldwork observation and direct observation were undertaken to gain an understanding of access to land rights for indigenous communities (see Appendix One). These five methods were mostly sequential but also unfolded simultaneously. The first method, informational interviews, were used as sources of information valuable because interviewees were key players in the field and gave the researcher access to privileged information (Denscombe, 2007). The subjects of these informational interviews became staff at CIYA even though they did not have professional experience before they began working at CIYA. Instead, they demonstrated leadership within their communities by advocating for the land rights of their communities. Their participation in this study was a result of personal interest in the documentation of cases of rights violations, especially since they are also indigenous people who are facing difficulty accessing land rights for their communities. These informants included staff at CIYA both involved in the IPHRDA projects and in other projects or programs. There were five participants for the informational interviews: the IPHRDA team leader, two IPHRDA project officers, CIYA’s communications program leader and CIYA’s director. The interviews were unstructured giving the interviewee the opportunity to develop their own ideas and to pursue their own train of thought enabling the researcher to discover and explore the interviewee’s personal accounts and experiences (Denscombe, 2007). The informational interviews led the researcher to sources and to other interviewees for the third method of data collection.

The second method, desk-based research through the internet, explored databases such as government sites, international and regional government agency publications and documents.
This research was gathered through search engines and by purposive sampling given the researcher’s familiarity with the topic of indigenous rights violations and the relevant actors (Denscombe, 2007). This method provided the researcher with a variety of information with regards to the political, geopolitical, and economic factors, thus broadening the scope of the research (Denscombe, 2007). This method included the review of journal publications, newspaper articles, project reports, books, NGO documents and policy documents and briefs.

The third method, community-based data gathering, involved semi-structured interviews with key informants on the ground. This method was used in the context of the placement project. The organization built factsheets a priori on salient issues to rights violations. In the field, these factsheets were used as a basis for semi-structured interviews. The interviews were ongoing for approximately one year as updates on the cases were regularly necessary. There were three key informants who acted as community representatives and derived their information from the community in conjunction with their personal experiences. These informants are indigenous community members who primarily work as subsistence farmers or who collect Non-Timber-Forest Products (NTFPs). Indigenous rights violations directly affect their abilities to farm and to collect NTFPs and they have thus focused a great deal of their time and effort to protect their lands and territories. These interviews were semi-structured because they allowed the researcher to address a clear list of issues and questions and still be flexible to uncovering more significant points of interest of the interviewee (Denscombe, 2007).

The fourth method, fieldwork observation, involved documenting events and activities that were occurring independent of whether or not the research had taken place (Denscombe, 2007). The researcher attended consultations between government officials and indigenous community representatives and took notes of the proceedings. Using a combination of meeting notes, project reports, and notes taken during consultations with government officials, the researcher gathered information on project efficiencies relating to rights-based approaches to advocacy and statements made by both indigenous community representatives and government officials with regards to indigenous issues. This data was gathered because it was easy to record, relevant, and offered a representative picture of the events and situations observed (Denscombe, 2007).

Finally, direct observation, as part of systematic observation, records what people do distinctly from what they say they do. Since the researcher worked with staff of the IPHRDA
project, the researcher was able to collect data systematically and rigorously with regard to the
day to day activities relating to advocacy and documentation of rights violations and the
reactions from a multitude of stakeholders to the actions taken by CIYA and by indigenous
communities.

The combination of data collection procedures is common in case study research, as it
provides an avenue for holistic analysis of the issue of access to land rights for indigenous
peoples (Denscombe, 2007). The data was analyzed to understand how access to land rights of
indigenous communities is mediated by advocacy mechanisms designed to negotiate the
relationship between indigenous communities and the state.

1.4.3 Data Analysis

Data from all sources were consolidated in an organizational matrix on Excel
Spreadsheets encompassing all case details. The Excel spreadsheets were divided by case on an
Excel document. Case details included information about the location, geography, type of rights
violations, perpetrators of rights violations, community and activists responses and advocacy
approaches to the rights violations, government and company responses to the advocacy
approaches, and media coverage of the incidents. The first step of data analysis involved the
compilation of information gathered into cases. Secondarily, themes and categories which
emerged were tagged and organized using Evernote software based on frequencies (Den-
scombe, 2007). The objective of data analysis was to identify key categories and themes emerging
throughout the study in order to isolate factors which impede access to land rights for indigenous
communities. These themes were then recorded and outlined to provide a foundation for
conclusions synthesized by the study’s conceptual framework.

1.4.4 Research Limitations and Positionality

Due to my limited experience as a researcher, this study was subject to a number of
limitations, particularly in terms of research design and data collection. Limited time and
resources meant that I had to rely quite heavily on the staff at CIYA as interpreters, research
facilitators and intermediaries. Since the staff at CIYA all come from the indigenous
communities in which the study was conducted, they provided me with the best opportunities at
identifying key informants, acting as gatekeepers, and bridging the language gap (Scheyvens &
Storey, 2003). Although I had learned how to speak Khmer while I was working at CIYA, I still
was unable to learn the variety of indigenous languages spoken by the communities that were studied. Additionally, my Khmer proficiency was mostly conversational, and thus, formal meetings with government officials or NGO representatives required a member of CIYA staff for translation and interpretation of cultural difference. Since it was not explicitly the position of any of CIYA’s staff to assist me, there were many instances in which I did not receive all the information available to me. CIYA staff were already very busy with their own responsibilities, particularly in situations where I was researching the work in which they were directly engaged. However, I made an effort to follow-up with CIYA staff after events or meetings to attempt to gather the necessary information. This delay in accessing information may have influenced the data I received insofar as the interpreter’s perceptions may have changed based on reflection (Denscombe, 2007).

As a young Canadian student working with a local organization, it was difficult for me to directly access government officials in order to gather the same type of data, i.e. through interviews or direct observation, as I was able to access from the indigenous communities. Key informants provided me with privileged information at the community level but not at the national or governmental level. However, triangulation\(^2\) and the supplementation of a variety of secondary sources balanced the scope of the research and thus validated the data (Denscombe, 2007). In this case, the variety of methods used contributed to increase the validity of the study, thus, these limitations are not significant enough to completely discount the study. My findings offer a nuanced and specific view of the indigenous communities’ efforts to access land rights and the factors which mediate their ability to do so.

1.5 Roadmap

This thesis is divided into five chapters as follows:

- Chapter One presents the problem statement; provides a brief context regarding land conflict in Cambodia; lays out the aim and objectives of the study, discusses the significance for a range of stakeholders, and the research design.

\(^2\)Triangulation refers to the research practice of reviewing the validity of information by comparing information received from one source, with two or more other sources (Denscombe, 2007).
Chapter Two – Conceptual Framework

2.1 Introduction

This chapter presents the conceptual framework for the study, focusing on the intersection of indigenous rights laws and private corporate interest in dealing with economic development of the agrarian sector, and indigenous access to land rights issues at the global level and in Southeast Asia. Throughout the course of this research, one key assertion about the laws in Cambodia continually emerged. Discussions with indigenous rights activists, NGO workers, and regular Cambodian citizens often highlighted that the disparity between what is written in the laws of Cambodia and how the laws are implemented is a major development issue affecting indigenous people’s access to rights. Yet, advocacy strategies that are undertaken by indigenous people in an effort to protect their land rights, often call their government to uphold international and national legal instruments and mechanisms (further discussed in Chapter Four). The legal framework of the Cambodian state offers indigenous people land rights, but the ways the laws are constructed, the actors whose responsibility it is to interpret and implement and enforce those laws, and the ways in which powerful actors are able to use the law to assert their power compounds the dissonance described above. Despite the fact that indigenous people’s land rights
are protected by national and international legal mechanism, they continue to be dispossessed.
The legal framework adopted by this study was chosen in an effort to address this problem. Thus,
this study partially investigates how power is accrued and by whom, by examining the relevant
historical, geopolitical, economic, and social phenomena which affect indigenous people’s
access to land rights.

Emerging from the literature are two main themes and topics of discussion. The first is
the notion of power in international law, analyzed through Tuori’s conceptual framework of
power that outlines three main ideas: power on the law, power in the law and power by the law.
The idea is to use this framework to help explain the disparity described above between the law
and its implementation. This discussion on power also uncovers the meaning of ‘access’
articulated by Hall, Hirsch and Li’s (2011) four powers of exclusion: the market, force,
legitimation and regulation. Tuori’s framework for power facilitates and reproduces the four
powers of exclusion that mediate indigenous people’s access to land rights. Second, in order to
contextualize those ideas, I explore the relevance of the ‘global land rush’ on land rights in the
countries of Southeast Asia. More specifically, unpacking the key drivers in the ‘global land
rush’ as discussed by Lorenzo Cotula, and De Schutter, and linking its effect to the agrarian
question as articulated by Kautsky, Byres and Watts. These topics and themes serve as the point
of departure for which a more pointed investigation of the issue of land rights in Cambodia can
begin. It also serves as a broad contextualization that forms the theoretical basis for unpacking
the marginalization of indigenous minorities in Cambodia and the impediments to their access to
land rights and effectively their access to justice.

2.2 Power and International Law

I begin the discussion by unpacking two distinct bodies of literature that outlines the
highly debated concept of power. The purpose of this discussion is to contextualize the
relationship between power and the law by providing a brief overview of the meaning of power
in society and on the law. The first body of literature is influenced by Weber, whose definition of
power falls under a mainstream field, which discusses power as a force that one entity has to
influence the behaviour of another, even in situations where the other resists (Scott, 2001). The
second body of literature emerges through a Foucauldian lens, which views power not ‘as a
capacity in the hands of a restricted number of people’, but instead as a capacity derived from
society (Scott, 2001). By the production of ‘truths’ or ‘discourses’, power can exist within the
social sphere, eventually penetrating the political sphere of sovereign power (Scott, 2001). The process of law-making is inherently political, subject to negotiations of power and ‘the competing interests of society’, it is deeply indicative of the politics of power (Cotula, 2012a). The idea is that there is an existing inequality in the law-making process which has been theorized for millennia. This is the site of some initial links to the relationship between law and power that is further explored by Tuori.

2.2.1 Tuori’s conceptual framework of power

Three main elements to Tuori’s conceptual framework form the basis of this discussion on the relationship between law and power. The three conceptualizations of this relationship are as follows: power on the law, power in the law and power by the law (Tuori, Bankowski & Uusitalo, 1997). ‘Power on the law’ refers to those power relations that exist within society and that ‘affect the content and implementation of the law’ (Cotula, 2012a). This is the cause and effect relationship between power relations in society and the law that is derived from Foucauldian notions of power. It encompasses ‘discursive formations’ that deal with the cultural construction of the individual subject. For Foucault, this is a dangerous construction that eventually leads to the powerful force of self-discipline studied in asylums, prisons, schools, armies and factories (Scott, 2001). It also encompasses the political power that manifests in the institutional structures, which govern daily life and are internalized by society (Cotula, 2012a).

Next, ‘power in the law’ refers to the dynamics of power relations existing within the legal profession. It deals with the power relations of specific people within the legal profession such as between legislators, scholars and judges (Cotula, 2012a). The ways in which these power relations mediate the interpretation and implementation of the law offers a significant terrain for unpacking the tensions of power negotiations within the law. Lastly, Tuori deconstructs the concept of ‘power by the law’, which demonstrates the degree to which the law can reinforce, reproduce, legitimize, strengthen or limit power. Cotula shows how the practice of law within the context of natural resources and investment law has served to strengthen the power of state and non-state actors who made use of investment law to exert power, and to ensure that their own interests are met. In international law, the interaction between these powers is a force that shapes state conduct and could constrain a state’s ability to exercise power (Cotula, 2012a). This is an example of ‘power negotiation’ as discussed by Cotula, which he says produces “outcomes that
may range from mutual benefit to dispossession” (Cotula, 2012a). Power negotiation is how this study frames resistance. For Cotula (2012a), negotiating power is dependent on factors of coercion and persuasion and also influenced by social, economic and political factors specific to relevant economic cycles.

### 2.2.2 Powers of Exclusion

The dynamics of the ‘power negotiation’ discussed by Cotula (2012a) is expanded upon by Hall, Hirsch, and Li’s *Powers of Exclusion* in which they outline four powers at the heart of exclusion (2011). The process of exclusion is inevitable, and although it carries negative connotations normatively, exclusion is not necessarily negative but sometimes positive when relating to land claims. Hall, Hirsch and Li outline ‘powers of exclusion’ as an interaction between the following powers: regulation, the market, force, and legitimation. They describe exclusion not as the opposite of inclusion but as a question of a lack of access to rights, land, resources, among others (Hall, Hirsch & Li, 2011). This understanding of access serves as the conceptual framework to inform my analysis on indigenous people’s access to land rights in this study. Indigenous access to land rights in Cambodia is mediated by the dynamics of power. For indigenous Cambodian’s power dynamics that affect their access to rights manifest along legal, economic, political, and physical dimensions. These powers are not independent of one another but exist as a function of one another and are crucial to the conceptualization of ‘land access and exclusion’ (Hall, Hirsch & Li, 2011).

*By regulation*, the authors refer to the rules that govern access and exclusion, which are often but not always associated with legal instruments. These regulations determine the boundaries between land; prescribe kinds of land use; determine ownership and usufruct rights; and make claims about which individuals, groups or states have rule-backed claims to any piece of land (Hall, Hirsch & Li, 2011). Regulations are carried out both by state-actors, customary groups and transnational organizations, and are not only carried out by sanctions and prohibitions but also increasingly through incentives. *Force* is the power which underpins regulation and most sanctions come down to the use or threat of force in modern states. The state is argued to be the only actor entitled to legitimately use force, but especially in land claims in Southeast Asia, state officials do not only use force to defend the law but also to strengthen their own claims (Hall, Hirsch & Li, 2011). It is not only the state that uses force, but also ‘counter-movements’,
as articulated by Polanyi, in which smallholder farmers engage the use of force to resist exclusion from land in situations where disputes exist (Polanyi, 1957).

The market is a power that is of high importance to the dynamics which determine land access in Southeast Asia. It shapes the determinants of who can or cannot access land, and market forces are underpinned by the other three powers. States continually interfere with market regulations such that particular groups or clients are favoured by market forces (Hall, Hirsch & Li, 2011). Commodity prices also have a great influence on the ways in which market forces produce the dynamics of exclusion and inclusion. Prices are key drivers in determining investment in land and use of that land for profitable crop production. This impacts the cost of land, the cost of inputs and the types of actors interested in land investments (Hall, Hirsch & Li, 2011). Dramatic increases in prices can lead to the exclusion of smallholders from land ownership through market pressures to sell their land (Hall, Hirsch & Li, 2011).

Lastly legitimation is understood as the ‘justifications of what is or of what should be and appeals to moral values’ which provide the ‘normative underpinning to regulatory, forceful and market powers’ (Hall, Hirsch & Li, 2011). By attaining legitimation, an actor’s capacity to exert regulatory, forceful or market powers or to shape the parameters of the use of those powers is strengthened. Since legitimation is normatively assigned, it reinforces the powers of structurally inequalities which support actors at the top of institutional hierarchies (Hall, Hirsch & Li, 2011). There is a discursive paradox inherent to the power of legitimation in which opposing claims to the nation or to citizenship result in competing outcomes (Hall, Hirsch & Li, 2011). These opposing claims can result in a dispute of discursive interpretation that is resolved by an unfair conception of legitimation.

The intersections of power and the law are complex and their roles in setting the conceptual framework for land rights issues is foundational. The ways in which power both through social control and as a ‘dispositional capacity to do something’ affect the formulation, implementation and interpretation of the law results in a conceptual framework which guides further discussion on exclusion and access to land rights (Scott, 2001). The question of justice within the law is surmised succinctly in Plato’s Republic, as Thrasymachus says ‘justice is nothing, but the interest of the stronger’ and the conceptual framework outlined above is underpinned by the structures and institutions that constructs those forms of inequality (Cotula, 2012a).
A common question that reinforces this key theme involves the dynamics of factors which affect who has access to land and who has the capacity to restrict access to land. As the definitions of land are continually changing and broadening in Southeast Asia, these dynamics result in a diminution of land to a commodity, erasing land’s value as the basis of life (Hall, Hirsch & Li, 2011). An exclusion from land thus produce what Polanyi (1957) calls “counter-movements recalling land’s social function” which informs the patterns of resistance among smallholders, ethnic minorities, and indigenous people who depend on the land more directly as their basis for life. This discussion on power reframes Polanyi (1957)’s notions of resistance as a ‘power negotiation’ (Cotula, 2012a). The following sections and chapters unpack the socio-cultural factors and the political economy that are influenced by conceptions of powers of exclusion in terms of indigenous people’s coercive and persuasive capacity to influence the law in the three ways articulated by Tuori (1997).

2.3 The key drivers of the ‘global land rush’

This section highlights the intersections between peasants, capitalism and globalization as expressed by Akram-Lodhi and Kay (2010) through the agrarian question. The dynamics articulated by the agrarian question between smallholders, foreign investors and the state, is of particular interest to this study because it frames later discussions about the Royal Government of Cambodia’s development strategies and policies that promote modernization of the agrarian sector. An outline of the ‘discursive formations’ of the agrarian question as iterated by Kautsky (1988), Byres (1996), Watts (2002), Marx and Lenin serves as the basis for our discussion on the key drivers of the ‘global land rush’ (Akram-Lodhi and Kay, 2010). Next, this section presents a discussion on the meta-narratives that have come to explain the growing global investment interest in large-scale land acquisitions of farmland in Africa, Asia and Latin America. Narratives such as the ‘global land grab’ have been particularly present in media representations of large-scale land acquisitions. The politics of the language used to describe this phenomenon by the relevant stakeholders is aptly discussed by Baird (2014) whose work points to an analysis of the role of the elites within land grabs occurring in Southeast Asia which will be explored further in Chapter Three. By outlining the relevant aspects of the literature surrounding the agrarian question and the ‘global land rush’ we are able to contextualize our previous discussion on the dynamics on power and the law.
2.3.1 The agrarian question

The agrarian question as stated by Karl Kautsky in 1988 explores ‘whether, and how, capital is seizing hold of agriculture, revolutionizing it, making old forms of production and property untenable, and creating the necessity for new ones’ (Akram-Lodhi & Kay, 2010). Kautsky (1988) questions the influence of capital in agriculture and how it affects the notion of property. He pays particular interest to small-scale peasants who work the land. Terrence Byres reiterates and further develops Kautsky’s position in 1996 focusing on affect of the agrarian question in the countryside. He evaluates the obstacles to growth in the countryside and the presence of transnational corporations, poor land tenure rights, poor land policies, low market values within the intersections of capital and politics. Watts (2002) further expands on the agrarian question by more intentionally targeting the politics of resistance between the rurally-dominated agrarian sector and the political centre by positing ‘the forms in which capitalist relations transform the agrarian sector and the political alliances, struggles and compromises which emerge around different trajectories of change.’ The key understanding of the agrarian question lies in the affect of capital integration into the agrarian sector for smallholder farmers.

Land is one of the three factors of production outlined as a foundational element of capitalism according to Marx. As such, this study involves a discussion on capitalism as pronounced by Marx, whose ideas regarding class analysis are particularly relevant. The agrarian question for Marx narrows in on the tension between the development of a capitalist mode of production and the deleterious effect of the capitalist system on small-scale peasant producers which support the system (Akram-Lodhi & Kay, 2010). He sees a solution to the agrarian question is to eliminate the peasant class and convert them into a rural middle class creating a gap of responsibility at the level of the peasant class (Akram-Lodhi & Kay, 2010). This gap calls the state to look more globally for the societal need of first tier production. For Marx, capitalist development in the agricultural sector could lead to peasant dispossession either through displacement or by differentiation (Akram-Lodhi & Kay, 2010). Borras and Franco subsequently deal with the politics of resistance to the transformations of the peasant class in Southeast Asia.

The agrarian sector experiences transformations that have shaped the ways in which stakeholders attach meanings and values to the different factors of production. Borras and Franco (2013) discuss the contested meanings of land within the agrarian sector such that capitalist
meaning of land are linked to the corporate world while agrarian communities and indigenous people view land differently still. According to Borras and Franco (2013), agrarian communities view land as a resource base which guarantees subsistence and access to food and other necessary resources in such a way that the risk of vulnerability to external price shocks is reduced. Many indigenous people are linked to land as agrarian communities but they ascribe spiritual and cultural meanings to land. Land is not simply a resource base, although the implications of land as a resource base also apply, but it is also a territory where there ancestors lived and where they continue to live reproducing cultural lifestyles by engaging with their immediate natural environment (Borras & Franco, 2013). Borras and Franco (2013) stress that it is important not to neglect any of the meanings of land in the context of resistance to land grabs. This study deals with the politics of resistance in the context of the unfolding of a global manipulation of the agrarian question which is exacerbated by the politics of the ‘global land rush’.

2.3.2 The key drivers of the ‘global land rush’ and the role of the state

In this study, the term ‘global land rush’ is used to describe the high incidence of large-scale land acquisitions in Africa, Asia and Latin America. It is the more politically neutral term contrasted by the controversial term, ‘global land grab’, which carries the connotations of struggle, conflict, neocolonialism, and peasant dispossession (Borras & Franco, 2012, 2013). The rush is the result of a convergence of a variety of global crises: fuel, food, climate and finance for which ‘under-utilized’ land is seen as the panacea (Baird, 2014; Borras & Franco, 2013). The types of land use changes that occur as a result of investments which fit the model of the global land rush are complex and varied, they require nuanced empirical research. Borras and Franco (2012) offer a conceptual framework outlining four different types of changes in land use: food to food, food to biofuels, non-food to food and non-food to biofuels. Although this framework is not essential to this study, the purpose of illustrating the multi-faceted nature of the global land rush is to show that the rush is characterized by the convergence of a multitude of factors and a variety of actors globally. At the same time, Cotula (2012) discusses some key trends and patterns which set the parameters for the drivers of the global land rush. Although the crises above have all contributed to the emergence of the global land rush, Cotula (2012b)’s assessment of the forces of the market are particularly significant.
Market forces, such as the changing global supply and demand of agricultural commodities is a function of rising global food prices. Rapid population growth, changing diets, growing energy demands and widespread urban migration have driven agricultural demand while regular supply constraints in parts of the world have lead to dramatic increases in food prices in 2008 and 2011 (Cotula, 2012b). Large-scale land investments are used for biofuel production, to accommodate the ‘meatification’ of rapidly growing middle class populations in countries such as China and India, and for industrial commodities such as rubber (Cotula, 2012b). Fox and Castella (2013) discuss the expansion of rubber agriculture in Southeast Asia due to an average increase in the rate of the world’s rubber consumption by 5.8% each year. A leading investor in rubber agriculture is China, whose rubber consumption surpassed the US in 2002 with 18.2% of global consumption (Fox & Castella, 2013). These shifts in the supply and demand for agricultural commodities have led to what many are calling the ‘financialisation’ of agriculture transforming the value of land into a steady capital-driven benefit stream for those who possess property rights and secure land tenure (Cotula, 2012b). This leads us to an analysis of global stakeholders which evaluates the merit of large-scale land acquisition for poverty alleviation and rural development.

The World Bank report on land policies for growth and development set the narrative for land investment as a development venture seeking to alleviate poverty and fuel rural development (World Bank, 2003). De Schutter (2011) evaluates the capacity of large-scale land investments in making positive use of ‘underutilized’ land for all stakeholders (2011). As the UN Special Rapporteur for the right to food, De Schutter (2011)’s study emphasizes the protection of the right to food under the ‘sustainable livelihood’s’ framework. The normative understanding of the benefits of land investment and the development outcomes that could be yielded is problematic when in the broader context of rural development and poverty alleviation (De Schutter, 2011). He questions presumptions of the effectiveness of land investments which encourages export-led types of agriculture in producing poverty-reducing outcomes for local farming communities especially. De Schutter (2011)’s critique of these presuppositions are made on the basis of three arguments reframing the debate on land-grabbing:

“[1] we underestimate the opportunity costs involved in giving away farmland that is considered ‘idle’ to promote a type of farming that will have much less powerful poverty-reducing impacts than if access to land and water were democratized for the local farming communities. [2] We overestimate the capacity of the governance structures in the host countries. [3]In addition, we also pay too little attention to the
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risks of encouraging a commodification of land in the name of improving security of tenure, as well as a further dependence of agriculture-based countries on international markets in the name of local food security, which may have serious negative consequences in the long term.”

For De Schutter (2011), the global land grab manifests the agrarian question and is detrimental to the smallholder farmer. The dynamics of land rights in host-countries becomes complex as a variety of stakeholders who hold on to different meanings of land react to the transformations of the rural class. The transformations of the rural class are met with resistance, a series of ‘counter-movements’ against the powers of the market, force, legitimation and regulation (Polanyi, 1957).

The patterns of investment follow a trend which sees resource poor wealthy countries investing in resource rich developing countries. According to Cotula (2012b), public policy is a crucial driver of the global land rush. Many emerging economies in the Gulf, China, Europe and the US have engaged with policies that encourage large-scale foreign land investments in Africa, Asia and Latin America (Cotula, 2012b). Host-country policies have simultaneously undergone reforms which facilitate ease of investment (Cotula, 2012b). These relationships between investor countries and host countries are usually between corporate stakeholders of investor-countries and state actors in host-countries. The state has a central role in facilitating global land grabbing (see Figure 2).

Borras and Franco (2013) outline three areas of state action: state simplification process, assertion of sovereignty and authority over territory and coercion through police and paramilitary force to enforce compliance. The state first formalizes property and land rights through the process of land titling in an effort to simplify land-based social relations (Borras & Franco, 2013). The push for formalizing land rights in the South comes from Hernando de Soto who posited that formalization could reduce poverty and make the assets of the poor open to affects of entrepreneurship, thriving markets, and information networks (Sjaastad & Cousins, 2008). Next, the state ventures to assert sovereignty and authority over territory by linking land investment as an essential component of the state-building process and as Roberts (2008) discusses, state-building is in effect seen as development especially in post-conflict nations (Borras & Franco, 2013). Lastly, the state moves to assert authority and sovereignty through coercion by police and paramilitary force to enforce compliance, extend territorialization and broker private capital accumulation (Borras & Franco, 2013). In the following chapter, I will explore the dynamics of
the last element of state action in the event that officials are also involved in land grabbing in Southeast Asia drawing on the work of Gainsborough and Baird.

2.3.3 The ‘Global Land Grab’ and Elite Power in Southeast Asia

Hall (2011) studies Southeast Asian crop booms in the contemporary land grab in order to illuminate a policy debate around large-scale land acquisitions. He highlights four main types of actors: state actors, private companies, smallholders and migrant workers. Certain actors, such as the state and private companies especially mobilize a mix of regulatory, market, forceful and legitimating powers to gain access to valuable land and to strengthen their claims to that land (Hall, 2011). Normative views with regards to the benefits of crop booms rely on the assumption of legality, according to Hall, crop booms lead to positive economic growth and add value to land which catalyzes institutional reforms for tenure security thus strengthening land claims (Hall, 2011). However, the illegal nature of land grabs in Cambodia is marked with intimidation and coercion which is seen as legitimate action by the state and firms in cases where smallholder or collective land is ‘unused’ (Hall, 2011). The use of the powers that Hall articulates, leads to elite and local officials’ manipulation of these contentious changes in land control (Hall, 2011).

2.4 Conclusion

This chapter began by outlining the relationship between power and the law outlining Tuori’s conceptual framework for power on the law. The powers of exclusion articulated by Cotula, affect indigenous people’s access to land rights. The market, force, regulation and legitimization are powers of exclusion which shape the dynamics of this global world order creating hierarchies of authority that determine the effectiveness of legal rights protection. Additionally, the affects of the three relationships between power and the law reinforce and reproduce powers of exclusion, necessitating a power negotiation. Next, this chapter provided an overview of a conceptual understanding of the agrarian question drawing on its many iterations in order to produce a deep understanding of the effect of capital on the agrarian sector. Finally, this chapter describes the context of the global land rush, assessing power dynamics which are dependent on social, economic and political force emerging in assertions of investment power and links to the benefit streams that are ensured by property and land rights. State actors, elites,
and international financial institutions have all been responsible for shaping and applying the politics of the global land rush.

The purpose of this chapter was to set a conceptual framework in order to analyze later chapters of this study. The theoretical discussion on power and the law and on the powers of exclusion serve to narrow the scope of this study to a legal framework approach. The discussion of the current phenomena of the agrarian question and the global land rush offers an explanation of broader ideological dynamics that manifest in transformations in the agrarian sector as well as the development of poverty-stricken, resource-rich countries. These dynamics affect the governance structures of the state and will serve to explain specific dynamics affecting indigenous people’s access to land rights.

The following chapter will describe the context of this study by offering an overview of Cambodia’s modern history and the current government that has emerged as a result. Positioning the state-building process of Cambodia in the environment of the global land rush, the chapter explores the role of the state and of national elites in the land conflicts of Cambodia. Additionally, the chapter situates the meaning of the term ‘indigeneity’ in Southeast Asia and in Cambodia. The background and context of this study presents research designed to probe at the dynamics of the relationship between power and the law in Cambodia by exploring the historical, political, economic, and cultural factors that affect indigenous people’s access to land rights.

**Chapter 3: The Situation - Background and Context**
3.1 Introduction

In this chapter I discuss the complexity of intersections between the historical, political, cultural and economic factors which have lead to Cambodia’s current political, economic, and social fabric. In order to gain a deeper understanding of the conditions which affect indigenous people’s access to rights in Cambodia, specifically concerning access to land rights, this chapter outlines and presents a brief of the country’s history. Throughout Cambodia’s history key threads emerge which involve the continual re-imagination of patronage networks within state structures; the historically and culturally embedded corruption, cronyism, and paternalism of the government; the centralization and concentration of power and wealth; and the consistent emergence of nation-state building policies and initiatives. Second, this chapter examines the recent period of international interference in State-building by the United Nations Transitional
Authority and Cambodia (UNTAC) and the ways in which Housing, Land and Property Rights (HLP) have been managed since that time period. Thirdly, the chapter presents an overview of the current government and the role of Cambodian elites in foreign investments in the energy and agricultural sector. Lastly, the chapter positions indigenous people within the context of the Cambodian land rights issue.

This chapter is foundational to understanding the dynamics of factors affecting indigenous peoples’ access to land rights in Cambodia because it offers a background to the current dynamics between actors of the Cambodian nation state. Especially considering the conceptual framework of this study which engages the relationship between power and the law, it is important to investigate how and why power is accrued using a historical perspective. The formation of the current Cambodian government and state institutions can be attributed to historical processes that have strengthened the influence of actors whose power dynamics in relation to the country’s legal and institutional framework that excludes indigenous peoples’ from accessing land rights.

3.2. A Brief History

For this section, I outline a brief overview of Cambodian history from the 1700s til now. The events in Cambodia’s history such as the rule of the Khmer Rouge from 1975-1979 tend to eclipse the complexity of Cambodia’s history that have led to the political, economic and socio-cultural dynamics affecting Cambodia’s land issues. In an effort to provide a deeper evaluation of the foundation for land rights in Cambodia, this section elects to present a broader view of the historical foundation and context of land rights issues in order to highlight some of the often unrecognized, yet significant, events in Cambodia’s history. Each epoch of Cambodia’s modern history makes significant contributions to producing a deep understanding of the meaning of the state in Cambodia, and its relationship to rural citizens and indigenous people. Throughout this history there are some key political structures and cultural underpinnings which are relevant to understanding the dynamics of access to land rights for indigenous populations. Paying close attention to Cambodia’s history of influential international powers, culturally enforced authoritarian rulers, and political distance between rural and urban Cambodia facilitates a meaningful historical foundation for this study.

Indic and Sinic Influences and the Early State
The early history of Southeast Asia is described by a set of contrasts (Winzeler, 2011). Before the emergence of an organized state, the geographic, cultural and political demarcations of Southeast Asia were defined by certain climatic patterns, categorizations between the insular and mainland peoples, governance structures either based on state interactions or tribal structures, and between the highland and lowland peoples (Winzeler, 2011). Peoples that identify as indigenous contemporarily traced their ancestry back to peoples that have typically lived in insular and highland regions, and whose governance structures were based on tribal chiefdoms. Before indigenous people were called indigenous in Cambodia, they were named “highlanders” or “tribes people” (Padwe, 2013).

Indic influences led to the emergence of early states and the spread of religion through peaceful interactions by trade (Winzeler, 2011). Sauer’s theory of domestication explains the regions transition to farming and the spread of language since there was plenty of food, there was room to experiment with modernization (Winzeler, 2011). Groups that are considered indigenous today continue to practice swidden agriculture and gather food, medicine and other supplies from the forest for their livelihoods (AIPP, 2010). Swidden farming or rotational cropping is practiced in Southeast Asia, mainly by highland peoples as a type of traditional farming (Winzeler, 2011). The main crop in Southeast Asia is rice, which when farmed through swidden practices yields much less rice than more productive wet rice crops (Winzeler, 2011). The people who practice swidden agriculture in Southeast Asia were mainly referred to as “tribes people” because they were not traditionally part of a state (Winzeler, 2011).

The early Cambodian state was minimally infrastructurally, institutionally and industrially developed, main governance activities occurred in the most populated cities of Battambang and Phnom Penh (Chandler, 1983). The country ran mainly on a subsistence economy with smallholder rice farmers (Chandler, 1983). There was a majority ethnic Khmer people in the lowlands and some record of the indigenous ethnic Kuy people in the Northeast highland regions of the country who smelted iron ore. They were distinguished as ‘Prei’, non-Buddhist people who lived in the wilderness and spoke languages similar to Khmer (Chandler, 1983).

Interactions between the city centres and the countryside were limited. People were governed locally by elderly men in the villages (Chandler, 1983). There were no state level governmental structures, but villages were hierarchically structured mostly by age and gender.
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(Chandler, 1983). The capital and city centres functioned under patron-client relationships in which weaker populations sought out relationships with powerful people in order to ensure protection and security (Chandler, 1983). There were mythological ideas about the King’s special powers since not many people had ever interacted with the King\(^1\) (Chandler, 1983). The ‘Okya’ were Cambodia’s high ranking officials who provided services for the king directly (Chandler, 1983). They were often involved in patron-client relationships that indebted their clients to a lifetime of servitude (Chandler, 1983). The social hierarchy of the state related directly to the proximity of the King with diminished power away from the King (Chandler, 1983).

Early colonialism in Southeast Asia was mostly European, resulting from what was happening elsewhere in the world, such as the Industrial Revolution (Winzeler, 2011). Southeast Asians saw the colonialist as powerful and superior and submitted to the authority of the colonialists with little resistance (Chandler, 1983). The state space was confined to the lowland areas and the highland was not seen as a concern (Chandler, 1983). Highland people in Southeast Asia remained ungoverned until late into the colonial period (Winzeler, 2011).

\textit{Nineteenth Century and the French Protectorate}

The nineteenth century is known as a ‘black’ period in Cambodia bearing resemblance to the events of the genocidal events of the 1970s discussed later in this section. The high incidence of foreign intervention through repeated invasions by the Thai and Vietnam brought a time of chaos and suffering (Chandler, 1983). But, the early stages of the French protectorate offered a period of political stability which was welcomed following the perpetual invasions of the nineteenth century (Chandler, 1983). King Norodom reluctantly gave his assent to the French in 1862 and formally signed for serious reforms by France in 1884 (Kiernan, 2004). During King Sisowath’s rule, the French treaty with Cambodia was to allow the monarchy to remain as a figurehead in which the French would govern the country’s foreign affairs and economic expansion (Kiernan, 2004; Chandler, 1983). The government after the 1920s was composed of very few Cambodians and many Vietnamese because they could produce reports and documents in French to support the colonial rule (Chandler, 1983). This leads to an interesting interplay

\(^1\) The King in Cambodia is a hereditary monarchy (Chandler, 1983).
between Cambodia and Vietnam in the aftermath of WWII on the development of Cambodian nationalism (Chandler, 1983).

Cambodia’s Response to France

Cambodia’s resistance to France was brought on by two significant events in the early 1900s (Chandler, 1983). The ‘1916 affair’ and the murder of a French resident (Chandler, 1983). These two events are significant because they demonstrate a rise in the political consciousness of the Cambodian people and provide a precedence of protest and mobilization in the climate of a political environment which tends to eliminate dissidents (Chandler, 1983). The 1916 affair occurred as a response to the fact that the French financed their activities mainly through taxes on salt, alcohol, rice and other crops which led to heavily indebted Cambodian citizens who were forced to repay the colonials either by fighting in the war or by submitting to participate in labour (Chandler, 1983). In 1916, forty thousand to a hundred thousand peasants marched to the capital to petition the King Sisowath to reduce the taxes (Kiernan, 2004; Chandler, 1983). Up until this point, the French had thought of Cambodians as lazy and ineffective comparing them to the rest of their colonies in Indochina who had been more rebellious (Kiernan, 2004; Chandler, 1983). The protestors left peacefully after hearing assurances from the King that he would help to resolve their grievances (Kiernan, 2004). Although the protests yielded little results for the peasants, the French began to see that Cambodians are capable of mobilizing rapidly and effectively to protest an otherwise uncontested rule (Chandler, 1983). Cambodian peasant mobilizations were rather impressive considering the lack of resources spent by the French on education, medical services and other infrastructure outside of Phnom Penh (Chandler, 1983).

The second event, the murder of French resident’s in the provincial towns, occurred shortly after the 1916 affair also as a protest of French taxation, proving to the French that Cambodians were not the docile stoic people they were believed to be (Kiernan, 2004; Chandler, 1983).

The Khmer elite rose during the period of French colonial rule as very few Cambodians were beginning to attend secondary schools financed and run by the French (Kiernan, 2004). Those that were educated were civil servants either fighting with the French army or acting as provincial governors (Kiernan, 2004). It was during the 1930s that the Cambodian elite began to emerge as a key player in Cambodian nationalism (Chandler, 1983). In 1937, a small French-
educated elite began organizing its first association questioning preferential treatment of the Vietnamese in Cambodia and a larger discourse of the Vietnamese as a traditional enemy began to become more mainstream (Chandler, 1983). The birth of nationalism and independence movements, were the result of a Cambodia imagined by the Khmer elite (Martin, 1994). During WWII, the French began a campaign of liberalization opening up political administration to the locals (Chandler, 1983). The Japanese disarmed French forces in Indochina and the Cambodian elite reinstated the Buddhist lunar calendar and Khmer as the main governmental language (Chandler, 1983). Politically-oriented groups such as the Indo-Chinese Communist Party (ICP), were encouraged to organize and Cambodian locals were able to determine the content of the constitution and the right to form political parties (Kiernan, 2004; Chandler, 1983). The French remained in charge of finance, defense and foreign affairs (Chandler, 1983).

**Independence and Civil War**

Two main political parties emerged during this time, the Liberal and Democratic parties. By 1949, the King Norodom Sihanouk signed a treaty granting Cambodia partial independence from France (Martin, 1994). During this time, the left began to grow and a subsequent tension between nationalist and international communist movements emerged (Chandler, 1983). King Sihanouk almost single handedly fought for Cambodian independence and eventually, the French caved in by 1953 (Chandler, 1983). Older notions about the King’s magical powers resurfaced in consequence, and the peasantry became entirely devoted to the King Sihanouk (Martin, 1994). But King Sihanouk reigned in a kind of politics characterized by the monopoly of his own power (Chandler, 1983). The King abdicated his throne in favour of his father and created a popular socialist community called Sangkum in 1955, deemphasizing the divine power of the monarchy (Martin, 1994). Instead, the Sangkum relied on a new theory which turned its back on traditional party politics where a new Khmer monarchy is democratic and popular (Martin, 1994). In 1955, the Sangkum gained 83% of votes and signaled the end of multiparty politics (Martin, 1994).

The Sangkum’s main opponent, the Democratic Party dissolved due to violence and repressive authoritarianism exerted by the Sangkum (Martin, 1994; Chandler, 1983). During the Sihanouk era, there was no tolerance for pluralistic politics and dissent was viewed as treason (Chandler, 1983). He was the first of Cambodia’s rulers to build a public educational system which raised political consciousness dramatically and probably led to his later demise (Chandler,
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Sihanouk worked really hard and even visited villagers in the countryside, he led Cambodia’s ‘golden era’ period in the 60s making Phnom Penh ‘the pearl of Southeast Asia’ (Chandler, 1983). Sihanouk did all he could to protect Cambodia from the war occurring in neighbouring countries, but in an effort to do so he had to make agreements with Vietnam which attracted the military attention of the United States (Chandler, 1983). His military weakness after rejecting the support of the US to squash communist sects in Cambodia, and his economic integration with Vietnam led to his demise (Chandler, 1983). Despite the King’s best efforts, Cambodia became engulfed in the Vietnam war (Chandler, 1983). The new Prime Minister Lon Nol disagreed with the King’s foreign policies and set forth for confrontation with the King Sihanouk (Chandler, 1983). The Communist Party of Kampuchea CPK led by Pol Pot waged an armed struggle against King Sihanouk in which insurgent movement gained one fifth of Cambodia’s territory by 1970 (Kiernan, 2004; Chandler, 1983). Increasingly, King Sihanouk was losing favour with the townspeople of Cambodia who began supporting the Lon Nol administration (Martin, 1994). The Lon Nol administration tossed King Sihanouk’s rule in a military coup d’etat in early 1970 (Martin, 1994). The civil war formally began in 1970 when the Lon Nol government began massacring the Vietnamese living in Cambodia (Martin, 1994). The Cambodian army was fighting against the Vietcong along the border of Vietnam when Vietnamese troops began invading the country and led the massacre of Cambodian soldiers (Martin, 1994). The US began bombing northern Cambodia in an effort to stop the South-Vietnamese army that had since invaded the entire northern region of Cambodia from spreading communism, sending the Cambodian army into the interior of the country (Martin, 1994). The air bombs killed many civilian Cambodians in April 1970 and the inhabitants of Cambodia endured the abuses of the Vietnamese, US and the communists (Martin, 1994). Over the next five years, the Khmer Rouge, back by the Vietnamese, continued to fight against the republican forces (Martin, 1994). When the American forces finally left Cambodia, the Khmer Rouge insurgents were strengthened and on April 17th, 1975 communist troops took over Phnom Penh (Chandler, 1983).

Revolution

The entire population was evacuated from the cities into the countryside in an effort to create a socialist agrarian utopia which was meant to eventually lead to Cambodia’s economic
development (Year Zero, 1979). Educators, doctors, government officials, artists and any other person who echoed the previous regime were executed (Year Zero, 1979). People were driven into collective zones across the country working as labourers in communities where the links of individual family groups were systematically disintegrated in order to promote collective loyalties to what they called the ‘Angka’ or the organization (Year Zero, 1979). For most people, the regime was a welcome change to the chaotic and violent years that preceded them.

The term ‘year zero’ was used to describe the year of 1975-1976 which resulted in the complete destruction of the nation that had developed until that point (Year Zero, 1979). By 1976, the constitution was abolished, private property rights were no longer binding and all land was under the ownership of the state (Chandler, 1983). The practice of organized religion was banned, there were no human rights, and family-oriented agricultural production was forbidden (Chandler, 1983). The organization destroyed most legal documents recording land ownership in the country (Williams, 2009). The organization attempted to turn Cambodia into a classless society in which the entire population was forced to work as farmers in labour camps (Year zero, 1979). Signs of past development in the country such as banks, financial records, money, books were burned and schools and hospitals were closed (Year zero, 1979). Nearly the entire intellectual elite including teachers, doctors, merchants, monks and artists were executed (Year zero, 1979).

It is difficult to determine the number of deaths during this period although estimates most commonly describe between 1.4 million to 2.2 million deaths in the killing fields of Cambodia (see Figure 3) (Chandler, 1983). By 1979, the situation in Cambodia was dire, and fearing Vietnamese invasion, Pol Pot sent Cambodian forces to attack villages in Vietnam (Chandler, 1983). Shortly after, the full force of the Vietnamese army invaded Cambodia pushing Khmer rouge forces into the Northwestern part of the country (Chandler, 1983). Defecting Khmer Rouge soldiers with the assistance of the Vietnamese government formed a new political party and government called the People’s Republic of Kampuchea/State of Cambodia (PRK/SOC) (Williams, 2009).

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2 A John Pilger documentary that was filmed in Cambodia directly after the fall of the Khmer Rouge in 1979.
From 1975-1979 ethnic minorities in Cambodia experienced particular forms of discrimination depending on their background (Williams, 2000). Very little is known about what happened to the highland indigenous minorities during the period of Khmer Rouge rule (Kiernan, 1990). Since many live in the areas near the borders and in mountainous regions many highlanders were able to flee the country and live alongside other indigenous groups in the surrounding countries (Kiernan, 1990).

1979 - 1992

During the period of Vietnamese control, the country was in a state of chaos and disorder (Williams, 2000). The People’s Republic of Kampuchea (PRK) after the Khmer Rouge’s policies included failing rural collectives whose residents returned to subsistence or fled to the cities as urban squatters or refugees at the Thai border (Williams, 2000). Many refugees who stayed in Thai refugee camps repatriated Cambodia searching for their relatives (Williams, 2000). Many more died after the Vietnamese liberation dealing with starvation and other diseases in a country

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3 Due to the traumatic nature of the events, very few Cambodians talk about their experiences during the Khmer Rouge period. As a result, the researcher was unable to acquire significant information regarding the impact of this period on indigenous minorities. The researcher was also only able to find one source that talked about indigenous people during that period, and even then, information was very shallow (Kiernan, 2009).
where famine and a lack of medical supplies and doctors plagued the country (Year Zero, 1979). In 1979, after dealing with 30 years of war and on the brink of it’s own famine, Vietnam was Cambodia’s only lifeline asking all families in its Southwestern cities to give 6 pounds of rice (Year Zero, 1979). The international community viewed supporting Cambodia as a cooperation with the Vietnamese and the lives of a nation made up of mostly children hung in the balance (Year Zero, 1979). This was a period of displacement and dispossession where land was nationalized, collectivized, redistributed, privatized and later subjected to corrupt waves of land-grabbing, official confiscation and speculation (Williams, 2009).

In 1989, the Vietnamese installed government came to be known as the Cambodia People’s Party (CPP) led by Prime Minister Hun Sen, a defected Khmer Rouge battalion commander and former Deputy Minister and Foreign Minister of the Peoples’ Republic of Kampuchea/State of Cambodia (PRK/SOC) (Williams, 2009). The CPP in a calculated attempt to consolidate control over the disposition and allocation of resources formulated a government decree for land privatization (Williams, 2009). This involved land restitution for those Cambodians who remained in the country during the revolution (Williams, 2009). Any Cambodian that left either during the revolution or just after were considered to have forfeited their any land or property claims (Williams, 2009). Due to a lack of qualified human capacity and a generally disorganized restitution plan, allocation became a free-for-all that is said to have been less equitable than the hierarchical distribution of property of the early 80s People’s Republic of Kampuchea government (Williams, 2009). The program was plagued by corruption, military land grabs, distribution to local officials, nepotism and several other incompetencies. Bribes of government officials or military officials was necessary to secure titles (Williams, 2009). There was very little expectation of land ownership at this time (Roberts, 2008).

The mountains and the wilderness areas which are home to Cambodia’s indigenous minorities were under control of local military authorities (Williams, 2009). During this time, local authorities once again ruled and patronage systems were reinstated (Williams, 2009). In the 1980s, all land was considered state property and local authorities delegated small parcels of land for use to individual families (Williams, 2009). Even during this time when land had no formal market value, a precedent was set for siphoning off attractive parcels of land into local patronage networks that had already been established by the involvement of local military officials (Williams, 2009). The high incidence of rural-urban migration forced officials to take
steps to regulate market-based urban economies and housing was allocated based on hierarchy (Williams, 2009). Natural Resources became under the de facto rule of local officials (Williams, 2009). Timber in particular came under the control of military where soldiers acted as tax collectors seizing trees from the land of citizens who could not pay taxes using money (Williams, 2009). Cambodian deforestation was extreme and forested land fell from 11 million hectares to 7 million hectares in the decade between the Khmer Rouge and the initiation of peace talks (Pearce, 2012).

3.2.1 Analysis

There are four common threads emerging from the history of Cambodia which have resulted in the current paradigm surrounding land: the reformulation of patronage networks, historically and culturally embedded corruption, the centralization of power, and the consistent reimagining of the nation-state. The first is the reformulation of patronage networks since the 1800s. These patronage networks have powered the façade of imported political ideologies since 1863 with the French, the Vietnamese and eventually western liberal democracy. They have undermined the rule of law, obscured accountability, replaced public services with profit-seeking schemes for the acquisition of power and influence.

These patronage networks also formalized patterns of corruption and rapaciousness of the powerful against the weak. Stemming from a supposedly beneficial patron-client relationship during the feudal monarchy, patrons secured the protection and stability of the client which led to debts that took a lifetime to pay off. Land during that time was owned by the King, and the introduction of private ownership was not formal until the 1920s. Even during French rule, private property ownership was reserved to the profitable areas such as the capital mainly for real estate purposes. The formalization of property rights had not infiltrated the legal, political or social realms of the countryside. Until now, forms of the patron-client relationship persist within the government at all levels shaping the ways public services are delivered, laws are interpreted, policies are implemented and the imagined relationship between the citizen and the state.

However, the state simplification process outlined by Borras and Franco (2013), where the state formalizes land rights through the process of land titling in an effort to simplify land-based social relations, produces an infiltration of property rights into the legal realm that is facilitated by the power of Khmer elite. This is further discussed in Chapter four of this thesis.
These factors have resulted in a series of centralized and authoritarian governments in which one clear leader exterminates all forms of dissent. The period of pluralistic politics existed minimally near the end of the French protectorate and shortly after independence (Martin, 1994). Aside from that period of time, dissent was dealt with through force and violence. Cambodia’s history does not show a pattern of peasant resistance aside from the 1916 affair (Chandler, 1983). The most extreme insurgent movement led to a period of complete destruction by the Khmer Rouge, and once they reached power they too ruled by violent authoritarian governance. In fact, all imperial forces in Cambodia have believed in the peaceful and agreeable nature of Cambodians and this belief has shaped the ways in which imperial forces have interacted with the nation (Chandler, 1983). It’s history is not made up of a series of peasant counter-movements, but instead of repression of freedoms of speech, freedom of protests, and freedom of assembly (Martin, 1994; Chandler, 1983). This theme will be explored further in the next section.

Nation-state building is another key thread which emerges in the study of Cambodia’s history. Ever since the 1700s, Cambodia has struggled to build a formal identity linked to the relationship between the citizen and the state. The presence of international forces throughout Cambodia’s modern history has influenced the country’s ability to build a sovereign nation. ‘Year Zero’, signaled the entire destruction of all knowledge previous to that year, resulting in the complete destruction of the nation. The years following has been a slow and gradual rebuilding of the nation from the ground up. A key element of the nation-state building process throughout the many forms of government has been a homogenizing nationalist project. For indigenous minorities, this constant reimagining of the nation has led to their exclusion from the state. The homogenizing project of Cambodia’s Khmer majority elite has separated indigenous people from access to the state and to state legal, economic and political processes. The next section involves a discussion on the nation-state building process, the emergence of the current governance structures and the dynamics affecting land rights from the 1980s until the present.

3.3. Nation-State building and current government structures

In this section, I discuss the state-building initiative of the United Nations Transitional Authority in Cambodia (UNTAC). The purpose of this discussion is to highlight a major period of Cambodia’s modern legal history. The UNTAC is responsible for drafting Cambodia’s national constitution and for setting up the legal and institutional framework for the Cambodian
state. Cambodia’s status as a liberal democracy was thrust upon the nation through the UNTAC and the nation’s struggle to uphold to the strict standards of its institutional framework can be attributed to this unnatural state formation. The laden corruption, lack of transparency and lack of accountability of the current government is partially a function of the western liberal framework that was applied to a state whose history and culture is vastly different from those nations that have formed the idea of the liberal state. First this section outlines a brief history of the UNTAC. Next, this section offers an overview of the UNTAC’s impact on the Housing, Land and Property (HLP) rights once a sovereign Cambodian government was installed.

3.3.1 United Nations Transitional Authority in Cambodia and Housing, Land and Property Rights

In 1991, an agreement known as the Paris Peace Agreement which led to the installation of the United Nations Transitional Authority in Cambodia, as approved by the Security Council, was reached (Williams, 2009). The purpose of UNTAC was to lead the restoration of civil rule after years of civil war and foreign intervention (Williams, 2009). The United Nations sees the State-building exercise as essential to addressing a host of development issues that are crucial to ensuring international peace and security (Chandler, 2009). The state of Cambodia’s affairs during the period of the UNTAC was complex and there were many issues that were deemed a high priority, land rights were simply not one of those priorities (Williams, 2009). However, the repatriation of several hundred thousands refugees from Thailand was perhaps the highest priority. The United Nations High Commissioner for Refugees (UNHCR) offered two hectares of land to each individual returnee, but the process of delegating this land became more difficult than initially believed (Williams, 2009). At first, the returnees were given the choice to claim any two hectares of land (Williams, 2009). Since many were stationed in refugee camps along the Thai border, many desired land in the Northwestern part of the country, not too far from their initial location (Williams, 2009). Unfortunately, that land was not very productive and was littered with bombs and landmines. There was much less land available in the Northwestern region of the country than originally estimated and the repatriation soon took the form of a cash grant option for land restitution (Williams, 2009).

Chandler (2009) argues that the international state-building initiatives of the UNTAC were derived from western liberal democratic frameworks that often failed to meet the expectations of its advocates. The external state-building process is underpinned by culturally
imperialistic sentiments. The ideals of external social engineering are rarely met by peace, development, democracy and good governance, but are instead subject to the ideals of previous governance state structures such as the patronage networks, corruption and centralization of power that reappears throughout Cambodia’s modern history (Chandler, 2009).

The UNTAC did not frame the HPL resource issue as a land restitution initiative, but instead as a question of repatriation (Williams, 2009). The allocation and administration of the Housing, Property and Land in Cambodia have been and continue to be crucial to a largely rural population (Williams, 2009). During UNTAC, the HPL issues were handled at an ad hoc basis, and the failure of the UNTAC to adopt a human-rights based approach to HLP rights set the stages for further deterioration in the protection of these rights (Williams, 2009). By neglecting to frame HLP rights as a human rights issue, and by ignoring the central importance of following an organized plan for the implementation of HLP rights, the UNTAC helped to establish patterns that privilege the maintenance of political stability over improvements in democracy, accountability and human rights (Williams, 2009). The UNTAC did have many complex development and peace and security issues to address, and it is understandable that HLP rights were not the first priority of the UNTAC (Williams, 2009). However, by neglecting to frame HLP rights as a human-rights-based issue, the tenure insecurity which exists today has flourished (Williams, 2009). Building or rebuilding faith in the idea that the state requires a transformation in mentality as much as it does in politics (Chandler, 2009). The efforts of the UNTAC to generate a rigid template for reconstructing institutions are subject to the political and social conditions of Cambodia (Chandler, 2009). The difficulty of the UNTAC given its time constraints, and its external nature resulted in a form of governance unable to adopt the intended transformation of its social and political fabric (Williams, 2009).

In 1992, the UNTAC implemented the 1992 Land Law that guaranteed individuals claims to land titles after a 5-year peaceful occupation of the land (Williams, 2009). The effectiveness of this law was extremely limited (Williams, 2009). Those officials responsible for administering land titles were unqualified and the presence of many poor squatters in Phnom Penh made HLP a more pressing human rights issue, thus redirecting their attention (Williams, 2009). By 1995, the government engaged in violent and sometimes deadly actions to evict slum residents (Williams, 2009). This took the form of planned relocation of urban squatters to the city’s outskirts, far from access to the employment benefits of being in the city (Williams, 2009). There were many land
disputes in areas earmarked for economic development, specifically in and around Phnom Penh (Williams, 2009). The government began granting economic land concessions to national elites leading to rural tenure insecurity with private enterprise taking up one third of Cambodia’s most productive land. Timber was a huge source of income, totaling to 80% of Cambodia’s official exports (Williams, 2009). These illegal concessions were predominantly in the highland areas of Cambodia displacing and dispossessing Cambodia’s indigenous minorities and threatening indigenous lifestyles (Williams, 2009).

The 2001 Land law was the first of Cambodia’s legal instruments to recognize collective ownership rights of indigenous groups to their traditional lands (Williams, 2009). It also recognized the acquisitive possession by those who had begun their occupation of lands prior to the passing of the law (Williams, 2009). It stipulated that future land distribution was meant to take place through an organized system of ‘social land concessions’ bound by the sub-decree #19 on Social Land Concessions (Williams, 2009). The social land concession is meant to provide land to poor families who may have been displaced as a result of public infrastructure development, to repatriate families, or to facilitate economic land concessions, among others (The Council for the Development of Cambodia, 2003). Five years after the implementation of the 2001 Land Law, the government was yet to authorize a single land concession leading to the further alienation and tenure insecurity of indigenous people and subsistence farmers (Williams, 2009). By 2003, there were many allegations made against politicians, military, militia, and police who were accused of stealing large swathes of land and selling them or forcing people off of their own land (Roberts, 2008). These issues were aggravated by a growing population, interest in agribusiness, corrupt appropriation and theft which undermined the rule of law and left the legal protection of rights unaffordable for many (Roberts, 2008). The whole government system was undermined by corruption, nepotism and cronyism whose roots are traced back to patronage networks of the early state (Robert, 2008; Chandler, 2008).

The Tonle Bassac eviction of June 2006 is an indication of how HLP rights should be considered a human rights issue (Williams, 2009). A total of 1200 families and 6000 people were evicted from Phnom Penh, because they were considered to be illegally occupying the city

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4 A social land concession is a legal mechanism for the transfer of private state-owned land to the poor who lack land for residential and farming purposes (The Council for the Development of Cambodia, 2003).
5 The Tonle Bassac eviction was a highly publicized incident in village 78, a narrow strip of land on the edge of the former Sambok Chab squatter at the site of the Tonle Bassac river near Phnom Penh (Barton and Sokha, 2006).
as urban squatters, to inappropriate settlement areas outside of the city (Williams, 2009). These families no longer had access to any of the infrastructure or opportunities that were afforded to them by being in the city (Williams, 2009). Privatization of previously distributed land served to eliminate the threat presented by the pre-1979 claims to HLP resources that had become important factors to retaining loyalty to the countrywide CPP patronage network (Williams, 2009). In 2003, the CPP used the elections as a tool for legitimation of their undisputed control and unbroken rule of the past 3 decades (Williams, 2009). They have been violating rights on a systematic scale through policies that were deemed integral to the political and economic systems of the government (Williams, 2009). These policies have manipulated the democratic processes, undermined legitimate political opposition, and used the state for the accumulation of private wealth (Williams, 2009). Currently, the greatest threat to Cambodia’s political stability is their lack of protection of HLP rights. Their policies have encouraged socially destructive patterns involving land-grabbing, speculation, unchecked exploitation of natural resources, neglect of growing slums in the capital and other urban areas and forced evictions (Williams, 2009). The UNTAC has established a pattern of international deference to Cambodia’s often illiberal leadership in this crucial area of human rights and the rule of law (Williams, 2009).

3.3.2 Current Government

There are two problems that are identified by Chandler (2009) for Cambodia to achieve ‘ownership’ of the state-building process. The first is that international intervention is necessary in situations where existing governments are too weak to formally attain ownership of the state-building process. Secondly, there are time constraints with international intervention and state-building is a process which takes many years to achieve (Chandler 2009). The state-building initiatives which have emerged as democratizing missions following the Cold War period have since failed. According to Roberts, this is because ‘transitional superimpositions of democratic practice’ do not achieve the same results as transformations that are derived from the ‘needs, experiences, histories and evolutions’ of a nation whose histories are so deeply different from that of Western democratic nations (Roberts, 2008). For nation state-building to be transformative it must consist of penetrative interventions with control over the direct reformulation of political institutions reflecting the sustainable and meaningful democratization
and economic liberalization (Roberts, 2008). However, for Cambodia it is difficult to discern whether such a result is desired and if so, by whom is it desired?

In the countryside, there is very little understanding of what democracy means other than from their encounters with politicians who need their vote. Around 87% of the population lives outside of the major cities in rural areas excluding them from the areas where the most social and political activity occurs (Roberts, 2008). The narrowing gap between the state and the citizen, fueled by the state-building process and democratization initiative, creates tensions within new social contracts (Roberts, 2008). In Cambodia, Western democratic institutions are able to coexist with social and political relations that in practice continue as they did before (Roberts, 2008). In practice, state-building in Cambodia has been closely tied to property rights and one of the UNTAC’s main reasons for pushing the state-building agenda was for the development of Cambodia. The IMF and the World Bank have encouraged a form of development which prioritizes freedom associated with property and land rights as one of the most important entitlements of socio-economic relations (Roberts, 2008). Although Western rule of law concepts brought the sense that land was an ‘entitlement’, in pre-capitalist societies, this notion is difficult to grasp given the pressures of large-scale agribusiness to extend legal forms (Roberts, 2008).

State-building in Cambodia seems to have been made of the series of tensions, contradictions and conflicts which it initially intended to manage. Often, the conceptions of state-building when associated with international intervention especially, is a result of idealistic thinking and utopian imaginings of society. Unfortunately, the very need of international interference indicates that post-conflict states are underpinned by structures that could impede the development of a Western democracy. In Cambodia, we have seen that institutionally the State is build on a model which promotes peace, democracy, stability and security while in reality the patterns of cronyism, corruption and nepotism continue to dominate social and political interactions. This is why Roberts (2008) suggests that State-building in post-conflict nations must follow a hybrid model which seeks to incorporate the ideals of state-building but from a social acceptance of differing state building programs or processes. The government has developed through the state-building process as highly centralized by mechanisms that have shaped the appearance of a liberal democracy.

In 1999, after ensuring the stability of its government, Cambodia began its regional integration by joining ASEAN (Chhnon, 1999). ASEAN is made of two groups divided based
on their development targets. Cambodia is part of the second, less-developed grouping and has continued to attempt to catch up with ASEAN countries in group 1 (Chhnon, 1999). It has not met all of the qualifications to enjoy the full benefits of membership (Chhnon, 1999). Regional integration is meant to lead to many development opportunities for Cambodia through political and economic harmonization (Chhnon, 1999). Cambodia’s regional integration is set to attract Foreign Direct Investment (FDI) by enhancing investor confidence (Chhnon, 1999). Cambodia sees ASEAN integration as an opportunity to stimulate domestic economic and institutional reform which will enable the country to become competitive and to participate in larger-scale global economic cooperation (Chhnon, 1999). For many investors, Cambodia is seen as attractive by investors because of its strategic geographic position between the Mekong 6 and because of its ease of investment with lenient investment policies (Chhnon, 1999).

By 2007, state-society relations were influenced by 3 factors: economic boom, resource distribution and the electoral cycle (Hughes, 2008). The government began pursuing the development of special economic zones6 along the borders of Vietnam and Thailand (Un, 2013). Although the GDP experienced a growth of 9%, the distribution of that economic growth remained highly unequal (Un, 2013). There were disproportionate benefits to those occupying urban areas and cronyism within the government received greater attention from human rights agencies (Hughes, 2008). This is evidenced by the high incidence of land disputes with widespread dispossession and alienation across the country (Hughes, 2008). The Global Witness organization ascribed 29% of the destruction of forest cover in Cambodia to what they have called the ‘kleptocratic elite’ (Hughes, 2008). Since 80% of households hold no title and are easy to displace, fear of land-grabbing and land loss became a widespread issue. During election time, the government tends to make promises in an effort to retain popularity and ease the grievances of the population (Hughes, 2008). Prime Minister Hun Sen stated that he would begin cracking-down on land-grabbing whose only action led to the arrest of CPP rival Chea Sim (Hughes, 2008). The government released a sub-decree on evictions legalizing forced evictions especially of urban squatters (Hughes, 2008). Cronyism within the government meant that Cambodian Tycoons who are linked to the ruling party are well-placed to cash-in on land deals with foreign investors particularly from China (Hughes, 2008).

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6 A Special economic zone (SEZ) is a geographical area that possesses special economic regulations that are market-oriented and conducive to foreign investment (Opendevolopmentcambodia.net, 2015).
It became clear that land grabs were a monumental issue in Cambodia when nearly half a million people were affected by land conflicts by the year 2010 (Licadho, 2014). The land issue was revealing itself as a governance issue which fueled the government’s decentralization initiatives (Un, 2013). International and national opposition pressures pushed for government decentralization and de-concentration as well as the reconfiguration of political parties in order to decentralize the state’s power and provide avenues for local governance to reflect local priorities (Un, 2013). Land conflict in the country escalated significantly community resistance against land grabbing flourished (Un, 2013). Community protests and mobilization were met by threats of arrest and violence by local authorities and government officials (Un, 2013). The absence of private and communal land titles, in combination with economic land concessions that have awarded foreign and local firms with hundreds of thousands of hectares of land, have exposed the ambiguity of land policies, the weak implementation of laws due to corruption, cronyism and patronage networks (Un, 2013). Between 2009 and 2012, 623 cases of land conflicts were recorded, among them only 10% were taken to court (Un, 2013). Villagers across the country have taken multiple actions to resist land grabbing such as filing petitions, defying eviction notices, engaging with media advocacy, and protests (Un, 2013).

Government responses to this varied, in one particular case in Kratie, the repression of opposition groups became severe and violent (Un, 2013). Villagers who refused to give up their lands were labeled anarchists and the crack down which ensued resulted in the death of one young girl (Un, 2013). Human rights activists and journalists were targeted as instigators of a secessionist movement resulting in the arrest, trial and conviction of Mom Sonando, the director of a popular radio station who was sentenced to 20 years imprisonment for reporting on the story and allegedly continuing the anarchist scheme (Un, 2013). Prime Minister Hun Sen feared that the land conflict would produce a peasant revolution and threatened to dismiss any officials involved in illegal land deals (Un, 2013).

The Prime Minister implemented a land titling program, signaling the beginning of Cambodia’s push for formal registration and the state simplification process discussed by Borras and Franco (2013), with the support of the World Bank called directive 001 (Un, 2013). Land and property regimes in Cambodia have gone through a number of changes during the nation’s modern history (see table 1). The formal land registration process of the current government has
been met by a lot of criticism from indigenous communities and civil society.

Table 1: Overview of the land and property regimes and land administration in Cambodia since the pre-protectorate time (Thiel, 2010).

<table>
<thead>
<tr>
<th>Khmer feudal</th>
<th>Protectorate rule / monarchy/ republic</th>
<th>Radical maoist</th>
<th>Socialist</th>
<th>Market system / representative democracy</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Possession through use</td>
<td>No private possession</td>
<td>Possession through use</td>
<td>Prior possession required for ownership</td>
</tr>
<tr>
<td>No formal registration required</td>
<td>Formal registration started</td>
<td></td>
<td>Formal registration required</td>
<td></td>
</tr>
<tr>
<td>Taxes on crops</td>
<td>Taxes on land</td>
<td></td>
<td>Taxes on land – partially implemented (e.g. transfer tax, unused land tax, property tax)</td>
<td></td>
</tr>
</tbody>
</table>

One thousand one hundred students were paid through Hun Sen’s personal funds to survey land in conflicted concession areas and begin the land titling process for villagers (Un, 2013). There were many issues associated with this land titling project for indigenous people. The youth were trained to encourage people to accept private land titles for their land stating that the process to secure a private land title would be faster then the process to procure a communal land title (CIYA, 2013). Indigenous communities also complained that the youth hired to measure the land did not measure the land properly and reduced the number of hectares owned by communities in their reports (CIYA, 2013). With very little information regarding the land titling process aside from what they heard from the youth, indigenous communities did not have the right tools to make an informed decision about the formalization of their land rights.

3.3.3 Foreign Investment and the Kleptocratic Elite Power

Kheang Un describes the politics of Hun Sen as satisfying a bias towards China’s investments (2013). China’s involvement in the contemporary land grab in Cambodia and in Southeast Asia has raised questions about the value of land and the strength of land claims depending on the stakeholder. The elites of Southeast Asia, and particularly of Cambodia are crucial to the discussion of land rights and the ways in which access to rights is mediated by cronyism and other forms of extralegal or illegal activities. Laos, Vietnam and Cambodia are all
committed to liberal political values however, they have all embraced by virtue of an elite decision, market-oriented national economic policies (Gainsborough, 2012). At the heart of these political cultures are heavy doses of elitism and paternalism which have emerged through narratives that revere the goodwill and high moral capacity of those in authority (Gainsborough, 2012).

During the early Cambodian state, the dynamics between the “Okya” and the King offers a historical foundation for the cultural and political manifestation of cronyism and patronage which continues to emerge (Chandler, 1983). During King Sihanouk’s reign, which was deemed as the ‘golden era’, the King was viewed as a demi-god and any form of dissent was immediately eradicated forcefully (Chandler, 1983). The King was and is also widely beloved and when he died in 2013 crowds of people infiltrated the streets weeping and mourning his death despite the fact that he had politically fallen out of favour (Gainsborough, 2012). The impersonal checks and balances favoured by liberal tradition serve as key restraints on power that do not form the social fabric of the nation (Gainsborough, 2012). Gainsborough suggests that donors who encourage the implementation of liberal institutional reforms neglect to see the reality that local elites either lack interest in applying these reforms or find ways of interpreting reforms in non-liberal ways (2012).

Elites have applied their power to the law in order to manipulate the powers of exclusion in their benefit. By applying power to the law using Tuori’s conceptual framework for power, elite Cambodians have tipped the scale in their favour and in so doing led to the dispossession of indigenous communities. The links between local elites and government officials are made on the basis that elite experience offers insider access to business opportunities that are associated with marketization and globalization (Gainsborough, 2012). Land-grabbing in Cambodia has proven to be a path to instant riches for many government officials through their partnerships with elites (Gainsborough, 2012). The link between Cambodian elite and government officials surfaced at the outset of the creation of the Cambodian elite (Martin, 1994). Inequality is high in Cambodia and the top 1% own 20-30% of the land (Gainsborough, 2012). The increasing sale of Cambodian land to the small number of Cambodian elite that are attached by personal relationship to the high-ranking government officials, facilitates increasing gains for the rich and continued marginalization of the landless poor. This has given rise to protest and the emergence
Chapter Three: The Situation- Background and Context

of a disgruntled civil society in addition to the portion of the population protesting against land conflict directly affecting them (Gainsborough, 2012).

Cambodia is ranked as the third most vulnerable country in the world to money laundering and it is the only Southeast nation considered to be at high risk for money laundering. For elites in Southeast Asia, Cambodian is seen as an open playground leading to the accumulation of large amounts of money with very little risk (Baird, 2014). A large part of the land rights grabbing issue in Cambodia is related to speculation (Baird 2014; Williams, 2009; De Schutter, 2011; Gainsborough, 2012; Borras & Franco, 2013). Baird unpacks the ways in which the Cambodian elite along with Asian money launderers and government officials have colluded to benefit from speculation on the prices of land in Cambodia (2011). In the 2000s, black money came to Cambodia from Korea, Taiwan and elsewhere meant to accumulate money based on real estate and housing (Baird, 2014). The investors would partner with Cambodian elites with strong connections to the government and would buy large pieces of land, advertising the development of large luxury housing developments (Baird, 2014). Land prices around the developments would skyrocket and the investors would swiftly sell the land at high profits and abandon their developments (Baird, 2014). The investors made huge profits on the land without investing any time and effort into the development of that land. Foreign investments such as these are awarded to foreign companies because their investments are seen as favourable to the development of the nation. But because of the empty promises associated with these investments, people previously occupying or using the land are displaced or dispossessed for no reason.

3.3.4 Indigenous people in Cambodia

The value and meaning of land varies whether you are a smallholder farmer, the state, a private company seeking investment or someone who identifies as an indigenous person (Li, 2014). According to the Asia Indigenous People’s Pact, access to land for indigenous peoples, is not only a major condition for their physical survival (AIPP, 2010). Both culture and the way of life of indigenous people are closely related to the territory in which they live (Inguanzo, 2014). If collective ownership of land is taken away or denied, there is evidence that both IP culture and worldview are destroyed (Inguanzo, 2014). At stake, is destruction or devaluation of the identity of indigenous people as members of a community (Inguanzo, 2014). For indigenous people around the world the issue of land, territories and resource governance is highlighted as one of 9 key rights issues affecting indigenous people around the world (World Bank, 2008). In today’s
corporatized world regime, land is a commodity whose popularity among international investors has become increasingly popular (Cotula, 2012). There are several news reports that suggest that the World Bank has participated in enabling a global land rush. By providing investors with information regarding ease of investment in nations with a large quantity of ‘under-utilized’ land, and with low barriers to investment, the World Bank has pointed investors in the direction of nations with equally low governance over land tenure rights (World Bank, 2003). For indigenous people that rely on swidden agriculture methods, land belonging to indigenous communities could be labeled under-utilized, thus becoming vulnerable to land grabbing.

The history of indigenous people in South East Asia is quite different from other parts of the globe. The ways in which ‘indigeneity’ has been conceived does not follow the same patterns of colonialism which marks ‘indigeneity’ in the Americas and in Australia, for example (AIPP, 2010). Indigenous people in Southeast Asia are not identified based on a colonial history or based on their ‘aboriginal’ relationship to a territory (Inman, 2015). Instead, indigenous groups are identified based on their relationships to other groups occupying the same area (Inman, 2015). Throughout history, the people, languages, cultures and religions have depended on waves of influence from both Indic and Sinic origin (Winzeler, 2011). The term “indigenous” was not historically used in the context of South East Asia to refer to the varied people’s groups (Padwe, 2013). In general, people were divided into two many groupings: the highlanders and the lowlanders (Padwe, 2013). The lowlanders were characteristically made up of less people with indigenous ancestry because of their mobility and access to port cities (Winzeler, 2011). In contrast, highlanders lived in the remote mountainous regions of Southeast Asia and were less exposed to the diversity of people, culture and language (Winzeler, 2011). Indigenous people as they are now known, were mostly characterized as highland people because of the shared culture and lifestyles of most highland people across Southeast Asia (Winzeler, 2011). The term “indigenous” was later adopted by highlander populations who have chosen to identify as indigenous in order to benefit from the international mechanisms that protect indigenous rights and to belong the global community of indigenous groups (AIPP, 2010). Indigenous populations in Southeast Asia bear cultural similarities to other indigenous populations, and in some countries, including Cambodia, states have recognized highland people of Southeast Asia as indigenous (AIPP, 2010).
Chapter Three: The Situation- Background and Context

There are 24 different indigenous peoples’ groups in Cambodia making up 1.6% of the national population (AIPP, 2010). Indigenous people live mostly in the Northeastern and Southwestern mountainous regions of the country (AIPP, 2010). These are remote areas that are not only geographically distant from the country’s urban centres (AIPP, 2010). Indigenous people were not formally recognized as indigenous people by the national laws and policies of Cambodia until the 2001 Land Law was formulated (Indigenous people in Asia, n.d). Until then, they were granted rights as citizens, to be treated equally regardless of “race, colour, sex, language, and religious belief”, under the 1993 National Constitution which was drafted under the UNTAC government (Indigenous people in Asia, n.d). In 2010, an indigenous community was granted a collective land title for the first time in the country’s history which provides them with protection against incidences of land grabbing or of economic land concessions which are granted for plantations, mining, and hydroelectric power dams (Indigenous people in Asia, n.d).

Inguanzo (2014) studies indigenous peoples’ rights in Southeast Asia, employing Van Cott’s ‘multicultural model’ to assess the quality of indigenous rights across Southeast Asia. Her assessment deals with the intersection of citizenship, minority rights and indigenous peoples. Van Cott’s model evaluates the rhetorical recognition of IPs as a distinct group, the recognition of IP customary law as an official public law, the collective property rights of IPs, the official status or recognition of IP languages, a guarantee of bilingual education and a recognition of self-determination within administrative-territorial autonomous regimes (Inguanzo, 2014). According to Inguanzo’s study, Cambodia is an outlier because no rights proposed by Van Cott’s model are included within its National Constitution. However, Cambodia is able to score high in the index of this study because of the 2001 Land law that recognizes collective land rights, indigenous customary law and political autonomy (Inguanzo, 2014). The General Policy for Highland Peoples Development was drafted in 1997 with provisions to ensure FPIC in the context of rural development. This provision was later removed before the adoption of the 2009 National Policy on Minority Development (Ehrentraut, 2011).

Decentralization of government institutions in Cambodia was sponsored by the World Bank since 2002 through the Rural Investment and Local Governance Project (Ehrentraut, 2011). The project aims to contribute to poverty reduction and rural development by supporting the provision of public goods and services at the commune level and to promote good governance (Ehrentraut, 2011). At the beginning of the project, Cambodia’s decision-making, a large
Chapter Three: The Situation- Background and Context

A proportion of its budget, and public activities occurred at the state level. The project’s aim to contribute to poverty alleviation and rural development through decentralization emphasizes the importance of providing decision-making and budgetary power to the commune level. In so doing, the project helps to support local government in providing citizens with access to public services relevant to community needs. This study highlights the particular affects of rural development on ‘highland people’ or indigenous people who may experience the negative impacts of local development projects funded by commune councils. Ehrentraut (2011) highlights concerns with regards to the various inequalities that have arisen in the implementation of this project for indigenous people due to the nation-building standardizing initiatives within the government. In an effort to make the process participatory and to involve a variety of voices, the presence of the Khmer majority alienated the potential participation of indigenous people due to the standardization of language in local meetings and in legal documents (Ehrentraut, 2011).

Studies were conducted by the WorldBank in an effort to minimize the negative impacts of the project on indigenous communities which brought up key priority areas of concern. The top concern for indigenous people was related to the destruction or degradation of their forests by armed outsiders leading to a difficulty in finding food and forest products to sell (Ehrentraut, 2011). The communities feared that development would allow foreign construction companies to encroach on their territory and possibly hurt or make community members feel uncomfortable or destroy their community forests. The efforts of the government along with the support of the World Bank to minimize negative impact have resulted in further marginalization through standardization of participatory mechanisms which benefit the Khmer majority (Ehrentraut, 2011). Decentralization contributes to the consolidation of institutions and structures which rely on the building of the Khmer nation-state built on the societal institutions of the Khmer majority culture by operating in Khmer language only (Ehrentraut, 2011). Without offering the proper mechanisms for participation in the shaping of Cambodia’s national development plans, the state threatens the existence and livelihoods of an already marginalized indigenous population.

3.4 Conclusion

This chapter begins by providing an overview of Cambodia’s modern history, pulling out four key patterns that continue to underpin the dynamics of the current government: patronage networks, embedded corruption, international influence and the nation-state
building process. Next, the chapter outlines the role of the UNTAC in building the country’s institutional and legal framework by managing a land restitution scheme that disproportionately benefitted the nation’s elite. The disparity between Cambodia’s laws and the implementation of those laws can be partially attributed to the lack of local ‘ownership’ of the state-building process. The influence of powerful actors on Cambodia’s legal and institutional framework has resulted in a cooptation of the state by both the international community and national elites whose particular interests have converged to include investments in the agrarian sector. Despite its classification as a liberal democracy, characteristics of current government: authoritarian, corrupt, and elitist, kleptocratic, and centralized with weak governance. The combination of these factors produces a political environment conducive to land conflict. Next, the chapter provides an overview of ‘indigeneity’ in Cambodia focusing on indigenous people’s attachment to land and their marginalization by the state across factors of geographic, cultural, economic and political distance. Efforts have been made by development organization and the Cambodian state to develop rural Cambodia, however, the profit-seeking development initiatives and opportunities have disproportionately impacted indigenous communities whose development priorities vary extensively from the state.

Chapter Four: Findings

4.1 Introduction

This chapter presents the findings of this thesis. Following the introduction, the second section begins by providing an evaluation of the Royal Government of Cambodia’s National Strategic Development Plan (NSDP) and the relevant laws and policies that protect indigenous people’s land rights in Cambodia. This section presents the priorities and strategies of the Cambodian state in terms of how it plans to use the country’s land, natural resources and labour force to meet its development goals. It clearly outlines the intentions of the Cambodian government for the rural sector which is presented as antagonistic to indigenous peoples in later sections.

Next, the second section presents three cases of land grabbing affecting indigenous communities. Two of these cases resulted in the forced the displacement of thousands of indigenous people for the construction of hydroelectric power dams, and one threatens to destroy
the spiritual forests and livelihoods of an indigenous community for intensification of agriculture. The first case presents the ELC affecting indigenous Kuy communities in Preah Vihear province. The second case discusses the construction of a hydropower dam in a protected forest in Koh Kong province. This hydropower dam, if it is constructed, will displace 1500 ethnic indigenous Jhong people in Areng Valley. The third and final case discusses the construction of another hydropower dam, this time on a major tributary of the Mekong river. The dam will directly affect the ethnic indigenous Bunong community of Stung Treng province, and will cause upstream and downstream impact throughout the entire Mekong region.

As discussed in this chapter, the development goals of the Cambodian state and of indigenous communities do not match. As the arch-custodian of rights, the state is the only entity that can protect indigenous people’s rights, whether enshrined in national laws or international declarations (Abass, 2012). Yet, the power dynamics affecting the content and implementation of the law manifests in powers of exclusion, constraining indigenous people’s access to land rights. This chapter outlines the power negotiation between the indigenous citizen and the state in the midst of land conflict. Paying close attention to the political, economic and social factors which affect indigenous peoples’ power negotiation with the state, key findings emerge explaining the terms of indigenous access to land rights in Cambodia.

4.2 Royal Government of Cambodia’s Laws and Policies

This section evaluates the social, economic and political impact of the Royal Government of Cambodia’s current laws and policies affecting indigenous peoples’ access to land rights. It examines the state’s neoliberal structure, the relationship between power and the law, and how that relationship affects indigenous people’s access to land rights. Drawing on the RGC’s National Strategic Development Plan (NSDP) from 2006-2010 and 2014-2018 focusing particularly on key elements of the Rectangular Strategy (RS) Phase III, four main themes and topics emerge: RGC’s commitment to the vision for the ASEAN community, modernization of the agricultural sector, increasing energy demands, and industrialization of the labour force. These themes and topics address the agrarian question seeking to understand the effect of capital on the countryside. The agrarian question will be employed here as a necessary tool for evaluating the RGC’s vision, its strategy, the resulting transformations in class structure and the commodification of land.
Chapter Four: Findings

The purpose of this section is to further contextualize the legitimation of land grabbing in Cambodia through an examination of the laws and policies that endorse investment in the agrarian sector. Of particular significance is the way in which these laws and policies serve to support the state’s power by the law that reinforces legitimation and regulation as powers of exclusion for indigenous communities. This analysis is further discussed in Chapter Five of this thesis.

4.2.1 National Development Strategic Plan and the Rectangular Strategy Phase 3

The NDSP is the overarching policy document for the development of Cambodia in pursuance of prioritized goals, targets and actions (NSDP, 2014-2018). The Rectangular Strategy (RS) is the document that outlines the development process of the next five years encompassing a variety of issues ranging from social, economic and human development to sustainable management of resources. Initial drafts of the NSDP prioritized growth, employment, equity and efficiency leading to Cambodia reaching the Millennium Development Goals (Royal Government of Cambodia, 2006). According to reports, Cambodia has made significant progress in reaching the Millennium Development Goals although there are still areas that require improvement (Mareth, 2012), (Royal Government of Cambodia, 2014). This progress has led to Cambodia’s vision to reach the status of upper middle-income country by 2030 (Royal Government of Cambodia, 2014).

The rectangular strategy is a complementary policy document that sets out an operational plan to reach the goals laid out in the National Strategic Development Plan (Royal Government of Cambodia, 2014). At the core of the RS is a commitment to ‘good governance’ with four strategic rectangles each with 4 strategic sides respectively (Council for the Development of Cambodia, 2013) (See Appendix Two). In order to achieve its vision, the RS is underpinned by a central theme of Growth, Employment, Equity and Efficiency (Royal Government of Cambodia, 2014). It is a blueprint guiding the activities aimed at long-term sustainable development promoting “economic growth, creating jobs, equitable distribution of the fruits of growth, and ensuring effectiveness of public institutions and management of resources” (Royal Government of Cambodia, 2013).

The four rectangles of the rectangular strategy encompass a commitment to the enhancement of the agricultural sector, further rehabilitation and construction of physical infrastructure, private sector development and employment generation, and capacity building.
strengthening human resources (Royal Government of Cambodia, 2013). All rectangles outlined in the rectangular strategy have an impact on indigenous people’s access to land rights because of the broader implications of the neoliberal structure of the government, which leaves little room for sustaining an indigenous ways of life. However, this study focuses on rectangles one, two and three, respectively: enhancement of the agricultural sector, further rehabilitation and construction of physical infrastructure, and private sector development and employment generation. This study draws on: rectangle one, side one - “Improving productivity and diversifying agricultural sector”; rectangle two, side three – “Development of the energy sector and electricity network”; and rectangle three, side one – “Strengthening private sector and attracting investments.” Inclusive of this strategy are the following relevant laws: the 2001 Land Law and the 2005 Sub-decree #146 on Economic Land Concessions.

4.2.2 Modernization of the Agricultural Sector

Rectangle one, side one of the rectangular strategy encompasses the government’s plan to modernize the agricultural sector. Inclusive of this plan is to increase production of rice; diversify farmers’ crops to include corn, cassava, sugarcane, cashew nut, peppers and rubber; promote the commercialization of agriculture stimulation of trade and export of value-added products (Royal Government of Cambodia, 2013). The modernization of the agricultural sector translates into agricultural intensification, focus of technologically advanced inputs, and cash-cropping (Royal Government of Cambodia, 2013). Encouragement for these policies are found in the 2012 National Report for Rio+20 “The Cambodian Government’s Achievements and Future Direction in Sustainable Development.” The report emphasized the role of modern biotechnology in improving production of living modified organisms (LMO) crops resistant to environmental pressures which threaten yield production (Mareth, 2012).

Modernization of the agricultural sector is a major threat to indigenous modes of agriculture that emphasize ‘extensification’ rather than intensification (International Labour Organisation, 2010). Indigenous people in Cambodia practice shifting cultivation or slash and burn cultivation. This mode of agriculture protects wild plants which are known to provide sustenance and the ashes from the burning provide important nutrients to the soil (International Labour Organisation, 2010). Shifting agriculture is a farming system that rotates fields and thus requires a large amount of land to remain idle at any one time. It is an environmentally sustainable practice that many indigenous people believe is important in protecting biodiversity,
and protecting forests against destruction (International Labour Organisation, 2010). Lowland populations and central government officials criticize the practice of shifting agriculture, calling it “backwards” and are eager to see the practice lose popularity with indigenous populations (International Labour Organisation, 2010). The Sub-decree #146 on Economic Land Concessions explicitly encourages the intensification of agriculture as one of its major purposes. In order to be granted an Economic Land Concession, a solicitor must prove that they have the intention of developing “intensive agriculture and industrial-agricultural activities that require a high rate and appropriate level of initial capital investment (The Council for the Development of Cambodia, 2005).” Additionally, the Sub-decree encourages increasing employment in rural areas through a framework of intensification and diversification (The Council for the Development of Cambodia, 2005). Despite the fact that article 25 of the 2001 Land Law protects the rights and lands of indigenous people even when land is fallow, according to the practice of shifting cultivation, it is clear that the country’s policies and vision for the enhancement of the agricultural sector do not see shifting cultivation as valuable (The Council for the Development of Cambodia, 2001).

The Royal Government of Cambodia’s strategy describes a commitment to the diversification of the agricultural sector naming food security as one of its major goals, emphasizing the diversification of crops that are priced highly on international markets and agricultural products for feed and food processing (Mareth, 2012). The rectangular strategy encourages the production of cassava, sugarcane, cashew nut, corn, pepper and rubber (Royal Government of Cambodia, 2013). Prices are increasing for crops like rice, soy bean and rubber and the country could take advantage of increasing production of these crops for export (Mareth, 2012). Whether these strategies are having a significant effect on the country’s food security remains to be evaluated. One of Cambodia’s main challenges in the enhancement of the agricultural sector is its lack of proper facilities for food processing and milling (Mareth, 2012). Crops such as rice and cashew nuts need to be milled and processed in neighbouring countries to be sold back to the Cambodian people (Mareth, 2012). These types of external processing within the value chain of products adds unnecessary costs to food products and due to indigenous people’s exclusion from these processes, they are unlikely to benefit from the development occurring around them (Mareth, 2012).
4.2.3 Job Creation and the Agrarian Question

As a result of Cambodia’s history and in the context of ASEAN integration, one of Cambodia’s main development obstacles is the lack of qualified human resources and a lack of job opportunities (Chon & Porn, 1999) (Royal Government of Cambodia, 2014). The National Strategic Development Plan harmoniously integrates its development goals and objectives through economic land concessions. Economic land concessions represent a major policy direction for economic growth, employment, equity and efficiency of the country (Royal Government of Cambodia, 2014). For the RGC, economic land concessions along with garment factories provide the country with an opportunity to fuel private local and foreign investment in the agricultural sector and to generate employment (Royal Government of Cambodia, 2013). Rectangle three, side one of the Rectangular Strategy Phase III discusses “encouraging investment in rural areas that will contribute to the development of the total economy” in order to close the economic gap between urban and rural areas and decrease the high incidence of urban and foreign migration for employment (Royal Government of Cambodia, 2013). Many economic land concessions in provinces which are predominantly populated by indigenous people are awarded to private companies for rubber production (International Labour Organisation, 2010). Transformations in the agricultural sector spurred by economic land concessions are seen as opportunities for development, job creation and poverty reduction (The World Bank Group, 2008). However, work for indigenous people as day labourers is not easily accessible due to major cultural and linguistic barriers (International Labour Organisation, 2010). Indigenous people are often illiterate and may not be able to speak or understand Khmer making it difficult for them to communicate with private companies for work opportunities (International Labour Organisation, 2010). Additionally, the lives of indigenous people depend on a special relationship to the nature and environment of their territories and the threat of eviction or displacement due to the politics of economic land concessions impedes the maintenance of that relationship (International Labour Organisation, 2010).

In the construction of Cambodia’s neoliberal and modernized structure, the nature of work for indigenous people is changing. Cambodia’s policies encouraging the modernization and intensification of the agricultural sector, pronounce the need for an expanded labour force, so-called primitive accumulation (Akram-Lodhi & Kay, 2010). Transformations in the agricultural sector result in inherent iterations of the meaning of land and its societal value. According to the
agrarian question discussed in previous sections, indigenous peoples that attach meanings of land in connection to their identities, experience dispossession either by displacement or by differentiation (Akram-Lodhi & Kay, 2010). Indigenous peoples, as they exist in Cambodia now, are excluded from this development model. Should transformations in the agricultural sector continue, indigenous people will be required to make significant changes in their way of life, an integral part of their identity echoing Marx’s theory of dispossession or differentiation (Akram-Lodhi & Kay, 2010). Cultural diversity, as it is manifested in indigenous populations through their traditional lifestyles, is neither desired nor accounted for by RGC’s current development plan.

4.2.4 Hydropower and Modern Energy Demands

The pressure to modernize the nation, particularly for rural development, translates to increasing demand for energy. Rectangle two, side three of the Rectangular Strategy Phase III outlines the strategic objective to expand the electricity supply and its coverage across the country through hydropower (Royal Government of Cambodia, 2013). The RGC’s goal by 2020 is to ensure that all villages in the Kingdom will have access to electricity supplied by the national grid (Royal Government of Cambodia, 2013). To reach this goal, the RGC will have to dramatically increase its energy production by more than double, leading to the construction of hydropower dams across the country (Royal Government of Cambodia, 2014). As of 2014, four hydropower power plants were constructed and operational with the total capacity to produce 772.2 MW (Royal Government of Cambodia, 2014).

Hydropower is “the cornerstone of Cambodia’s energy policy” with upwards of 10,000 MW under development (Mareth, 2012). Cambodia’s geography in the centre of the Mekong basin means that access to large rivers systems are both an essential part of the lifestyles of the majority of Cambodians including indigenous people, and considered a good opportunity for renewable energy development. Cambodia’s energy development plans make comprehensive use of the country’s river system with 50 percent of development on the Mekong mainstream, 40 percent its tributaries and 10 percent in the lower coastal regions (Mareth, 2012). These development plans will affect a river system that is fundamental to the livelihoods of many and hydropower remains a controversial policy priority due to its potential impact to “people’s livelihoods, food, security, environmental sustainability and forest degradation” (Mareth, 2012). The rapid nature of these developments in hydropower on the Mekong mainstream has already
had a serious impact on the countries fisheries production, a major industry for the country’s food security (Mareth, 2012). Estimates say that the entire Mekong has seen a loss of 550 000 to 800 000 tonnes of fish stocks as a result of the hydropower dams affecting nearly 200 000 Cambodians directly or indirectly (Mareth, 2012). Cambodia’s modernizing energy development plan is creating a need for transformation and change in the livelihoods of many Cambodian people. The infrastructure created under this energy development strategy does not only affect Cambodia but also has regional implications due to a heavy dependence on the river system by neighbouring countries.

4.2.5 Cambodia in ASEAN - Regional Integration

Regional integration is a high priority for Cambodia, a foundational element of its commitment to good governance (Royal Government of Cambodia, 2013). Cambodia’s neoliberal policies and strategies for growth are influenced by the ASEAN Community more broadly. Increasingly, Cambodia’s development strategy reflects the ASEAN vision for the 2015 ASEAN community. The ASEAN Charter defines how nation-states interact with one another according to their vision for the ASEAN Community and its three pillars: ASEAN Economic Community (AEC), the ASEAN Political Security Community (APSC) and the ASEAN Socio-Cultural Community (ASCC) (AIPP, 2010). Of particular interest is the AEC which emphasizes a single market and production base across the region through a free trade model (AIPP, 2010). The region’s vision is to become a highly competitive economic regional body through equitable economic development that is fully integrated into the global economy (AIPP, 2010). The priorities of ASEAN and consequently the RGC are leading to increasing gaps between the rich and the poor, visible in the short term, and a reluctance to engage with the rights of indigenous people in the ASEAN charter (AIPP, 2010). According to the Rectangular Strategy Phase III, increased integration in the ASEAN Economic Community by 2015 will:

“offer Cambodia opportunities to attract investments and expand its export markets through industrial and trade linkages as well as deepen physical and institutional connectivity with the regional and intra-regional production networks and supply chains (Royal Government of Cambodia, 2013, p. 6).”
Chapter Four: Findings

The structure of the Rectangular Strategy Phase III prioritizes deepening Cambodia’s integration into the region and the World contributing to ASEAN Community building by promoting the establishment of ASEAN architecture and complying with its agreements (Royal Government of Cambodia, 2013).

4.3 Case Studies

This section presents three case studies investigating land grabs affecting indigenous communities occurring through the Cambodian state’s development strategy. In particular, the section explores the power negotiation of indigenous communities affected by land conflict to determine if and how Tuori’s conceptual framework for power can be applied to the powers of exclusion articulated by Hall, Hirsch and Li (2011). All three cases present situations in which indigenous people are affected by the powers of exclusion, impeding their access to land rights. The purpose of presenting three cases is to outline three different types of land conflict. The first, in Preah Vihear province, is an economic land concession that has been awarded to a Chinese enterprise for agricultural development. This case offers the perspective of grassroots mobilizations against the land concession by Kuy indigenous community representatives and the few organizations that have supported their advocacy efforts. The second case, in Koh Kong province, presents a case of land conflict that has received a lot of media attention due to the campaigning efforts of environmentalist groups given its location within a protected forest. A Chinese company, once again, is involved in the development of a hydroelectric power dam whose construction will flood the protected forest as well as the land of ethnic indigenous Jhong communities. The third case, in Stung Treng province, presents the construction of a different hydroelectric power dam on a main tributary of the Mekong River. It’s construction is set to flood an area about half the size of Singapore for its reservoir displacing many ethnic minorities including ethnic indigenous Bunong people (Win, 2013). The dam will create significant impacts to the livelihoods and environment of the people living upstream and downstream from the dam. Despite the regional implication of the hydropower dam for both its impact and benefits, its governance structure has remained national in Cambodia.

Foreign investment has made each of these cases possible, however behind each investment is a powerful Cambodian tycoon connected to Prime Minister Hun Sen through personal relationships as exposed in a 2007 report titled “Cambodia’s Family Trees” by Global Witness.
4.3.1 Prame Commune, Tbeng Mean Chey District, Preah Vihear

I visited Prame commune in late February, 2014 during a harvest celebration. CIYA had organized a multi-community training on indigenous rights in the provincial town of Tbeng Mean Chey, Preah Vihear. I joined the IPHRDA team as their advisor and support. I also led the team on a research mission following the training as part of a study for the Expert Mechanism on the Rights of Indigenous People (EMRIP) established by the UN Human Rights Council. Indigenous community representatives from a variety of different ethnic indigenous groups from across the country came to learn about instruments and mechanisms of international and domestic law and advocacy strategies. On the third day of the training, those community representatives were invited by the Kuy families of Prame Commune to join the harvest celebration and ceremony in their community forest which was set to be cleared shortly after the celebration by a Chinese enterprise awarded an Economic Land Concession (ELC). The community representatives were first led to a site where 10 000 hectares of farm and forest land had been cleared and where a temple had been demolished (see figure 4).

![Figure 4. Site of an uprooted ancient temple in Prame Commune where a company searched for gemstones, March 2014.](image)

We met a small lady with multi-patterned clothing, dark skin, and her hair wrapped in a ‘krama’, a traditional Cambodian scarf. She emerged from a large blue tarp tent, the only flash of colour in the wide desert-like expanse, a once overgrown forest home to an abundance of plant and animal life. My coworker began translating for me: the small lady with the multi-patterned clothing had been squatting in the area to prevent the company from further excavating under the demolished temple. Standing on top of the whole in the ground where the
temple once stood, my coworkers and the community representatives that came along began
rummaging through the dirt. Apparently, there were precious stones found under the temple and
the company who had illegally logged this land was also planning to mine the area without
permission, effectively stealing the wealth of the indigenous people who had been visiting the
community temple for many years.

We carried on to our next site, another area set up with blue tarps this time in a field of
low brush. The community representatives all gathered around to hear about the advocacy
activities that the representatives of Prame Community had undertaken. A key supporter of the
community began to speak about the possible legal actions that Prame Commune could take in
order to protect their land. The community could hire a lawyer, file a complaint with the court
and pursue a trial to cancel the economic land concession and stop the deforestation of their
spiritual forests, community burial grounds and farm land. The question of whether or not the
community would be able to pursue legal action came down to finances. My coworker began
translating to me the responses from community representatives coming from provinces across
Cambodia. A Bunong woman from Mondulkiri, and a Kreung man from Ratanakiri began
encouraging the representatives of Prame to continue with their advocacy activities, expressing
their sincerest hopes that the community would be able to protect what is left of their forest. By
the end of the meeting under the blue tarp, the representatives began pledging their financial
support and the Prame commune was presented with a small but generous fund to pursue legal
action with the support of the national indigenous community. There was a real sense of
solidarity built during that meeting, and a recognition that if Prame commune is able to protect
their lands against the ELC, perhaps other indigenous communities would be able to do the same
in the future.

Finally, we had made it a few kilometres deep into the forest where the Kuy people of
Prame had set up a full celebration to give thanks to their spiritual forest for their harvest and
for their subsistence. Some men were sitting on a green tarp with traditional instruments playing
and singing with a small crowd forming around them (see Figure 5). A group of women were
peeling vegetables in a clearing in the forest, and another group of men were drinking rice wine
just beside them. Children were hanging from the vines and jumping into a small muddy puddle.
Soon the music became more rhythmic and the singing grew deeper and slower. The crowd
began gathering around an elderly woman all dressed in white. My coworker came to me to
translate what was happening. She told me that the elderly woman was calling on the spirits of the forest to embody her and to share their stories through her with the crowd. She took on the spirit of a soldier and a monk, for each one changing her clothing, modifying her movements to suit their characters and altering her voice as she explained stories from their lives.

![Figure 5. Kui indigenous people celebrating the harvest and worshipping in their spiritual forest, March 2014.](image)

The Prame community does not only depend on their land and their forest for their livelihoods. As indigenous people in Cambodia, their special attachment to land conveys a weaving of social, cultural and religious interaction. This is not only understood by the indigenous people of Prame, it is also understood by indigenous community representatives from across the country. The indigenous community representatives from outside of Prame equally understood this special attachment to land evidenced by their financial generosity and their encouraging words. For me, joining in the ceremony as a total outsider was a privilege. Witnessing the ceremony and celebration about mid way through my placement helped me to experience indigenous people’s connection to land mediated by the sense of community I had developed with my coworkers and the community representatives. I had heard indigenous people speak countless times about what land meant to them, and what dispossession of land would do to them. But it wasn’t until I had seen the interaction myself, that I was able to more fully understand the phrase “Dei Chea Chivit, Land is Life.”

4.3.2 Community Profile and description of land grabbing

Prame Commune is located in the central northern province of Preah Vihear (see Figure 6). There are three ethnic Kuy community villages affected by the land concession: Prame, Srey
Preang and Bus Thom. It is located approximately 20 kilometres from the provincial town and about 100 kilometres from the famous site of Preah Vihear Temple.

![Map of Preah Vihear Province](Figure_6_Map_of_Preah_Vihear_Province_Canbypublications.com_2015.jpg)

In the 1990s, land in Preah Vihear province was formally owned by local authorities and sold to private companies for forest logging (CIYA, 2013). In 1998, the first concession granted on the land of Prame Commune was to Chinda Fly Wood when the livelihood systems and processes of the Kuy people in Prame began to transform significantly (CIYA, 2013). The community struggled for years to cancel the economic land concession in the area. Finally in 2002 after the community protested and submitted their complaints to the Prime Minister, the economic land concession was cancelled (CIYA, 2013). There is a history of land conflict in Preah Vihear province and in some instances the conflict has turned violent. A violent conflict emerged in 2007 in a different part of Preah Vihear, Roveng district, when two unarmed people were shot dead by the military during the land eviction for the economic land concession in the area.
Government officials, alongside the military have historically assumed tenure of indigenous land and government policies such as the 2001 Land Law and the sub-decree on economic land concessions have institutionalized land grabbing. Villagers claimed that before the ELCs were granted in 2011, they had acquired individual land titles since the fall of the Khmer Rouge (Titthara, 2014). That same villager claimed that since the ELCs were granted to the companies, the villagers were called into the office of then commune-chief Thuon Nhem, who tore up their titles and claimed that they were no longer valid (Titthara, 2014). Nhem denied this claim in 2014, saying that he did “nothing like that” stating that it was “just an accusation” (Titthara, 2014).

There are less than 500 Kuy families in Prame Commune that are affected by the rights violations associated with the Economic Land Concession (ELC) of their spiritual forests called Prey Leng and Prey Preaj Roka (Titthara, 2014). The ELC was first awarded to Rui Feng, Lang Feng, Heng Yue, Heng Rui and Heng Nong companies in August 2011(Titthara, 2014). The Chinese enterprise adopted several separate proxy companies to circumvent the 10 000 hectare limit for ELCs as stated in the sub-decree on Economic Land Concessions (The Centre for the development of Cambodia, 2005). The companies already logged and sold much of the forest’s trees, a lake has been filled, and four temples have been seized (Titthara, 2014). Some reports have connected this Chinese enterprise to powerful Cambodian logging tycoon Okna Try Pheap, owner of the Try Pheap Group Co (VOA, 2015). Okna Try Pheap was previously a personal advisor to Prime Minister Hun Sen and is reported as controlling an illegal logging network with the complicity of government, military, police and custom officials (Gerin, 2015). Nearly 85% of Cambodia’s exports of luxury timber is destined for China and Try Pheap’s logging network are said to transport 900 cubic metres of luxury wood to China every day (Gerin, 2015). Try Pheap has been awarded 30,000 hectares in land concessions, nearly a quarter of the size of Hong Kong’s territory within Cambodia (Gerin, 2015).

The land awarded for the economic land concession is for agricultural development: planting cash crops such as rubber, sugarcane, acacia and pine trees (CIYA, 2013). Ever since 2011, Kuy families in Prame lead by a few key activists, have mobilized to protest the concession of their forest. The Kuy people depend heavily on their forest and farming lands for
survival. Families, mostly women, collect Non Timber Forest Products (NTFPs)\(^1\) from this forest. Their forest “Preay Preaj Roka” is also used for spiritual rituals and religious ceremonies.

The villagers of Prame reported that no information was provided to the community and no consultation with community members took place before the company began clearing land in 2011. A year after the ELC was granted to the five companies the community received a letter from the Minister of Rural Development Chea Sophara, stating that the area belonged to the people of Prame as a community forest (Titthara, 2014). Regardless, the community remains without a communal land title and there was also no environmental impact assessment (EIA) conducted by the company (Titthara, 2014). In 2012, the Prime Minister released Directive No. 001, a government initiative where youth were sent to the countryside to measure land and begin the land titling process across Cambodia (CIYA, 2013). Indigenous community members in Prame complained that they felt pressure to accept private land registration over the communal land titles they are entitled to under the 2001 Land Law (CIYA, 2013). At that time, approximately 30 families in Prame accepted private land titles thus relinquishing their collective land rights (CIYA, 2013). The rest of the families of Prame commune applied for a collective land title (CIYA, 2013). By 2014, the community still had not received a communal land title (Titthara, 2014).

In February 2012, more than 100 villagers gathered in the Prey Lang community to pray (Channyda, 2012). A representative at the gathering stated that if they lose their forest to illegal development they will likely lose their lives (Channyda, 2012). The villagers prayed that the spirit of Prey Lang forest would deter illegal loggers and watch over the forest leaving an offering of boiled chicken, pork and wine (Channyda, 2012). Representatives of the Prey Lang forest network explained that for the communities, losing their forest would be equivalent to losing their lives (Channyda, 2012). A few month later in May 2012, 135 families gathered to protest the economic land concession in Prame Commune after Lan Feng company employees encroached on indigenous community land (Chakya, 2012). Villagers complained that company bulldozers leveled their farmland while employees denied causing damage to farmland (Chakya, 2012). The villagers claimed that they attempted to stop the bulldozing but were unable to do so until they sought help from local authorities (Chakya, 2012). The employee of Lan Feng

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\(^1\) NTFPs are defined as all “biological materials, other than timber, extracted from forests for human use” (Ntfp.org, 2015)
Company stated that he accidently drove across the villager’s rice field but that no damage was done because the farmland had neither been sowed nor plowed (Chakya, 2012).

In August 2012, 145 Kui indigenous people demonstrated against the economic land concessions and stopped the companies from clearing land belonging to 20 families (CIYA, 2013). The next day, high ranking provincial and deputy governors along with the governor of the Forest Administration and district authorities called 95 community members to gather and discuss the land conflict (CIYA, 2013). Those officials agreed to seek support for the communities in resolving this land conflict and protect their forests (CIYA, 2013). Although the community members were promised that their forest would be protected, the company has continued to clear land in Prame commune (CIYA, 2013). Indigenous community members felt that the government officials have tried to dissuade them from continuing to pressure the government to resolve the issue and from their advocacy activities by promising them an appropriate resolution (CIYA, 2013). In many instances, community representatives and activists have been accused of opposing the country’s development policies and attempting to become an autonomous zone (CIYA, 2013). Local authorities often use this as a justification for the conflict even though community representatives have never suggested that they would like to set up an autonomous zone (CIYA, 2013).

In early January 2014, two indigenous rights defenders were threatened by local authorities that they would be arrested for their efforts to protect the land rights of Prame commune. The local authorities believed that the rights activists were outsiders stirring up trouble in the community by supporting protest activities opposing government policies. The two activists who were in fact from Prame community, fled into the forest to escape their unlawful arrest. Rights groups Adhoc and LICADHO were enlisted to support bringing the activists back to safety. Eventually the activists were able to return home, only after the police and local authorities questioned the activists’ families and workplaces. This situation arose around the same time that several protests opposing the government were stopped by violent police crackdowns. A garment factory worker protest in Phnom Penh on January 4th 2014 turned deadly, shortly after the Ministry of Interior issued a statement banning all protests and public assembly until public order was restored (Fuller, 2014). The government fear of opposition probably contributed to the intensity of the situation and the threats of arrest against the rights activists.
In January, 493 Kuy families moved into the forest about 20 km from all three villages in Prame commune to protect their forest from being logged for development (Titthara, 2014). Once the families moved into the area, the Chinese lumberman left the area and packed up their machinery (Titthara, 2014). Community members interviewed by journalists talked about the importance of preserving their community land for future generations and actively protecting their land until they were able to formally register their land under a community land title (Titthara, 2014). The villagers decided to move into the forest and to take matters into their own hands after saying they have not received help from the authorities. The deputy provincial governor Kan Vuthy, said that the local authorities “did not know how to settle” the situation (Titthara, 2014). In a conversation with the Phnom Penh Post, Nhem explained that if the villagers wanted a communal land title they simply need to tell the commune councilor how much land and they would measure it (Titthara, 2014). In response to community members who want the company to leave the land, Nhem asked “ How can we do that (Titthara, 2014)?” On January 28th, 2014, community representatives of Prame collaborated to draft a statement, to file a letter of complaint and a request for the Economic Land Concession to end. The statement and request letter were sent to the Ministry of Cadastral, the Ministry of Rural Development, the Council of Ministers, the King of Cambodia, the Ministry of Environment, and the Forestry Administration. Representatives of Prame Commune came to Phnom Penh to speak during a press conference about the issues afflicting Prame Commune in Preah Vihear addressing the issue regarding threats of arrest to the activists discussed above. Various members of civil society were invited along with a variety of media outlets. The members of Prame community that were most outspoken were the women. No government official responded to their letter of complaint or their requests.

In March 2014, 200 Kuy villagers in the bordering Chheb district blocked Rui Feng and Lan Feng tractors from bulldozing their rice crops (David, 2014). The district governor Ung Vuthy said that they received a letter from the Ministry of Interior spokesman Khieu Sopheak issued in February urging local authorities to resolve the dispute between the local villagers and the Chinese concessionaires (David, 2014). The letter also put pressure on local authorities to expedite the communal land titling process for Prame Commune (ANGOC, 2014). The local villagers blocking the bulldozers claimed that neither the company nor the local authorities had informed the residents that the land would be cleared (David, 2014). A representative of rights
group, Adhoc, stated that the company told the villagers they would work to resolve the issue after they cleared the land but, companies are required by the law to conduct and impact assessment and consult with the villagers before clearing the land (David, 2014). The district governor Vuthy confirmed that he had received the letter from the Ministry of Interior regarding finding a resolution but did not comment on any potential resolution (David, 2014). An employee at Lan Feng was contacted and was unable to comment on any resolution that might be offered (David, 2014).

In May 2014, the ethnic Kuy villagers of Prame commune filed a lawsuit against the Chinese company for destroying their ancestral lands demanding US $600,000 in compensation (Seangly, 2014). The lawsuit was filed to the provincial court by 367 Prame commune families. Each village in the commune has demanded US $200,000 for compensation alleging that the company has destroyed their “farms, community forest, ancient temples, and water resources” (Seangly, 2014).

In July 2014, the Kuy indigenous people of Prame community joined together for a press conference to call for support at the NGO Forum on Cambodia office for the cancellation of the ELC on their land (The NGO Forum on Cambodia, 2014). Representatives from 367 ethnic Kui families from three villages in Prame commune requested the support of NGOs in resolving the land dispute in the area (The NGO Forum on Cambodia, 2014). The community stated that their land had been destroyed by the two Chinese companies Rui Feng and Lan Feng without a proper environmental impact assessment or performing FPIC (NGO Forum, 2014). A representative of Prame Commune, Ms Tep Tem, explained that the community was offered two compensatory options from the company: to exchange land for money, or land for a different piece of land (The NGO Forum on Cambodia, 2014). The community of Prame called for justice at the press conference emphasizing they want their land back. They have requested that their land titles be rapidly registered by local authorities who have been slow to take action (The NGO Forum on Cambodia, 2014). The community representatives also expressed their frustration that local authorities have been slow to resolve the issue and to register their communal land, yet they have been actively opposing the activities of rights’ activists in the area and threatening to arrest community members attempting to protect indigenous rights. This press conference was the third press conference regarding the ELC in Prame Commune, still there has been no resolution in this case.
4.3.2 Tmor Bang District, Koh Kong

Tmor Bang District is in the southwestern province of Koh Kong, home to the Jhong or Chong indigenous ethnic group. They have lived in this area in the Cardamom Mountains for more than 600 years (Scheidel, 2015). Land in the area that was cleared for rice cultivation during the Khmer Rouge period has since returned to its natural marshland habitat (Conservation International, 2014). In 1979 the Jhong people were forced by the Vietnamese army to leave the valley and fled to Thailand (Conservation International, 2014). Slowly, the ethnic Jhong villagers have returned and see themselves as the original protectors of the valley’s forests (Conservation International, 2014). The Areng Valley is the most bio-diverse area in Asia, with the largest trees in all of Cambodia (Conservation International, 2014). The lives of Jhong people depend wholly on the land and its natural resources, they are farmers who tend livestock and rice fields, and they also collect Non Timber Forest Products. They rely heavily on the life-giving Areng river which they use for fishing, irrigating their farm, watering their animals and for daily domestic uses (Conservation International, 2014). The Areng river is also home to the dragon fish and the revered and dangerous siamese crocodiles unique to Areng Valley (see Figure 7) (Conservation International, 2014). Jhong people have strong beliefs in their spiritual forest named “Nek Ta Luong”. They pray to the forest to bring them peace and happiness. When the villagers first settled in the Areng region, many villagers died including the children. Once the villagers began praying to the forest, the deaths stopped which villagers believed was the cause of the peace and happiness that reigned in the area until conflict over the construction of the dam began.
Since 2006, three separate Chinese companies have shown interest in developing the Stung Cheay Areng dam in Koh Kong province as part of the RGC’s plans to construct 17 dams in the next 20 years in order to facilitate their rural electrification development plan as well as to begin to export energy (Scheidel, 2015). The first company, China Southern Power Grid, unveiled their plans to build a 109-megawatt dam in 2010, but pulled out of the project after learning about the environmental and social impact it would have on the area (Worrell and Seangly, 2013). Then another Chinese company, China Guodian Construction, took over the development before yet again losing interest after the project seemed economically unviable (Worrell and Seangly, 2013) (Scheidel, 2015). The environmentalist and activist group supporting the Jhong people in Areng Valley called Mother Nature, was founded in 2013, acting as the main civil society opposition group to the project (Scheidel, 2015).

In November 2013, Buddhist Monks from Phnom Penh marched into the dense Areng Valley and wrapped saffron clothes around large trees in the valley in an attempt to resist potential development in the area by foreign companies (Walker, 2014). At that time, a coalition of NGOs pleaded with Prime Minister Hun Sen and the Chinese embassy to stop plans for dam construction in the area and instead turn it into an eco-tourism site (Walker, 2014). Nevertheless,
in December 2013, resettlement studies were being carried out by another Chinese company at the site of the proposed Stung Cheay Areng Hydropower dam (Worrell and Seangly, 2013). A team composed of government officials and staff at a business firm from Phnom Penh arrived in the area to directly count the villagers and homes that would be affected by the dam (Worrell and Seangly, 2013).

Initially the team estimated that 400 families in three communes would be forced to relocate (Worrell and Seangly, 2013). Sinohydro Corporation limited took over the construction (Worrell and Seangly, 2013). At that time, Savuth, the district governor, said that he did not recall the name of the Chinese company commissioning the study or whether any plans had been made to expand the dam’s size from previous plans (Worrell and Seangly, 2013). The dam would be constructed at the edge of the Central Cardamom Protected Forest, destroying a highly biologically diverse area. International Rivers, an environmental group said the dam would force the relocation of at least 1500 people and flood the habitat of 31 species of endangered fauna (Worrell and Seangly, 2013). The Jhong indigenous people of Tmor Bang are likely to bear high economic, social, ecological and cultural costs due to the destruction of the Areng Valley for the hydropower dam. Profits linked to the hydropower dam will mainly benefit external actors, and most of the energy generated by the dam is designated for export to Thailand and to Vietnam (Scheidel, 2015). Although only 1500 people will be directly affected and required to relocate for the development, many other people living downstream from the dam would be greatly affected since they depend highly on the river for agriculture and for swamp forest fishery (Scheidel, 2015).

In March 2014, the dam concession was officially taken over by Sinohydro Corporation who began to carry out activities to prepare the area for the dam such as building an access road for heavy machinery to the proposed site (Channyda and Pye, 2014). Local authorities and the business firm that conducted the resettlement studies reported that they have carried out adequate consultations with affected communities and have submitted their impact assessment to the Ministry of Mines and Energy for review (Channyda and Pye, 2014). The governor of Thmor Bang district, Tou Savuth claimed that the villagers have learned enough about the construction and are satisfied with the construction, since there will be a study on impact assessment (Channyda and Pye, 2014). A Jhong ethnic community representative from Chumnap commune, Ven Vorn, said that the villagers have not been consulted about the construction of the
hydropower dam on their land (Channyda and Pye, 2014). Vorn expressed that relocation is not an option for the Jhong people since they may only get land to build a house but not to farm and they risk losing their ancestor’s spiritual land (Channyda and Pye, 2014).

In March 2014, the Phnom Penh Post reported that a powerful Cambodian couple is linked to the Sinohydro project in Areng Valley. The Cambodian People’s Party (CPP) senator Lao Meng Khin and his wife Sopheap are owners of the Boeung Kak Lake developer, Shakaku Inc and Pheapimex group respectively, they are listed as third-party governors of Sinohydro Cambodia United (Pye 2014). Meng Khin was granted the lease for US $79 milion development in the area of Boeung Kak lake where more than 1,500 families were forcibly evicted. This couple is also linked to the very lucrative logging industry in Cambodia and have been awarded ELCs, mining concessions, iron concessions, among others (Global Witness, 2007). In a Global Witness report (2007), Meng Khin and his wife were personally linked with Prime Minister Hun Sen’s wife Bun Rany as well as to the Minister of Commerce and the Director of the National Department of Customs and Excise (Global Witness, 2007). The couple is also linked to the Brigade 70 Unit, an elite unit for the protection of the Prime Minister, also serving as its counter terrorist unit (Global Witness, 2007) (See Appendix three). In total, the couple’s logging company, Pheapimex, controls 7.4% of Cambodia’s total land area (Global Witness, 2007).

Critics of the project have said that like other Chinese-Cambodian dam contracts, the Stung Cheay Areng Dam are geared to make profits for investors and contractors, and companies and officials are positioned to make a lot of money through illegally logging in the area (Walker, 2014). The construction of the dam for some, has pointed to being part of the ‘Chinese push into Koh Kong province’ in which an area seven times the size of Manhattan was cleared for a resort and casino developed by a Chinese company (Walker, 2014). Activists groups in the area, such as Mother Nature, have stated that they suspect that the project is motivated by the access logging groups would gain to the primary forest and luxury rosewood in the valley (Scheidel, 2015).

The department director of the Ministry of Mines and Energy, Pich Sayun, said that all of the assessments necessary had finished and that the families affected by the dam had agreed to resettle but the families were reported as saying that they had not actually agreed to move and began blocking the road to the site of the dam (Narim, 2014e) (Walker, 2014). In April 2014, the Jhong community of Tmor Bang District stood to block a road leading to Areng Valley after they
heard Chinese workers would inspect the site (Narim, 2014a). The villagers believed that construction of the dam would begin shortly and because of the profound negative affect it would have on their livelihoods they have consistently stopped the engineers and workers from transporting equipment to the site. A representative of the community said that community members in the villages were on standby to rush to the site to block the road if any Chinese workers began approaching the site. The roadblocks were kicked off after the Chinese company built a storage facility at the site of the dam (Seiff, 2014). Not even the Khmer New Year stopped the community from blocking the road, instead they brought instruments to the site and celebrated the New Year playing games, dancing and singing (Narim, 2014d). The community voiced concerns that the dam project is simply an excuse to gain access to the natural resources surrounding the dam such as possibly mines (Seiff, 2014). Villagers blocking the road have been accused of breaking the law, but the community insists that there are no laws against protecting their forest (Seiff, 2014).

In May 2014, the Ministry of Mines and Energy in Koh Kong province called a meeting with Sinohydro and representatives of the Jhong people in Tmor Bang District (Zsombor and Reaksmeay, 2014). The purpose of the meeting was to clarify that the dam construction had not in fact already been approved (Zsombor and Reaksmeay, 2014). However, activists in the area have stated that they are not convinced that the company will not begin construction soon (Zsombor and Reaksmeay, 2014). Following the meeting, the Jhong indigenous people in Thmor Bang district along with some indigenous representatives from different indigenous groups in Cambodia submitted a statement regarding the project. The statement was representative of 437 households across the three villages in Tmor Bang, Pralay, Chomnorb and Thmor Donpov including 1,401 people (Affairs, 2014). In the statement, the Jhong people refer to the negative impact they would endure if the development of the dam proceeded (Affairs, 2014). They go on to talk about the spiritual and cultural significance that they attach to the land and the endangered nature of their ethnic identity (Affairs, 2014). Listing and referring to the international and domestic laws and instruments pertaining to indigenous rights to land such as the UNDRIP, the 1993 Constitution of Cambodia, the 2001 Land Law, and the sub-decree on ELCs, the Jhong people attempt to remind the government of the social and legal contract they have established using the legal framework (Affairs, 2014). The statement finishes with a list of requests including the expedition of a communal land title for the Jhong community in Tmor Bang; to
stop the construction of the dam until the Jhong people have given their FPIC according to their customary decision-making process; if consent is given, to include the participation of the Jhong community throughout the project cycle; and to respect the international and domestic rights of indigenous people enshrined in legal instruments pertaining to indigenous people (Affairs, 2014). In May, community members continued to block Chinese workers and engineers from entering the site (Narim, 2014c). Ven Vorn, a community representative said that they did not even want to let engineers enter the site to study the impact of the dam because he believed they would likely falsify documents and report that the dam will have a smaller impact that it actually will (Narim, 2014c). A Licadho rights group representative said that the government should cancel the dam because it is clearly not in the interest of the local communities (Narim, 2014c). The director of the Koh Kong Provincial Mines and Energy Department said that authorities would take action if the villagers continued to block the roads (Narim, 2014c).

In June 2014, the army sent a new platoon to guard the area near Areng Valley just a day before local officials met with approximately 1,500 villagers affected by the dam (Narim, 2014b). The commander of the Royal Cambodian Armed Forces (RCAF), General Yon Min, stated that the platoon was created to protect people’s safety and security and to protect the government (Narim, 2014b). Jhong community representatives however, felt that the influx of forces served to intimidate villagers from attending the meeting (Narim, 2014b).

On September 30th 2014, the Ministry of Mines and Energy released a statement for “Clarification on the Chhay Areng hydroelectric project” saying that the project still only has ‘feasibility’ status and is not yet underway (Ministry of Mines and Energy, 2014). The statement included information about the impact of the dam on the forest quoting modest estimates with regards to the number of hectares submerged in the inundation zone citing that only 9,474 hectares would be flooded while all other sources estimate about 20,000 hectares (Ministry of Mines and Energy, 2014) (See Appendix Four). The statement also only mentioned that 1,318 people will be affected by the dam, while other sources indicate that closer to 1,500 people will be directly affected and 2,500 more will be indirectly affected by changes in river flows downstream that provides water for rice paddies and swamp fishing (Ministry of Mines and Energy, 2014) (Conservation International, 2014). This statement came just weeks after Sinohydro released a statement regarding the feasibility of the project after inviting experts and consults to review the impact studies and assessments that were previously conducted.
(Sinohydro Resources limited, 2014). The statement suggested that the experts had come to the conclusion that the project was feasible and that it would support Cambodia’s long term development and thus the project “will be carried out” (Sinohydro Resources limited, 2014).

In October 2014, the Ministry of Mines and Energy sent another letter of clarification stating that the project remained at the feasibility status and they were still conducting assessments before the project would begin (Ministry of Mines and Energy, 2014b). The statement also condemned activist and co-director of Mother Nature for making claims defaming high-ranking government officials connected to Sinohydro on a radio broadcast, stating that they were involved in corruption (Ministry of Mines and Energy, 2014b). The activist Alejandro Gonzalez Davidson was threatened that he would be sued (Ministry of Mines and Energy, 2014b). Shortly after, the Prime Minister Hun Sen assured the opposition leader, Sam Rainsy, that the project would “be left to future generations” (Pye and Cuddy, 2014). However, the Environmental Impact Assessment was nearing its completion and the company carrying out resettlement studies in the area began drafting a plan to resettle 1,300 ethnic Jhong villagers. Local officials including provincial, district and village officials in Pralay commune held a meeting to the discuss the dam (Cuddy & Titthara, 2014). The purpose of the meeting was to encourage villagers to accept their resettlement plan, only nine community representatives were present (Cuddy & Titthara, 2014). Two representatives asked the company to conduct assessments while the other 7 rejected the plan entirely (Cuddy & Titthara, 2014). The Thmor Bang district governor, Touch Savuth, admitted to attending the meeting but emphasized that the meeting was only a consultation to see what concerns the villagers had with regards to the development of the dam (Cuddy & Titthara, 2014).

In November 2014, the opposition party lawmaker, Pol Ham, asked the Environment Minister Say Sam Al, to answer questions about the dam in Parliament (Reaksmey, 2014). Pol Ham visited Areng Valley and met with the local people and become convinced that the ethnic Jhong community were adamantly opposed to the dam project which would flood their ancestral lands (Narim, 2014f) (Reaksmey, 2014). He requested that there be a specific law requiring an EIA instead of just a sub-decree since he believed that the energy produced by the dam would not justify the costs shielded by the local community (Narim, 2014f) (Reaksmey, 2014). He also asked that the government begin looking at dam construction in the region since dams in other countries are likely to affect Cambodian river systems (Reaksmey, 2014). Say Sam Al responded
asking Pol Ham to be patient and wait until a thorough assessment is conducted in the area (Reaksmey, 2014). The villagers worry that regardless of the result of the assessment the government will still approve the construction of the dam, especially since it was reported that the company backing the dam signed a contract with a Chinese construction company for the construction of the Areng Valley dam (Reaksmey, 2014). In December 2014, villagers blocked the company hired to conduct the environmental impact assessment along with 8 soldiers (Pye, 2014).

In February 2015, the activist opposing the Areng dam, Alejandro Gonzalez Davidson, co-founder and co-director of Mother Nature, was denied a visa renewal (Cuddy & Pye, 2015). Analysts and rights groups representatives were reported as saying that his visa was not renewed because he stands in the way of the government’s desire to build the dam (Cuddy & Pye, 2015). If Davidson is out of the way, analysts believe, the government does not expect villagers will continue to protest with such fervor as they have previously done with Davidson’s support (Cuddy & Pye, 2015). After refusing to leave, Davidson was arrested when Prime Minister Hun Sen warned him that if he did not leave on his own accord that he would be blacklisted (Oudom & Titthara, 2015). During the same speech, Hun Sen warned any of Davidson’s supporters whether foreigner or Khmer that they would also be punished if they tried to take action against the government in this matter (Oudom & Titthara, 2015). A day later, in Hun Sen’s first public speech about the dam the Prime Minister said that he did not want to talk about the dam anymore and that even if they studied the site until 2018, the construction of the dam is a matter for future generations to deal with (Titthara, 2015). When asked about Davidson, Hun Sen said that a foreigner from Europe should not talk about deforestation in Asia given what Europeans have done with their own forests for development (Titthara, 2015). Then Hun Sen joked about how he would deploy heavy weapons if the activists attempted to create an ‘autonomous zone’ (Titthara, 2015). Although it was joke, a small girl was killed in Kratie in 2012 after claims were made that they were attempting to form an autonomous zone in Kratie (Titthara, 2015). Hun Sen’s joke may have served to intimate activists by recalling an incident where the government exerted violent force on dissidents. Villagers and activists remain skeptical given the governments history at the district and provincial level of illegal logging and mining across the country (Titthara, 2015).
4.3.3 Kbal Romeas, Stung Treng

Kbal Romeas commune is located in the mid eastern province of Stung Treng in Cambodia, home to Bunong ethnic indigenous people. There are 697 Bunong people living in Kbal Romeas including 334 women. Kbal Romeas commune is approximately 100 kilometres from Stung Treng Provincial town which qualifies it as quite remote and removed from access to basic government services. The Bunong indigenous people in Kbal Romeas commune depend heavily on Srepok river, a tributary of the Mekong river, for fishing, daily domestic water uses, watering livestock and irrigating small gardens. Kbal Romeas village is comprised of 143 families, managed by 3 elders. They depend on their spiritual forest called “Rom Pey Loeur” for collecting Non Timber Forest Products (NTFPs) and for traditional ceremonies. They pray to the spiritual forest for happiness and for healing from illness. Each year, in March they celebrate the New Year with a ceremony in the forest. The Bunong people of Kbal Romeas are currently involved in a land conflict that has threatened their livelihoods, as well as their forest, farm and grazing lands. The construction of the Lower Sesan 2 hydropower dam in Stung Treng will flood Kbal Romeas commune to make room for its reservoir displacing thousands of indigenous and minority people (see Figure 8).

Figure 8. Map of the Lower Sesan 2 Dam and its reservoir (Mekong Watch and 3S Rivers Protection Network, 2013).
The Mekong River flows through China, Myanmar, Thailand, Cambodia, Laos and Vietnam (Win, 2013). Some of its tributaries include the Sesan, Srepok and and Sekong rivers in Cambodia. Damming of the Mekong river in other countries has dramatically transformed the livelihoods of 30 to 50 thousand Cambodians relying on the river for irrigation for agriculture, watering livestock, fisheries and other needs (Win, 2013). The Yali Falls Dam located 80 Km upstream of the Cambodian border in Vietnam has led to many issues downstream in Cambodia (International Rivers). Since the dam became operational, massive water releases in 1999 and 2001 led to flash flooding resulting in the deaths of 39 people, loss of livestock, and the destruction of rice fields and vegetable gardens (International Rivers, 2014). Initially the dam displaced upwards of 8000 people in Vietnam, since its operation effects felt by Cambodian and Vietnamese people led to public outcry that fueled governments’ engagement in discussions around the mitigation of the affects of the dam (International Rivers). For many ethnic minority groups in Stung Treng province, these discussion have led to ineffective strategies and thousands of indigenous groups have endured a loss of rice production, drowned livestock, loss of fishing income, among other issue as a result of the dam (International Rivers, 2014).

The Mekong River Commission (MRC) was set up as a regional consultative body to manage collaboration and cooperation internationally for the construction of mainstream dams (Win, 2013). Energy demands in the region are expected to double by 2030, and hydropower dams are appearing rapidly on the Mekong and its tributaries in efforts to meet growing energy needs (Win, 2013). One of Cambodia’s most controversial plans for a dam is the Lower Sesan 2 hydropower dam. Although the Lower Sesan 2 dam is likely to cause upstream and downstream effects in Vietnam and Laos, because the dam will technically be built on a tributary and not on the mainstream river, the developers did not need to consult governments in those countries (Win, 2013). The construction of the Lower Sesan 2 hydropower dam has regional implications in terms of social and environmental impact. Still, governance issues associated with the construction of the dam have largely ignored the regional implications of the dam in favour of Cambodia’s national interest. There is a tension here between the regional energy demands that have influenced Cambodia’s national strategic development plan to construct hydropower dams, and the authority exercised by the Cambodian state to make decisions outside of regional governance structures about development plans that will affect the region.
In 2007, a memorandum of understanding was signed between EVN and the RGC’s Ministry of Mines and Energy to begin conducting feasibility studies at the site (Mekong Watch and 3S Rivers Protection Network, 2013). By June 2010, after completing feasibility studies and an EIA the project was approved (Mekong Watch and 3S Rivers Protection Network, 2013). In April 2011, the Cambodia-Vietnam Hydropower Company was established as the dam’s developer, a joint venture between the Royal Group and EVNI (Mekong Watch and 3S Rivers Protection Network, 2013). The project is a build-operate-transfer project (BOT) meaning that in 40 years, the dam’s ownership will be transferred to the Royal Government of Cambodia (Mekong Watch and 3S Rivers Protection Network, 2013). In November 2012, Cambodia’s Cabinet approved the construction of the Lower Sesan 2 (LS2) Hydropower project located on the Sesan River in Stung Treng province (Mekong Watch and 3S Rivers Protection Network, 2013). News of the dam was met with opposition from environmental campaigners who believe the dam will cause damage to the river’s biodiversity and devastate the livelihoods of the local people (BBC NEWS, 2012). The government released a statement saying that the approval of the dam came only after thorough studies on the environmental and social consequences and that a clear impact mitigation plan had been devised to ensure that people would be resettled into newly built homes (BBC NEWS, 2012). An activist from 3S Rivers Protection Network (3SPN) explained that villagers do not feel they were adequately consulted about the project (BBC News, 2012). Activists have called the Lower Sesan 2 dam “one of the worst proposed dams on the lower Mekong Basin” warning the dam would affect the livelihoods of many and could even contribute to a food crisis (Win, 2013).

By March 2013, a company owned by the Royal Group’s Kith Meng, Ang & Associates Lawyer Co. Ltd., started clearing the land surrounding the dam for its reservoir (Mekong Watch and 3S Rivers Protection Network, 2013). Kith Meng is a powerful Cambodian businessman who has confessed his allegiance to Prime Minister Hun Sen describing himself as having very good relations with the government (Minder, 2008). The development is a joint venture between Cambodia’s Royal Group, China’s Hydrolancang International Energy, EVN International Joint Stock Company, and Electricity of Vietnam (Mekong Watch and 3S Rivers Protection Network, 2013). The Lower Sesan 2 dam is a large project that will have tremendous effects not only on the local population but on the entire Mekong river system in Cambodia and elsewhere. It is a 75 metres high dam with a 33, 560 hectare reservoir located on the Sesan River just 1.5 kilometres
away from its confluence with the Srepok. The EIA conducted for this project estimates that it will displace 4,785 villagers in 1,059 household from seven villages in four communes (Mekong Watch and 3S Rivers Protection Network, 2013). The exact number of villagers that will be relocated as a result of the dam is unclear, because a variety of sources (KCC, PECC1)\(^2\) have reported different numbers for Kbal Romeas ranging from 267-453 households (Baird, 2009).

In a village meeting in Kbal Romeas, every villager in attendance raised their hand to show their opposition to the dam construction (Baird, 2009). At the meeting, villagers expressed that they would not even take US $100 million in exchange for their land and that they would like to speak with Prime Minister Hun Sen to express their disapproval of the dam construction (Baird, 2009). The villagers cited the 2001 Land Law stating that the law affords indigenous people with the right to determine how their land should be used (Baird, 2009). The villagers expressed that the development of the hydropower dam will not improve their lives, but that people will no longer be able to carve a livelihood, which is closely linked to the river and land as a result of the dam (Baird, 2009).

Villagers began cutting down trees and selling wood in Kbal Romeas and upon hearing about the hydropower dam, and the government sent soldiers to stop the villagers (Baird, 2009). The soldiers stopped the villagers from cutting down the trees because they wanted to ensure that only the concessionaries would have access to those trees (Baird, 2009). This is evidenced by the soldiers’ ignoring the destruction of forests by concessionaries outside of their concessions in that same area (Baird, 2009). Since 2005, Kbal Romeas has been affected by land conflicts with economic land concessionary the Anmady Company (Baird, 2009). Villagers in Kbal Romeas commune were repeatedly promised by government officials and company representatives that only land surrounding the commune would be allocated for land concession (Baird, 2009). However on many separate occasions, the company encroached on community land by illegally logging the community forests. In those instances, the company or government officials would allocate a different plot of land to families affected by land-grabbing and then that same land would be granted to the company without informing the community or conducting any consultative meetings (Baird, 2009). In 2006, after villagers in Kbal Romeas, Srae Sranok and Chrab villages became frustrated with this situation they joined together to protest against the

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\(^2\) These are companies that have conducted studies on the impact of the dam who were hired by the developers. KCC is an acronym for Key Consultants Cambodia. PECC1 is a Vietnamese Power Engineering Consulting Joint Stock Company 1.
land concession (Baird, 2009). Two years later, four village men had to flee villages out of fear they would be arrested for leading the protests (Baird, 2009). The conflict of the economic land concession has led to a lot of mistrust in Kbal Romeas commune of government officials and the concession companies. As a result, the government resettlement and compensation plans have been met with a great deal of criticism and skepticism. Many of the relocation plans intersect with economic land concessions for rubber plantations and villagers believe that their new destinations will not include adequate agricultural land and that they will face similar conflict with concessionaries in the area (Baird, 2009).

In November 2012 and February 2013, local authorities called for meetings in all of the villages allocated to the dam’s reservoir area (Mekong Watch and 3S Rivers Protection Network, 2013). The four villages that would be resettled due to the reservoir area include Srae Kor 2, Kbal Sepan Srepok (Chrab), Srea Sranok and Kbal Romeas (Baird, 2009). The villagers that attended the meetings said that the authorities disclosed potential resettlement site option ensuring villagers that compensation would include both land for house and agriculture (Mekong Watch and 3S Rivers Protection Network, 2013). The villagers were skeptical and felt that the compensation and resettlement plans were ambiguous and lacked detailed information.

A study was released by NGO Forum on Cambodia in 2013 discussing the impact of the Lower Sesan 2 power dam. The study presents an overview of the resettlement process and the level of transparency and communication regarding the dam to affected villages (NGO Forum, 2013). Overall, the study concluded that only 69% of village or deputy chiefs said that they had heard about the resettlement (NGO Forum, 2013). Of the 69% who had heard about the resettlement, 35% met with the people in their villages to discuss resettlement but did not have enough information to disclose where they would be resettled (NGO Forum, 2013). When the villagers were asked if they would agree to leave if the government asked them to do so, 85.4% said they would abide by the government (NGO Forum, 2013). Many of those villagers responded that they would agree to leave but that they would not be happy about it (NGO Forum, 2013). Those villagers felt that it was their civic duty to listen to the higher-level leadership and not object the development project (NGO Forum, 2013). They also felt that they would have no other choice but to leave if all the other villagers agreed to leave (NGO Forum, 2013). If their land is flooded, they would need to leave anyways so that they could live.
On June 3rd and 4th, 2013 community representatives and NGOs from across Cambodia, Vietnam and Thailand met together in Phnom Penh Cambodia for the Regional Public Forum on “Mekong and 3S Hydropower Dams: People’s Voices across Borders on the River Crisis and Way Forward.” The Forum was an opportunity for people affected by damming of the Mekong Region to discuss the impact of the dams on their lives, to share their experiences of resettlement and compensation, their advocacy campaigns, and their concerns regarding the vested interests of developers, investors and state actors on the development policies and plans in the region (Mekong and 3S Hydropower Dams, 2013). Attendees of the forum also expressed concerns over the “unequal sharing of benefits and impacts between upstream and downstream countries” with regards to building hydropower dams and weaknesses in estimating the true costs of the dams and their social and environmental impacts (Mekong and 3S Hydropower Dams, 2013). Many community representatives expressed concerns over the lack of participation they were afforded in decision-making processes on development and of compensation and resettlement plans and processes (Mekong and 3S Hydropower Dams, 2013). The participants then made recommendations to policy-makers, the MRC governments, Cambodian, Vietnamese, Thai and Lao governments, hydropower developers, financiers, investors, NGOs and CSOs, and journalists (Mekong and 3S Hydropower Dams, 2013). On January 13th, 2014, 8 community members from Kbal Romeas, including 3 women sent a request letter to the Ministry of Environment, Ministry of Land, National Assembly, Chinese Embassy, Council of Ministers, the Ministry of Rural Development, Ministry of Mining and Energy and the Hydrolancang Company Ltd to stop the construction of the dam.

Community representatives in February, 2014, presented a letter regarding the policies and mechanisms they received from the Ministry of Industry, Mines and Energy in January. Representing 12 villages in 4 communes of the Sesan District in Stung Treng, the letter rejected the mechanisms and policies that required villagers to relocate by forced eviction without consultation regarding the resettlement and compensation processes and plans of the government. The mechanisms and policies indicated that the villagers would not participate in formulating the compensation plans nor would they be able to express their opinions regarding the plans once they are revealed. The letter indicated that the community requested that the government open free public forums and consultation between the local communities, dam developers, and government officials in order to engage the communities in meaningfully
contributing to their settlement plans. They also requested that since the Hydrolancang company is from China, that they should implement China’s “Guidelines for Environmental Protection in Cooperation and Foreign Investment.” On February 28th, 2014 the community joined together to pray that the construction in the area would stop at “Nek Ta Krohorm Ka” spiritual place. More than 100 women participated in this event.

On April 7th, 2014 community members joined in a stakeholders’ consultative meeting to discuss the development policies of the Cambodian and Chinese governments to ensure appropriate compensation for community members of Kbal Romeas. Sixty-five community members attended the meeting including 34 women (Seangly and Pye, 2014). In July 2014, community representatives from 8 communities including Kbal Romeas, called on the developers of the Lower Sesan 2 hydropower dam to postpone the construction of the dam for 5 years in order to devise a “comprehensive resettlement scheme” (Seangly and Pye, 2014). A government official denied their request, stating that the project plans have been carefully developed and will benefit “the whole nation (Seangly and Pye, 2014). The indigenous Bunong villagers have opposed the dam stating that relocation will lead to the flooding of their ancestral graves within the dam reservoir basin and will damage their ethnic identity and tradition (Seangly and Pye, 2014). The Stung Treng provincial administration director, Doung Pov, responded to the villagers saying that their request would not be considered (Seangly and Pye, 2014). Pov’s view is that the dam will benefit all Cambodians and that the government is not “stupid enough” to relocate villagers to land they will not be able to farm (Seangly and Pye, 2014). In the same month, it was reported the officials that were involved in negotiating compensation between the dam developers and the affected villagers of the Lower Sesan 2 power dam received a 10 to 20 percent “tip” cutting from the compensation of the villagers (Seangly and Pye, 2014). Doung Pov, the provincial administration director, claimed that the money that negotiators received was voluntarily offered by the villagers (Seangly and Pye, 2014). In response, Moa Porn, the project manager of a local NGO that has been supporting the affected communities stated that villagers were pressured into accepting lower compensation that what they felt they deserved and that officials took 10 percent without consulting the families (Seangly

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3 The Guidelines for Environmental Protection in Cooperation and Foreign Investment which that ‘any activity or development project that harms or affect identities or spiritual places of Indigenous Peoples should not be implemented’ (Communities affected by the Lower Sesan 2 Hydropower Dam, 2014).
Chapter Four: Findings

and Pye, 2014). A coordinator from 3SPN stated that there is not legal authority for the provincial committee to get involved in the compensation negotiations (Seangly and Pye, 2014).

In September 2014, the villagers in Sesan district submitted a letter to the provincial governor, Kol Samol, explaining that they refuse to relocate and disapprove of the project. The villagers requested that the government find another way produce energy that will not result in their relocation (Cuddy and Seangly, 2014). In November 2014, the affected communities sent a letter to the President of the National Assembly of Cambodia, H.E. Samdech Akeak Moha Ponhea Chakrei Heng Samrin, reaffirming that they refuse to relocate. The letter include a brief description of their spiritual, economic and social attachment to the land and the river. They cite the Chinese government’s “Guidelines for Environmental Protection in Investment and Overseas Investment and Cooperation” (Communities affected by the Lower Sesan 2 Hydropower Dam, 2014). The letter finished by explaining that they believed development was supposed to make ordinary Cambodian people happier, and that the more educated and powerful people in the government should find a solution that supports indigenous communities rather than causes them to suffer. They asked “if LS2 were built near your house or at your ancestors’ grave, how would you feel? Would you not feel the suffering (Communities affected by the Lower Sesan 2 Hydropower Dam, 2014)?”

The latest developments in this case occurred in March, 2015. The affected communities from Ratanakiri and Stung Treng province joined together on March 2nd, to pray to the spirit of the river to create obstacles to stop the construction of the dam (Kunthear, 2015). A community representative believed that their prayers have already worked since some workers have fallen ill and slowed the construction of the dam (Kunthear, 2015). In late March, rights advocacy groups called for the construction of LS2 to stop until new EIA’s were conducted( Pye, 2015). There have been discussions indicating that the hydropower dam was redesigned (Pye, 2015). The changes include lowering the height of the dam and installing sluice gates affecting the size of the reservoir (Pye, 2015). The Ministry of Environment spokesman, Sao Sopheap, did not confirm that there had been any redesigns to the project, but said that the government should look carefully into whether or not a new EIA should be conducted (Pye, 2015). Finally, on March 30th, the villagers in the reservoir zone of the dam received confirmation that LS2 has been redesigned (Pye and Chakrya, 2015). The ‘design optimization will allegedly provide clean, safe energy with few downstream impacts’ (Pye and Chakrya, 2015). The redesign is meant to
maintain its total capacity while creating less of an impact. International Rivers and 3SPN among other groups have called the government to halt the construction of the dam in favour of a new assessment to which government officials have responded that they will discuss the issue during the National Assembly but cannot make any promises (Pye and Chakrya, 2015). On March 31\textsuperscript{st}, the indigenous Bunong villagers continued to refuse relocation but have asked that the company’s and authorities pay for the removal of their ancestor’s remains (Chakrya, 2015). The indigenous people in the affected areas “revere the spirits of the forebears through ritual and ceremonial burial (Chakrya, 2015).” A Bunong community representative stated that the company and high ranking officials have said that if the villagers choose not to move, that their land will be flooded and they will have nothing to eat and will starve to death (Chakrya, 2015). Another community representative said that the authorities may need to resort to violence since the indigenous ethnic groups will not leave unless they are compensated for relocating the sacred burial grounds. By this time, 70% of Kbal Romeas villagers had already accepted compensation and received an extra $200 per family for agreeing to move already, according to Stung Treng Governor, Kol Samol. The remainder of the villagers have stayed since they are hoping to receive funds for the reburial ceremony (Chakrya, 2015).

4.4 Conclusion

This chapter began by offering an overview of the Royal Government of Cambodia’s National Strategic Development Plan and its impact of indigenous communities. The modernization of the agrarian sector and the rural development policies highlighted in the NSDP create transformations in the countryside, as articulated by the agrarian question (see Chapter Two). Next, the chapter presented three cases of land grabbing affecting indigenous communities. The cases provide an understanding of the power negotiation between the indigenous citizen and the state as land conflict ensues. The purpose of presenting these cases is to examine the interaction between actors involved in land conflict in order to assess the dynamics of power that lead to the exclusion of indigenous people from access to their rights. The cases demonstrate scenarios in which indigenous communities struggle to hold on to their communal land and the ways in which they are excluded from accessing land rights.
Chapter Five: Analysis, Discussion and Conclusion

5.1 Introduction

The central question of this thesis is to explore the factors that affect indigenous people’s access to rights in Cambodia. The manifestation of the politics of the ‘global land grab’ in Cambodia has led to widespread land conflict. ‘Dei chea chivit’—land is life, is not only a captivating phrase, it indicates the special attachment and intimate relationship that indigenous people experience in connection with land. Society has recognized this special attachment in limited ways through the emergence of indigenous rights that are enshrined in domestic and international legal instruments. In discussing indigenous people’s access to rights, this study has thus unpacked two main bodies of literature (see Chapter Two, Section Two and Chapter Two, Section Three). The first body of literature frames this study’s framework in understanding “access to”. ‘Access’, in this study, refers to the opposite of exclusion, expressing a freedom from the ‘powers of exclusion’ that include the market, force, legitimation and regulation (Hall, Hirch, and Li, 2011). The second body of literature frames this study’s understanding of the politics the agrarian question and the phenomenon of the ‘global land grab’.

The legal framework of this study is employed in reference to where rights to land, territories and natural resources are formalized, and by what mechanisms they are enforced. In order for indigenous people to achieve access to rights, land, politics, and justice among others, they must be free from the powers of the market, regulation, legitimation and force that exclude them. The factors that determine the binary of exclusion, i.e those that gain access to land rights and those that do not, can be explained by Tuori’s conceptual framework for power. The disparity between the laws that protect indigenous peoples’ land rights, and the practices that lead to dispossession and displacement that are reinforced and reproduced by the law, are affected by power dynamics. Although indigenous people have rights to land, territories and natural resources, it is a question of how power functions within the legal framework that determines access to land rights for indigenous people. Underpinning the four powers of exclusion are three pillars describing the relationship between power and the law: power on the law, power by the law, and power in the law (See Chapter Two, section Two).
This thesis concludes that *access* to land rights for indigenous people in Cambodia is determined by the influence of the relationship between power and the law described by Tuori and manifested in the four powers of exclusion articulated by Hall, Hirsch and Li (2011). These dynamics of factors have led to land dispossession and displacement for indigenous people. Historical political, economic and cultural factors have manifested in the current neoliberal, capitalist structure of the Cambodian nation-state. Evaluating the modern history of the nation highlighted the influence of Cambodia’s elite, regional economic integration through ASEAN, and international donors and UNTAC as key actors exerting power on the law, by the law and in the law. Cambodia’s current government is centralized, hierarchical, elitist, despotic and has a weak democracy. The characteristics of the current government are the result of powerful influences institutionalized by the legal framework of the nation. The convergence of these factors have strengthened structures of exclusion making it very difficult for indigenous communities to breach them and negotiate power within them.

Just as Polanyi (1957) posits, transformations of the peasant class by way of the agrarian question, lead to counter-movements of resistance (See Chapter Two, Section Four). For the purpose of this study, resistance of the peasant class is reframed by the term ‘power negotiation’ as articulated by Cotula (2012a). Indigenous Cambodians affected by land conflicts that have emerged as a result of the powers of exclusion and reinforced by Tuori’s conceptual framework of power, are experiencing the necessary conditions for resistance and require a negotiation of how power dynamics institutionalize exclusion from their rights. Negotiating power is dependent on coercive and persuasive factors and also influenced by social, economic and political factors specific to relevant economic cycles (Cotula, 2012a). The purpose of this section is to isolate in what ways the factors of ‘power negotiation’ affect indigenous people’s access to rights across two dimensions, socio-cultural and political economy, using the legal framework of power established above. Indigenous people’s exclusion from land rights is the result of a failure to negotiate power. However, as this chapter presents, the failure of ‘power negotiation’ can be attributed to systemic and institutionalized patterns of the powers of exclusion within the legal framework, creating a rapacious cycle of indigenous dispossession.

Next, this chapter presents an evaluation of the global land rush and the agrarian question as it creates a framework for the value of land lying in contention with indigenous attachment to land in Cambodia. Although these phenomena are occurring in many parts of the world, this
section presents the interaction of the ‘global land rush’ and the agrarian question in conjunction with the particular institutional and legal framework of the Cambodian state.

Finally, this concluding chapter discusses wider implications for the normative development framework that has been applied to Cambodia by NGOs, CSO, and the international community through investment in the economic growth and political framework of the nation. Next, this section will provide brief policy recommendations to IPOs and to local and national level actors that would improve indigenous people’s access to land rights. Highlighting gaps in this study, I present areas for further research on this topic.

5.2 The Negotiation

This section presents an analysis of the findings presented in the previous chapter according to the four powers of exclusion described in Chapter two of this thesis. Using Tuori’s conceptual framework of power, this section examines in what ways power dynamics influence indigenous exclusion from rights. Indigenous people involved in land conflicts in Cambodia are negotiating power in an effort to protect their land rights. Negotiating power is dependent of a number of factors that are subject to the powers of exclusion. These powers of exclusion do not necessarily act independent of one another. But, this analysis presents them separately in order to adequately examine the ways in which each affect the dynamics affecting the power negotiation of indigenous people in Cambodia.

5.2.1 Powers of Exclusion: Use of Force

One of the factors that power negotiation depends on is coercive force, which is also a power of exclusion (Cotula, 2012a). The use of force as an exertion of power is only legitimately reserved to the state (Hall, Hirsch and Li, 2011). By exerting power by the law, the state legitimizes its use of force according to the legal instruments and mechanism of the nation, such that the entire purpose of the Cambodian police and soldiers is to enforce the laws and policies that the state has drafted. This is especially true of the Cambodian state given its history of continual repression of dissent. Throughout the cases listed above, there are many instances where the use of force is exerted by the state, either by intimidation or by violence. There are also many instances in which the use of force by indigenous groups is illegitimized by the state and subject to its punishment. For indigenous people in Cambodia, coercive power negotiation through the use of force is not an effective way to transform the balance of power and experience freedom from exclusion. In Roveng district, Preah Vihear, the use of force was unjustly
employed by government officials in 2007 when two unarmed people were shot dead during a land eviction (Licadho, 2007). Even though the state was acting outside of the law, and rights groups such as Licadho declared the issue an abuse of citizens rights, power was exerted and the state was not held accountable for its illegal actions. Indigenous citizens are not able to use the power of coercive force in the same way. In May 2012, when Lan Feng company bulldozers illegally cleared the farming land of villagers in Prame commune, the villagers were unable to stop the company until they sought the support of local authorities (David, 2014). Without the legitimate influence of government actors, the power of villagers to stop the company from bulldozing their land is both ineffective and illegitimate. Following the incident, when the company denied causing any damage to the villagers’ farming land, the villagers were faced with the illegitimacy of their claims in front of government officials whose job it is to enforce the protective nature of the law.

The coercive force employed by the state is also in response to fear of negotiation and of resistance from the peasant class. When the activists from Prame commune fled to the forest in January, 2014 to evade unjust threats of arrest from local authorities, the state was exerting a force of intimidation. Since the political climate was unstable during recent protests in the capital that had turned violent, the state suppressed any mobilization in opposition to state activities (Fuller, 2014). The indigenous activists experienced the use of force not only as a measure of the state’s power in and by the law. The cost of exerting force for indigenous people is quite high and achieves minimal returns. When community members moved from their homes in Prame and lived in tents and hammocks in their forest to protect the land from being cleared, the community had to make many sacrifices (Titthara, 2014). Young people needed to stop attending school either to become involved in protest activities or to take over the responsibility of other family members who had to stand guard of the forest. Families who left their homes also became subject to the effects of the elements in the forest unprotected by their homes. They slept through the cold night unprotected from malaria-carrying mosquitoes, or other creatures. By contrast, the mechanisms for the use of force by the state are accounted for by its institutional and legal framework. Soldiers and police forces, for instance, are wholly responsible for enforcing the laws of the country. The use of force by the state does not come as a sacrifice to the state, but it is part of their functioning.
In Koh Kong province, when villagers blocked the road from company workers who were trying to get to the site of the hydropower dam, they were threatened that the state would punish them (Pye, 2014). Shortly after, an influx of a platoon of soldiers were sent to Areng Valley either as a display of intimidation against the villagers or because the state wanted to be ready in case the villager’s use of force became violent (Narim, 2014b). Not only is the state’s use of force legitimate, it is institutionalized and potent probably as a function of it’s legitimacy.

The use of force by the state in some situations, is employed in response to other forms of power negotiation employed by the indigenous community activists. In Areng, when co-director of Mother Nature Cambodia accused the government of corrupt activities on a radio broadcast, the Ministry of Industry, Mines and Energy released a statement threatening the activist that he would be arrested for spreading invalid criticism of the government (Ministry of Mines and Energy, 2014b). The activist was calling on the influence of the regulatory force which impedes corruption in the government, and in response he was met with the exclusionary power of the use of intimidation. The use of force is not only physical, but it is also present within government rhetoric through intimidation and threats of the use of force. When Prime Minister Hun Sen addresses the issue of the Areng Dam saying that he does not want to hear any more talk on the subject, he is using his position through rhetoric to present the state’s unwillingness to engage citizens on the issue and to establish open communication with citizens whose primary concern is the construction of the dam (Titthara, 2015). When the Prime Minister makes a joke about rocket launchers in the same speech, he is also reinforcing the ease of the state to exert repressive and violent force. By referencing the notion that the people of Areng may attempt to secede, the Prime Minister is recalling a similar situation in Kratie that resulted in the violent death of Cambodian citizens. It is as if the Prime Minister is warning the villagers of Areng that the state would have no problem exerting violence to in cases where opposition to the dam became effective. Thus, the Prime Minister is strong-arming indigenous communities into quietly accepting whatever development projects that the state decides to endorse.

The government is able to present its irrefutable power to achieve its goals regardless of the necessary measures of force it must undertake, because the use of force does not require that high costs be paid by the state. When villagers in Kbal Romeas refuse to leave their land, the solution is simple. Government officials respond by saying that the land will be flooded for the dam reservoir, and that villagers will be force to evict the land if they want to live (NGO Forum,
2013). Unfortunately, for indigenous citizens, leaving their land is equated to losing their lives.
The ways in which power is negotiated by the state depends on the interests of the state.
Similarly, because indigenous people hold specific interests which are not integrated into the
institutional framework of the state, power negotiation results in further marginalization.
Indigenous groups are isolated from the capacity to use coercive force in the same way that the
state is able to, and power negotiation becomes ineffective due to the potent differences between
the kinds of force and the kinds of impacts that can be employed by both parties.

5.2.2 Powers of Exclusion: Regulation

The exclusive power of regulation relies on legal instruments and legal claims to land and
property as well as to the participation in decision-making processes (Hall, Hirsch and Li, 2011).
The Cambodian state is able to use the power of regulation firstly through its command of
power on the law. The content and implementation of the law sets the terms for the power of
regulation according to national interests. Secondly, the state engineers the power of regulation
using its influence on power in the law in which interpretations of national laws and policies are
made by the Cambodian state. Lastly, power by the law explains the ways in which law
reinforces the powers of regulation of the state thus legitimizing the actions of the state within
the law.

Chapter Four, section one of this thesis presents Cambodia’s National Strategic
Development Plan. The legal and institutional framework of the nation serves as evidence of the
powers of exclusion that regulation incurs in connection to the state’s power on the law. The
National Strategic Development Plan first emerged in 2006 with no participation from
indigenous peoples (International Labour Organisation, 2010). There are several barriers
mediating indigenous people’s access to the state for consultation or participation in policy-
making. Not only do indigenous people live at high geographic distance from the political centre
of the country, but they also encounter language barriers since the majority of strategic
discussions occur in Khmer¹ and in English (International Labour Organisation, 2010).
Government officials do not hold a comprehensive understanding of indigenous issues and many
perceive indigenous people as “backwards” limiting appropriate representation of indigenous

¹ An estimate regarding the percentage of indigenous Cambodians that could not speak Khmer was 73.7%
(Gregerson, 2009).
people in national laws and policies (International Labour Organisation, 2010). Drawing on a Marxist framework for primitive accumulation, Springer describes the way that national laws and policies concerning land in Cambodia have led to widespread land conflict (Springer, 2013). Since the implementation of the 2001 Land Law, land conflict has surfaced as a major issue facing Cambodia. Generally, land dispossession has been backed by the government through legal privatization or accumulation by ‘extralegal’ means (Springer, 2013). Here, the dynamics of Tuori’s power on the law and in the law play out in the Cambodian context. The power of indigenous people on and in the law is diminished by a variety of barriers described above. On the national, regional and international level, the politics of neoliberal restructuring manifest in the politics of power in and on the law. Increasingly, we are seeing what Springer (2013) calls the “State of Exception” where a sovereign power (i.e. the state) establishes rules and policies exhibiting ideals of capitalism, civilization and law while simultaneously transcending the authority of the rule of law given its position of authority. Given the close networks between state officials and national elites, this study conflates the two actors as their interests and their activities are so closely linked, especially concerning land grabbing.

In the cases presented in Chapter Four, government officials whose role it is to implement laws are able to manipulate the power of regulation. In Prame commune, when the ELC was awarded to Rui Heng and Lan Feng companies and the commune chief called villagers into his office to tear up their land titles, local authorities were exercising their power on the law by manipulating the implementation of the law using regulatory mechanisms (Titthara, 2014). Laws are entirely subject to its implementers. Even though Prame villagers had formalized rights to land, it was very easily taken from them in favour of the interests of the company as well as the local authorities. Although the 2001 Land Law protects indigenous people’s communal rights to land, there is a stipulation that if there is an opportunity that the land could serve the nation’s interest that land rights could be revoked (Council for the development of Cambodia, 2001). These conditional land rights undermine the capacity of indigenous people to rely on the power of regulation for the protection of their rights.

Cambodia’s laws are subject to the powers of outside interests. When the Chinese enterprise in Prame wanted to be granted a land-acquisition greater than the limit of 10,000 hectares as it states in the sub-decree on Economic Land Concessions, it created a number of proxy companies (Titthara, 2014). Power by the law is exerted when each proxy company is only
granted the land under the limit of the sub-decree on economic land concessions, yet the Chinese enterprise is still able to gain control of an extra-legal amount of land. The power of regulation to exclude indigenous people from access to land rights is highly dependent on the interests of those implementing the regulatory framework of the law. When Prame commune is subject to economic land concessions despite indications that proper environmental impact assessments are not conducted, this indicates that it is not the law which determines access but a lack of enforcement of the law. Further, when the Prame community waits years for a communal land title despite filling all of the necessary documents, there is reason to believe, that the communal land titling process is also subject to the interests of those that are able to wield power within the law. Just as community representatives expressed in a press conference, the community is frustrated that the government does not have the resources to produce a communal land title in a timely fashion, yet they are able to threaten and pursue land rights activists in the community for their legally sanctioned advocacy activities.

Similarly, activists from Tmor Bang who block the road against the land-grabbers are threatened that they will be punished even though they have broken no laws (Oudom & Titthara, 2015). Statements from community representatives in Areng Valley and in the Sesan district both cite the laws that protect indigenous people in an attempt to hold the state accountable to the laws that they have created. Their rights to communal land titles, to ownership, and to self-determination and control of the land, are subject to the question of access to land rights. And the state has excluded them from the benefits of regulation since power is negotiated within regulation to account for the interest of those regulating the laws. When villagers from Kbal Romeas call the Hydrolancang Ltd to abide by their own national legal instruments that protect indigenous people’s land rights from foreign investment, they are drawing on an assumption that those laws are enforced by a power negotiation that leads to mutual benefit rather than to dispossession (Communities affected by the Lower Sesan 2 Hydropower Dam, 2014). Yet without any enforcement mechanisms, the assumption that government officials or private companies will hold themselves accountable to regulation is optimistic. In situations where rights violations have already occurred, land is already grabbed, and enforcement mechanisms are ruled by rights violators, there is very little that can be done to achieve freedom from the exclusionary power of regulation.
5.2.3 Powers of Exclusion: Legitimation

The exclusionary power of legitimation is most effective for actors when it is exerted in conjunction with other powers of exclusion, namely regulation, market, and forceful powers (Hall, Hirsch and Li, 2011). The power of legitimation reinforces structures of inequality in support of actors at the top of institutional hierarchies (Hall, Hirsch and Li, 2011). Particularly in situations where state actors and communities present opposing claims, the conception of legitimation determines which claims are seen as valid (Hall, Hirsch and Li, 2011). When a meeting was called in Prame commune by government officials stating they will find a resolution to the land conflict. There is a power struggle in which the state calls on its legitimacy to reinforce claims about how it will support its citizens. The villagers of Prame that joined the meeting felt that the officials were trying to dissuade them from continuing their protest activities by appealing to the citizens’ trust that the state do what it promises (CIYA, 2013). Many of the citizens were skeptical of what the state would do to support them, however, the indigenous villagers of Prame have no other option but to believe what the state says because it is the only legitimate body that can address their concerns as the arch-custodians of human rights (Abass, 2012).

In Thmor Bang, there were several instances where dam construction activities persisted even though the villagers of Thmor Bang and either company representatives or government officials had opposing claims. When Sinohydro company finally announced that they had officially taken over the construction of the dam, both representatives of Sinohydro and local authorities expressed that they had conducted an adequate study of the environmental and social impact of the dam and that they had consulted villagers sufficiently about the development (Channyda and Pye, 2014). A community representative explained that many villagers were still uninformed about the development and they did not feel that the impact assessment conducted was adequate (Channyda and Pye, 2014). Despite the villagers claims opposing the thoroughness, accountability and transparency of the development activities, the company was allowed to move forward with their plans (Cuddy & Titthara, 2014). The words of the government officials were more powerful than those expressed by community representatives because they were legitimized (Cuddy & Titthara, 2014). The Ministry of Industry, Mines and Energy stated that the villagers in Areng Valley had agreed to be resettled but when the villagers were asked if they had really agreed to resettlement they expressed with certainty that they
would not like to move because they believed they would not receive adequate compensation and they could not allow the destruction of their sacred forest (Cuddy & Titthara, 2014). Despite the villagers opposition to their resettlement, the claims of the MIME that they did agree led to the progress of the development because of the legitimate quality of the state’s claims. In response, the community began blocking the road to the site of the dam. Regarding the number of people requiring resettlement, government reports included dramatically less people in their estimates. The villagers of Tmor Bang are aware of the exclusionary power of legitimation. They expressed their concerns that regardless of the results of the environmental impact or social impact assessment, that the project will proceed.

In Kbal Romeas, the construction of the Lower Sesan 2 dam was called the worst proposed dam in the Mekong basin by activists groups (Win, 2013). According to government officials, the construction of the dam was only approved after a thorough study on the impact of the dam was conducted (Baird, 2009). Villagers expressed that they did not feel that sufficient studies were conducted or that they were adequately informed or consulted about the project before and since the project’s approval (Baird, 2009). In a village meeting regarding the dam project, all villagers in attendance raised their hands indicating that they did not approve of the dam (Baird, 2009). In every opportunity that indigenous communities have been able to express their opinion on the developments in their communities, they have indicated their opposition. Villagers have also been instrumental in creating opportunities to show the government their opposition to the various development plans in their communities along with the support of NGOs and CSOs. Despite these countless claims to opposition, development plans have persisted because either the state or the developers have claimed that there was no opposition or that the opposition was illegitimate. When the villagers were asked if they are happy with the resettlement plans that were created for them, they expressed that they were unhappy but that they felt it was their civic duty to go along with the plans of the state. Despite the villagers opposition, the interests of the state were seen as legitimate even by the villagers who would bear the brunt of the negative impact of the dam.

Doung Pov reinforces his own legitimacy when he refers to the government as “not stupid enough” to resettle the villagers in a location that they will not be able to farm (Seangly and Pye, 2014). He calls on the legitimacy of the state to reinforce conceptions of trust (Seangly and Pye, 2014). Legitimacy is also manipulated by government officials. The negotiation
committee for the compensation of the villagers relied on the power of their legitimacy to replace the community in negotiation discussions with the company (Seangly and Pye, 2014). In so doing, the negotiation committee was able to gain a percentage of the compensation funds for themselves (Seangly and Pye, 2014). There was no legal grounds requiring a negotiation committee act as a mediator between the villagers and the company, yet the government officials were able to acquire this position because of the power of their legitimacy in connection with their power on, in and by the laws (Seangly and Pye, 2014). There are many forces that have driven the demand for development of the agrarian sector and the electrification of rural areas including international pressures and a capitalist elite class in Cambodia and in Southeast Asia. As a result, indigenous communities are negotiating power at the same level that they are being excluded and because they are not able to achieve legitimacy in the same way that the state is able to do so, exclusion continues to mediate their access to land rights.

5.2.4 Powers of Exclusion: Market

The final exclusionary power is the market. The market is not an unbiased power subject only to the forces of the economy such as commodity prices or demand (Hall, Hirsch and Li, 2011). Instead, market power is subject to the interference of regulatory forces such that particular groups or clients are favoured by market forces (Hall, Hirsch and Li, 2011). The land in Prame commune was granted to concessionaries for agricultural development as part of the nation’s development strategy which emphasized modernization of the agricultural sector. Land in Prame is used for cash-crops determined by the demand and prices of commodities such as rubber, acacia, pine trees and sugarcane (CIYA, 2013).

In Areng, critics of the dam’s developers have stated that the company is positioned to make a lot of money from illegally logging in the area. The project gives the company access to primary forest and luxury rosewood (Scheidel, 2015). Both hydropower projects in Areng and on the Sesan river emerged in large part as a result of huge energy demands in Cambodia and in the region. Foreign investments in land invites a lot of wealth into Cambodia and market forces, along with the other three powers of exclusion discussed above determine where the wealth is distributed and whose rights are violated in the process. The accumulation of wealth by concessionaries, dam developers and government officials is the result of the ways in which
Chapter Five: Analysis, Discussion and Conclusion

power is wielded to regulate the market and the laws and policies relevant to economic land concessions and hydropower dams according to their interests.

5.3 The role of elites in the land crisis

Behind every economic land concession or foreign-invested development is a member of Cambodia’s elite class. Since the time of the Okya during the formation of Cambodia’s early state, a class of Cambodians that were well-connected to the ruling entity benefitted from strategic relations and partnerships securing increasingly more wealth and benefits from these partnerships (Chandler, 1983). As patronage networks have been reformulated throughout Cambodia’s history a small portion of the population connected to government officials have consistently emerged as elites. The role of elites in the cases discussed in Chapter Four of this thesis, is to act as gatekeepers for access to land rights. The state is the arch-custodian of rights, and the legal framework of the state and its laws protecting indigenous people’s access to land rights are dependent on the state’s willingness to support the indigenous agenda (Abass, 2012). However, when those responsible of protecting indigenous rights to land are also involved in profit-seeking stripping of public assets in order to accumulate wealth and power for themselves, the law’s capacity to protect indigenous rights is undermined (Global Witness, 2007).

Essentially, the Cambodian elite and the Cambodian government should not be conceptually divided because of the ways in which strategic and personal partnerships have been formed (see Appendix Three). Those involved in forest destruction and the stripping of Cambodia’s public assets wield their power as government officials or as the personal friends and advisors of high-ranking government officials to shape the implementation and interpretation of Cambodia’s laws and policies. The powers of exclusion that prevent indigenous people from accessing their land rights are both enforced and reproduced by the ways in which Cambodian elite have used their power to undermine the protection of the law. The ELC in Prame commune has been traced back to logging tycoon Try Pheap, dubbed the “King of Rosewood” for his control of illegal logging and selling of prime Rosewood to China (Global Witness, 2015). The King of Rosewood was exposed for a breadth of illegal activity including collusion with state officials and enforcement agencies, to fell rare trees and sell them through the black market to China (Global Witness, 2015). He has been conducting these activities without repercussions
from the law, but instead through the support of ELC’s awarded to him by the government of Cambodia (Global Witness, 2007).

In Thmor Bang, the role of the elite owners of the Pheapimex group, the Cambodian People’s Party (CPP) senator Lao Meng Khin and his wife Sopheap, is incriminating (Pye 2014). This couple has been awarded several concessions and the Pheapimex Group controls 7.4% of Cambodia’s total land (Global Witness, 2007). This couple was also behind the highly public conflict over filling the Boeung Kak Lake near Phnom Penh in 2013 which evicted 1,500 people from their homes (Pye 2014). Regardless of the impact any development will have on communities, if it does not offend or if it is not seen as unfeasi-
ble, development projects will continue in Cambodia. Due to the structural exclusion of indigenous Cambodians from state affairs and development decisions, elites in collusion with government officials are able to continue to development projects despite countless oppositions from those communities that are most affected.

5.4 The Agrarian Question and the ‘Global land grab’

The agrarian question ultimately attempts to determine what sort of effects capital will have on the countryside (Akram-Lodhi and Kay, 2010). For indigenous people, the effect of capital accumulation can lead to displacement either by dispossession or by differentiation (Akram-Lodhi and Kay, 2010). Indigenous people are precluded from participation in decision-making processes that lead to the development of the rural sector and to the modernization of the agrarian sector. The reasons for these transformations in Cambodia, can be attributed to the influence of powerful external forces that have achieved dominance through historical processes. Cambodia’s current government is the product of foreign influences such as the market forces affecting supply and demand regional under the ASEAN as well as the formulation of its institutional and legal framework by the UNTAC.

Powerful players have manipulated the powers of exclusion to produce the sort of economic and political climate necessary to facilitating land grabbing. De Schutter (2011) talks about the ways in which the World Bank’s development strategies such as its 2003 Land Policies for Growth and Poverty Reduction. Investment in the agricultural sector was encouraged in order to alleviate poverty and ensure rural development. The pressures of the international community have been formalized in the Royal Government of Cambodia’s National Strategic Development
Plan which emphasizes modernization of the agricultural sector and encourages foreign investment by opening up regulatory forces on the market. This resulted in Special Economic Zones which facilitated trade and investment in areas by loosening tax requirements and other regulatory forces (OpendevelopmentCambodia.net, 2015). The weak regulations of Cambodia’s foreign investment, and the abundance of fertile land and natural resources compound to qualify investments in Cambodia as worthwhile.

The ‘global land grab’ has shaped the landscape of Cambodia, and has prioritized certain crops for export over the traditional agricultural model for which indigenous people depend. Plantations of rubber, cashews, acacia, and sugarcane wipe out indigenous community forests while simultaneously excluding them from producing a livelihood. Indigenous people are not able to get jobs working on these plantations due to language barriers and other factors (International Labour Organization, 2010). Without access to community forests or to jobs, indigenous people are left unable to produce a livelihood. The affects of the ‘global land rush’ accelerates the displacement by dispossession or by differentiation that Marx discusses in relevance to the agrarian question (Akram-Lodhi and Kay, 2010). The existence of ‘indigeneity’ is subject to the power dynamics that have constrained the possibilities of engagement with land for the Cambodian population and have ignored political, economic and cultural diversity within the Cambodian state.

5.5 Conclusion

The final chapter provides an analysis of the findings presented in Chapter Four of this study. An exploration of the power dynamics within the legal framework of the state was taken in order to address the central question of this study, which seeks to examine the factors affecting indigenous people’s access to land rights. Indigenous access is mediated by the powers of exclusion that have been reinforced by powerful hierarchies and their influences on the law in Cambodia. Using the conceptual framework of this study, the three cases of land rights violations served as loci for an investigation that served to distill at what level and to what depth power affects the protective characteristic of the law.

For the most part, the Cambodia’s laws and policies as they are written seem good for Cambodia. However, indigenous people are not like most Cambodians and they require special attention within the legal framework of the country in terms of their attachment to land. There is
a major policy flaw used continually to legitimate state action and state-led development despite the opposition of indigenous communities. The 2001 Land Law states that the rights it affords to indigenous communities can be taken away if the national interests of the state are at stake. I suggest that this law should be amended with further guidelines on what national interest the law refers to specifically, so as to reduce the ability of powerful actors to interpret their law as it suits them, thus negating the rights of indigenous groups enshrined in the 2001 Land Law.

This study does not claim to be exhaustive nor does it claim to have determined exactly what precludes indigenous communities from accessing their land rights in Cambodia. However, this study serves to justify that further research in this area is necessary given the dramatic distain for indigenous and human rights that exists as a result of the power dynamics discussed in this chapter. Researchers should focus their attention on of the factors affecting power accumulation at the state level and the dynamics within state structures that determine power and its relationship on the law. Additionally, by particularly engaging with power negotiation as an avenue for indigenous communities to access land rights, researchers should draw out cases where negotiation has been successful, no matter how small they are, in order to understand if replication or expansion of those ideas could be possible.


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## Appendices

### Appendix One: Data Collection

<table>
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<tr>
<th>Objective (Claim/Reason/Evidence)</th>
<th>Information Requirements (specifically what do you need to support the reason/claim?)</th>
<th>What do you have? Sources of information (specifically what info do you have to address your objective?)</th>
<th>Mode of collecting</th>
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| 1. To analyze the specific structural context of justice in Cambodia and how it is played out socio-politically. | a) Reports by Rights and justice organizations (CCHR, LICADHO, ADHOC)  
b) Highly politicized cases (Boeung kake Lake) (non indigenous)  
c) Garment factory Worker Case | a) LICADHO Reports and Press Releases about Boeung Kake Case  
b) Newspaper articles about Boeung Kake Case  
c) Facebook mobilizations and responses by NGO groups  
d) Info of ban on assembly  
e) Newspaper articles Jan 4, protesters shot, then ban on assembly | Desk Research |
| 2. To analyze access to rights for indigenous people in the region of South East Asia. | a) Studies on Access to Justice and Rights in South East Asia  
b) Studies submitted by AIPP (Asia Indigenous People’s Pact  
c) UNDRIP recognition in the region | a) EMRIP study submitted by AIPP  
b) Literature about Land Grabbing and Land conflict in the region (12 articles)  
c) Asean Statement on Indigenous Rights to land | Desk Research Via EMRIP, AIPP, UNOHCR |
| 3. To investigate the factors undermining indigenous rights in regards to economic land concessions and the building of Hydroelectric power dams in the | a) Government’s development policies  
b) Relationship of government to Indigenous People  
c) RCG laws  
d) Geopolitics  
e) History  
f) Relationship between the companies and communities | a) Rectangular Strategy, Organic Law, 2001 Land Law, Sub decree on economic development, sub decree on social land concessions , RGC Constitution, Social Accountability Strategy,  
b) ADB Deconcentration and Decentralization strategy, Annual Report on Deconcentration and Decentralization  
c) 4 articles about history of IP’s | Desk Research |
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<th>Methods</th>
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<td>(Reports, consultations, FPIC, Community Meetings, Petitions, )</td>
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<td>between communities and companies ASEAN Integration strategy</td>
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<td>4.</td>
<td>To explore indigenous peoples responses to violations of human rights, as well as the state’s reaction to advocacy activities for indigenous people.</td>
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<td>a)</td>
<td>Cases of rights violations</td>
<td>a) 10 Fact Sheets for Prame, Preah Vihear/ Bousra, Mondulkiri /Kbal Romeas, Stung Treng/Snoul, Kratie/Taveng, Ratanakiri/Tmor Bang, Koh Kong/Bu Kong, Mondulkiri /Ten Ngol, Mondulkiri/Oral, Kampong Speu /Memong, Mondulkiri with information regarding the types of rights violations, a profile of the community, profile of the rights violators, account of the violation, impact to the victims, actions taken by CSOs, recommendations to local authorities, etc.</td>
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<td>b)</td>
<td>Reports on indigenous people's responses to the government (Advocacy Activities, Campaigns, Protests, Community Statements, Press Conferences)</td>
<td>b) 5 Brief Summary Reports outlining intro to the community, key issues facing the community, NGO involvement, Community Advocacy activities.</td>
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<td>c)</td>
<td>Reports on the government's responses to indigenous advocacy activities (Transcripts of Consultations)</td>
<td>c) Report from interviews and focus groups involving 23 community members in Prame Village about their view of their own access to Justice as framed by EMRIP</td>
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<td>d)</td>
<td>Transcript from government officials during national consultation regarding indigenous people's issues and government’s position on land rights</td>
<td>d) Transcript from government officials during national consultation regarding indigenous people's issues and government’s position on land rights</td>
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<td>e)</td>
<td>Statement from 8 communities outlining impact of Economic Land Concessions on their communities</td>
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<td>f)</td>
<td>Press releases and statements for Koh Kong, Preah Vihear, Ratanakiri individually and 1 for joint communities</td>
<td>f) Press releases and statements for Koh Kong, Preah Vihear, Ratanakiri individually and 1 for joint communities</td>
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<td>g)</td>
<td>Maps and Impact summary of Hydroelectric Power dams in Koh Kong and Stung Treng</td>
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<td>Maps and Impact of ELC in Ratanakiri</td>
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<tbody>
<tr>
<td>i)</td>
<td>Statements from Ministry of Environment about Dam in Koh Kong</td>
</tr>
<tr>
<td>j)</td>
<td>Newspaper articles on each case which outline press conferences, media campaigns, situations of armed conflict, protests, advocacy activities of community members and NGOs</td>
</tr>
<tr>
<td>k)</td>
<td>Videos outlining the situation for IPs in Stung Treng, Koh Kong, Preah Vihear.</td>
</tr>
</tbody>
</table>
Appendix Two: Rectangular Strategy Phase III

Graphic showing all of the sides of the RGC’s Rectangular Strategy Phase III (Cambodiainvestment.gov.kh, 2013).
Appendix Three: Cambodia’s Family Trees
Lao Meng Kith and his wife in connection with Cambodia’s other elite and government officials (Global Witness, 2007).

Forest Destruction and Institutional Corruption in Cambodia
Appendix Four: Inundation Zone of Areng Valley

<table>
<thead>
<tr>
<th>Chumroab</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Lowland Rice</td>
<td>10.229</td>
</tr>
<tr>
<td>Old Lowland Rice</td>
<td>282.823</td>
</tr>
<tr>
<td>Rotational Agriculture</td>
<td>193.271</td>
</tr>
<tr>
<td>Shifting Agriculture</td>
<td>7.369</td>
</tr>
<tr>
<td>Sub-total</td>
<td>493.692</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Pralay</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Field</td>
<td>1628.483</td>
</tr>
<tr>
<td>Rice Field</td>
<td>1550.353</td>
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<tr>
<td>Sub-total</td>
<td>3378.836</td>
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</table>

<table>
<thead>
<tr>
<th>Thmar Donpov</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Rice Field</td>
<td>120.494</td>
</tr>
<tr>
<td>Veal</td>
<td>84.841</td>
</tr>
<tr>
<td>Cham Kar</td>
<td>79.221</td>
</tr>
<tr>
<td>Field</td>
<td>473.292</td>
</tr>
<tr>
<td>Sub-total</td>
<td>757.848</td>
</tr>
<tr>
<td>Total</td>
<td>4630.376</td>
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</tbody>
</table>

Central Cardamom Protected Forest

Legend

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<thead>
<tr>
<th>Elevation Value</th>
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</thead>
<tbody>
<tr>
<td>1 - 31</td>
</tr>
<tr>
<td>31 - 57</td>
</tr>
<tr>
<td>57 - 101</td>
</tr>
<tr>
<td>101 - 139</td>
</tr>
<tr>
<td>139 - 190</td>
</tr>
<tr>
<td>190 - 254</td>
</tr>
<tr>
<td>254 - 326</td>
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<tr>
<td>326 - 407</td>
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<tr>
<td>407 - 496</td>
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<tr>
<td>496 - 593</td>
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<tr>
<td>593 - 690</td>
</tr>
<tr>
<td>690 - 797</td>
</tr>
<tr>
<td>797 - 921</td>
</tr>
<tr>
<td>921 - 1,070</td>
</tr>
<tr>
<td>1,070 - 1,277</td>
</tr>
<tr>
<td>1,277 - 1,806</td>
</tr>
</tbody>
</table>

Communes | Families | Population |
----------|----------|------------|
Chumroab  | 60       | 272        |
Thmar Donpov | 81       | 319        |
Pralay     | 170      | 663        |

206,97.88 ha