Land Alienation in Indigenous Minority Communities. Ratanakiri Province, Cambodia.

"Me and the people in my village want to keep the land like before. I want to meet the King and ask for the forest and the land and meet the Prime Minister, and ask for the land and forest for future generations. I don't want to lose our forest and our land."

- Kreung Woman, Ou Chum District, Ratanakiri Province

Land Alienation in Indigenous Minority Communities - Ratanakiri Province, Cambodia

Readers of this report are also directed toward the enclosed video documentary made on this topic in October 2005:
"CRISIS – Indigenous Land Crisis in Ratanakiri".

Also relevant is the Report "Workshop to Seek Strategies to Prevent Indigenous Land Alienation" published by NGO Forum in collaboration with CARE Cambodia, 28-20 March 2005.

- Final Draft-

NGO Forum on CAMBODIA

August 2006

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Executive Summary

This report updates a report entitled "Land Alienated from Indigenous Minority Communities in Ratanakiri" (NGO Forum on Cambodia, November 2004). Both the 2004 report and this 2006 report look at the situation of land alienated from indigenous communities in Ratanakiri province in the northeast of Cambodia.

A comparison of the situations in November 2004 and January 2006 leads to the following conclusions:

- Since the previous report in 2004, land alienation has increased in severity in 30 percent of communes and has continued unabated in most of the remaining 70 percent.

- The problem of land alienation has been reported in 4 new communes.

- In accordance with the 2001 Land Law, participants of the "Workshop to Seek Strategies to Prevent Indigenous Land Alienation" in March 2005 publicly acknowledged that both selling and buying of Indigenous Peoples' land is illegal. Participants included provincial governors, representatives from the Ministry of Land Management Urban Planning, and commune councils. The illegality of the vast majority of land sales in Ratanakiri has also been confirmed by national and international legal experts.

- In spite of a Prime Ministerial Order and a Provincial Deika in support of the 2001 Land Law and the 2002 Forestry Law, the majority of these problems have arisen as a result of a lack of law enforcement. NGOs and communities express a strong concern at the apparent lack of commitment to governance, which appears to be the main barrier to resolution of these problems.

- The problem has progressed to the stage where some communities have disintegrated. There has already been a severe loss of cultural and social resources.

- Communities report that problems usually start when powerful outsiders develop relationships with opportunistic people in the community (who are often local authorities, police or military) in order to secure land sales. In many cases these sales have been supported or "approved" by commune councils and/or higher levels of government.

- Communities report that, if this situation is allowed to continue, it will lead to a severe disruption of community processes and destroy the solidarity and cohesion within communities. This transforms previously cohesive communities into disparate groups of people or individuals selling community land and forest, and the situation becomes very difficult to control.

Recommendations

The land alienation problem obviously needs to be addressed and halted. To achieve this, NGOs have the following recommendations:

- In accordance with the priority activities defined in the National Strategic Development Plan 2006-2010, ensure the strictest and total enforcement of the 2001 Land Law sparing no one from its provisions, however highly placed.

- This should include the removal and re-election of commune councils found to be approving, supporting or being directly involved in the selling of land.

- To uphold the 2001 Land Law, the Government of Cambodia needs to declare a moratorium on land sales and land concessions affecting indigenous peoples. This needs to be done immediately and kept in force until the adoption and implementation of key sub-decrees, including the Sub-decree on the Registration of Indigenous Collective Land Rights, the Sub-decree on Economic land concessions and the Sub-decree on State land Management[1]. This has been requested a number of times by elders of indigenous communities.

- Lands that have been recently alienated from indigenous communities need to be reviewed in an open and transparent manner so that illegal land transactions can be reversed and that land taken illegally can be returned to indigenous communities. The legal basis for such action is provided by Article 18 of the 2001 Land Law.

- The RGC, donors and civil society should continue to support the pilot projects on indigenous communal land titling and the drafting of necessary regulations for the registration of indigenous communal land. Faster progress on the drafting and adoption of the legal framework is required and it is essential that the process continues to involve meaningful consultation with indigenous peoples. This is in line with Joint Monitoring Indicator 4.v.e, agreed at the 8th Consultative Group Meeting in March 2006.

- Following the adoption of legal regulations for indigenous communal title, the government and donors should support communal titling in indigenous areas in a way that supports long-term land security for indigenous areas.

[1] The Sub-decrees on State Land Management and Economic Land Concessions have been adopted in 2005. However, both sub-decrees have so far not been fully implemented.

Executive Summary – November 2004

This report collates information collected by NGO field workers and community representatives, about alienation of land from indigenous communities in Ratanakiri province, northeast Cambodia.

Reports from communities and NGO's were prepared in spite of significant concerns about security and difficulties obtaining accurate data. Although further research will no doubt confirm the extent of the problem, the following conclusions have been drawn from the available information:

- *There is already a severe land alienation problem affecting indigenous communities in Ratanakiri province.*
- *The majority of the land alienation appears to be contrary to the intent and language of the 2001 Land Law.*
- *The current land alienation problem is often devastating the social fabric of indigenous communities*
- *As the social fabric of communities is destroyed so too are the future options and possibilities for community development and poverty reduction.*
- *If not addressed as a matter of priority, the land alienation problem is likely to result in destruction of indigenous culture in much of Ratanakiri province.*

The report's recommendations include:

- *It is urgent that official policies and legal interpretations supporting the communal ights of indigenous people and declaring the illegality of land alienation be released by the government and circulated widely in areas with indigenous peoples.*

- *To uphold the 2001 Land Law, the Government of Cambodia needs to declare a moratorium on land sales and land concessions affecting indigenous peoples. This needs to be done immediately and kept in force until the adoption of the sub-decrees on both indigenous communal title and economic concessions. This has been requested a number of times by elders of indigenous communities.*

- *A moratorium should be complemented by a transparent monitoring system to increase the chances that the moratorium is enforced.*

- *The instigators of illegal land sales and land grabbing should be prosecuted in the courts.*

Introduction

"Ours lives depend on natural resources. We believe everything around us has a living spirit and these spirits care for us everyday."[2]

Land grabbing by Cambodia's rich and powerful has been widely reported and well documented in almost all of the country's provinces. Many cases involving high ranking officials remain unresolved. The victims are usually the poor and powerless who are unable to find justice in Cambodia's court system notorious for corruption. In Ratanakiri province, indigenous minority communities are some of the poorest and most disenfranchised. They and their lands have become easy targets.

This report details the phenomenon of land alienation that is often a consequence of land grabbing. For indigenous peoples in Cambodia, the phrase 'land alienation' has several meanings besides simply 'the transfer of access and use rights to land to a non-indigenous person.' The common definition of 'alienation' in English includes 'a feeling of being isolated or withdrawn or of not belonging to or sharing in something'[3]. The theoretical concept of 'alienation' describes a social condition in which groups and individuals far from being active participants in society seem more like passive objects determined by external processes. As seen in earlier reports, the loss of land leads to a sense of powerlessness and alienation within indigenous communities. Land alienation has been severely undermining the social capital of communities.

Indigenous peoples are marginalized in many ways. They are a small minority, disadvantaged by language, social and cultural barriers. Particularly in Cambodia, indigenous communities are highly dependent on their natural resource base for survival. Indigenous peoples have a much stronger relationship with their land than other groups. So when they lose their land the consequences are more severe. According to Dr Christian Erni from the International Working Group for Indigenous Affairs,

"the gradual deterioration of indigenous societies can be traced to the non-recognition of the profound relationship that indigenous peoples have to their lands, territories and resources, as well as the lack of recognition of other fundamental human rights."[4]

[2] Tampuen villager, video recorded in Ka Choun village, Oct. 2005, *Tampuen Culture*, FMV/RNSP, 2006.

[3] Encarta® World English Dictionary © 1999 Microsoft Corporation

[4] Presentation at "Workshop to Seek Strategies to Prevent Indigenous Land Alienation", Ratanakiri province, 28-30 March

Cambodia is, however, fortunate and should be commended for its laws relating to indigenous peoples' natural resource management rights. Whilst still having much room for strengthening, they are remarkably good and strong in support of indigenous peoples' rights. The 2001 Land Law recognizes collective land ownership of indigenous communities and, whilst not making land titling immediately possible, it contains provision for interim land security and the prevention of alienation of land from indigenous communities before the land titling process can be completed (Articles 18, 23).

But it is the implementation of the Land Law and other laws that is an issue. The role of government includes the protection of people's rights. Laws are made in order that rights are protected. They are made so that greedy individuals or groups do not undermine the rights of others within the nation. The degree, to which the Cambodian government protects the rights of indigenous peoples and the natural resources they depend upon, is therefore a very good indicator of the strength of governance within the country. A good way to monitor the efficiency of governance is to monitor the implementation of laws that protect the rights of marginalized people.

An international perspective on the social consequences of land alienation was presented at the March 2005 Provincial Land Alienation Workshop by Dr Christian Erni from International Working Group for Indigenous Affairs. In his presentation Dr Erni stated:

- Indigenous people generally have much less access to education than the majority of people. As a consequence indigenous people find it very difficult to obtain an education that enables them to find alternative incomes when they have lost their lands.
- Throughout the world indigenous people who have become landless end up working as unskilled laborers. As modernization and mechanization in agriculture and industry progresses, they tend to become unemployed again.
- Some people are forced to spend their days idle. Alcoholism and domestic violence become rampant. Social structure, values and culture almost totally disintegrate.
- The interconnection between land loss, disruption of social structures and values, and poverty is well established.
- Some of the consequences of land loss and social breakdown are poor health and high costs for trying to address health problems among these people.
- One of the severest consequences of the social breakdown due to land loss is increasing security problems. This is reflected in increasing crime rates.

This report does not claim to be a comprehensive study. It intends to draw attention to the problem of land alienation as experienced by indigenous communities in Ratanakiri province, so that the issue can be effectively addressed.

Methodology

Monitoring the problems of land alienation has been difficult. Due to the secretive nature of illegal land deals, accurate information is difficult and dangerous to obtain. Villagers who protested have been arrested (see case study of Ou Chum district in Appendix 4).

NGO Forum, however, compiled information about land alienation from NGO and community representatives in late 2004 and in early 2006. Reports of land alienation were also collected from civil society within Ratanakiri province. In October 2005 a community land forum was held in Ban Lung, the provincial capital of Ratanakiri province. Community representatives reported on land alienation cases they had seen in their communes. This was a major source of information as were sporadic reports of other cases, coming from communities, sometimes, through NGOs operating in Ratanakiri. By studying and comparing this information, an indication of the state of indigenous peoples' land rights has been obtained.

Land forums and workshops were the main device used to collect information. In most cases the people attending these workshops were community representatives selected by communities. During the workshops indigenous staff of NGOs facilitated reporting of where there were land problems, why they were occurring and what communities could do about it. In most cases these workshops were held with the support and participation of local and provincial government.

It should be noted that the information obtained is not complete and in some cases is unconfirmed. However, this report provides the most accurate picture currently available of what is happening in Ratanakiri province with regard to land alienation.

As in November 2004, the compiled information has been presented in a table (see Appendix 1), summarizing the reported situation, district by district and commune by commune. A subjective rating of the level of severity of the problem was given by a team of NGO staff in Ratanakiri province, based on the information presented in the table of reports. Factors for assessing thelevel of severity included the amount of land that had been sold, the number of disputes over land and signs of community breakdown. The same team did the rating in 2004, so that the ratings from November 2004 and January 2006 are comparable.

The Legal Situation

- a reminder from the 2004 report

What is land alienation and what is not?

According to NGO legal briefing papers on the topic[5], many sales of community land prior to the 2001 Land Law are legal, if legal conditions of sale were met, and where possession by the new owner followed the sale.

There may also be a number of pre-2001 land sales and occupations that could be regarded as non-legal, because they were not legal sales under the old Land Law (1992). It is not the intention of this paper to look at these issues and it is only new possessions and transfers that are documented here.

It should be noted, however, that some of the cases reported during compilation of this report were about areas where there was reported to be some sort of document signed before 2001, but the new owner did not take possession of the land. For the purposes of this report it was assumed that these sales could be regarded as null and void, hence, attempts to re-activate ownership constitute land alienation. These would, of course, need to be researched further in order to clarify the legal status of these competing claims.

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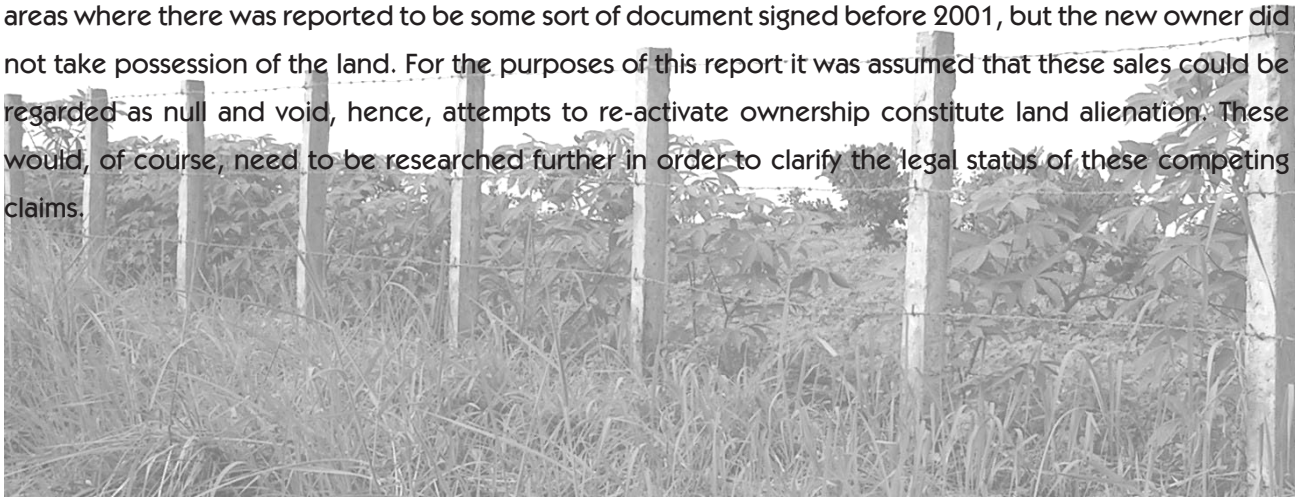


[5] Sigaty, T. (2004): Legality of Sale of Land Eligible for Indigenous Collective Title, Unpublished Legal Memo, Phnom Penh

With regard to transactions AFTER 2001, the NGO legal briefing paper prepared in 2004, states the following:

From a legal perspective, a large number of the land transactions that are occurring in indigenous areas are most likely illegal for one or more of the following reasons:

- *Article 23 of the Land Law requires that indigenous groups continue to manage their community lands according to their traditional customs, pending a determination of their legal status (and the issuing of collective title);*
- *Since the introduction of the new Land Law in August 2001, it is no longer legal to acquire land by possession. Article 28 further stipulates that no authority outside the community may acquire any rights to lands belonging to indigenous communities.*
- *A person may not sell or approve the sale of any land of which they are not the legal owner (2001 Land Law, Article 66). So, for example, if one member of an indigenous community sells land that belongs to the whole community, without the community's permission, then that sale would be illegal.*
- *Land sales with no written contract or where the seller's agreement has been obtained by fraud, duress or misrepresentation are in breach of contract law (2001 Land Law, Articles 6, 63, 65 and 69, 1988 Decree # 38D Referring to Contracts and other Liabilities).*

All these sales are void and the land should remain eligible for registration of collective title by indigenous communities.

In addition to this, many areas where land sales have been reported include areas of old growth forest. These areas are classified by the 2001 Land Law as being public property of the state and, therefore, ineligible for sale.

In the period from November 2004 to January 2006 there have been a number of advancements in the recognition of the illegality of sales of land from indigenous communities and in recognition of the need for collective land titling of indigenous community land. Of these probably the most important have been:

- The Prime Minister's order No. 001 on the prevention, suppression and elimination of forest clearance, burning, earth working and encroaching of forest lands to claim ownership, dated June 2004
- A Ratanakiri provincial Deika in support for order No.001, dated March 2005.

- Legal interpretation of legality of land sales in indigenous areas by officials of the Ministry of Land Management Urban Planning and Construction at the "Workshop to Seek Strategies to Prevent Indigenous Land Alienation", Ratanakiri Province, March 2005
- Several speeches by the Prime Ministers condemning land alienation and grabbing by powerful people, including the Closing Remarks at the Conference on Natural Resource Management for Poverty Reduction, 7 December 2005 and Comments at the Inauguration of New Buildings for the Ministry of Relations with the Parliament, Senate and Inspection, 29 May 2006[6]
- The National Strategic Development Plan 2006-2010
- The Draft National Policy on Indigenous People's Development (December 2005)

The Prime Minister's order reinforced the 2001 Land Law and affirmed that state public land cannot be cleared and sold. The provincial Deika issued by the Governor in March 2005 stated that, in order to respect the Prime Minister's proclamations, there must be an end to the clearing and sale of state public land. In January 2006, another provincial Deika added to this saying that it is important that forest be protected, that indigenous people have few if any other options. If they lose access rights to land, they will have to clear other forest areas so there needs to be a cessation of sales of indigenous community land in order to respect the national laws and proclamations.

The National Strategic Development Plan (NSDP) 2006-2010 recognizes and commits the Royal Government of Cambodia to "continue to discuss and develop the required legal framework for effective implementation of the Land Law, including registration of indigenous people's land rights (4.50)."

If corruption or lack of good governance is seen as the main underlying cause for the continued alienation of indigenous lands, the NSDP also contains strategies that, if implemented, could assist:

> ***2.07 Peace political stability, social order, rule of law, maintenance of law, and order, all existing in a dynamic are vital and are pre-requisites for not only preserving past achievements but indeed for any meaningful and sustainable growth. Together they constitute "Good Governance" which is rightfully at the core of the RS (rectangular strategy)"***

[6] Retrieved from http://www.cnv.org.kh

2.14 "[Corruption] is not clearly measurable but its deleterious effects pervade all government activities. RGC has adopted and will pursue a multi-pronged approach on this social and economic evil that stunts equitable growth and discourages private investment and disadvantages the poor. The goal is to eliminate all opportunities for corruption through unambiguous laws and procedures, clear transparency, accountability and predictability with stringent punishment of those detected of corrupt behaviour"

4.09 Good governance is the most important pre-condition for achieving sustainable socio-economic development with equity, equal opportunity and social justice"

4.11 "A variety of actions, in many areas including reforms and behavioral changes, are needed to combat corruption and instill a "culture of service" whereby public administration acts truly as an instrument of efficient, effective, speedy and impartial service to all Cambodians"

Good Governance priorities identified in the NSDP include: "reinforce and fast track a multi-pronged attack on corruption". Most importantly, the NSDP mentions the need to implement existing legislation:

4.12 Various priority actions include:... ensure the strictest and total enforcement of the law sparing no one from its provisions, however highly placed."

NGO's believe that there are three main types of state land in Ratanakiri that currently cannot be sold, particularly in the time before it is clearly identified and registered:

- Land with old forest. This is the forest that has never been cleared.
- Land that has not had clear possession prior to 2001. After 2001, no new possession is permitted.
- Land that previously had possession certificates issued but which reverted to the state because the conditions of possession were not fulfilled.

This was reinforced by a spokesman of the Ministry of Land Management, Urban Planning and Construction at the "Workshop to Seek Strategies to Prevent Indigenous Land Alienation", 28-30 March 2005, when he stated:

> *"From what I understand, the majority [of land in Ratanakiri province] is forest land, which is public property..... But the land is not really the land of the people selling it .....When we talk about state property, the only people who have the right to use it are indigenous communities..... In the period before communities receive titles, communities must continue to have traditional authorities manage the land along traditions and the laws .....If it is public state land, they cannot sell that land."*[7]

The old forest areas, that have never been cleared, are state public land. A number of large areas of old forest in Ratanakiri have been sold since 2004 and since the national and provincial proclamations. In many cases this appears to have involved local authorities as buyers, seller or brokers.

Another type of state land is land eligible for indigenous collective title. This land has no private individual owner and therefore is not land available for sale. It is the land that, under the 2001 Land Law, has been granted by the state to indigenous communities as collective ownership. All of the selling and buying of this land is illegal. It has first to be registered as collective title and transferred to an individual member of the community before it can be sold, if it can be sold at all.

Another category of state land ineligible for sale is land that has invalid or lapsed "possession". We see that there were a lot of possession certificates issued in Ratanakiri in the 1990s (for discussion of the legally dubious nature of these certificates see the case study in Appendix 4). These possession certificates were issued under the 1992 Land Law. The 1992 Land Law stipulates that possession requires occupation or non abandonment of the land. Article 76 of the Land Law (1992) reads "any land which the temporary possessor has abandoned for 3 consecutive years shall become the private domain of the state". This means that people who obtained possession certificates by whatever means, and abandoned the land (which means did not occupy or use it), forfeit their rights to that land. It has reverted back to the state. It is state land and the people with invalid possession certificates cannot claim any right to that land. The possession has lapsed. Indigenous communities can continue to use that land but that land cannot be sold.

[7] Quoted from transcript of the video recording of the "Workshop to Seek Strategies to Prevent Indigenous Land Alienation", Ban Lung, 28-30 March, 2005

The Situation in January 2006

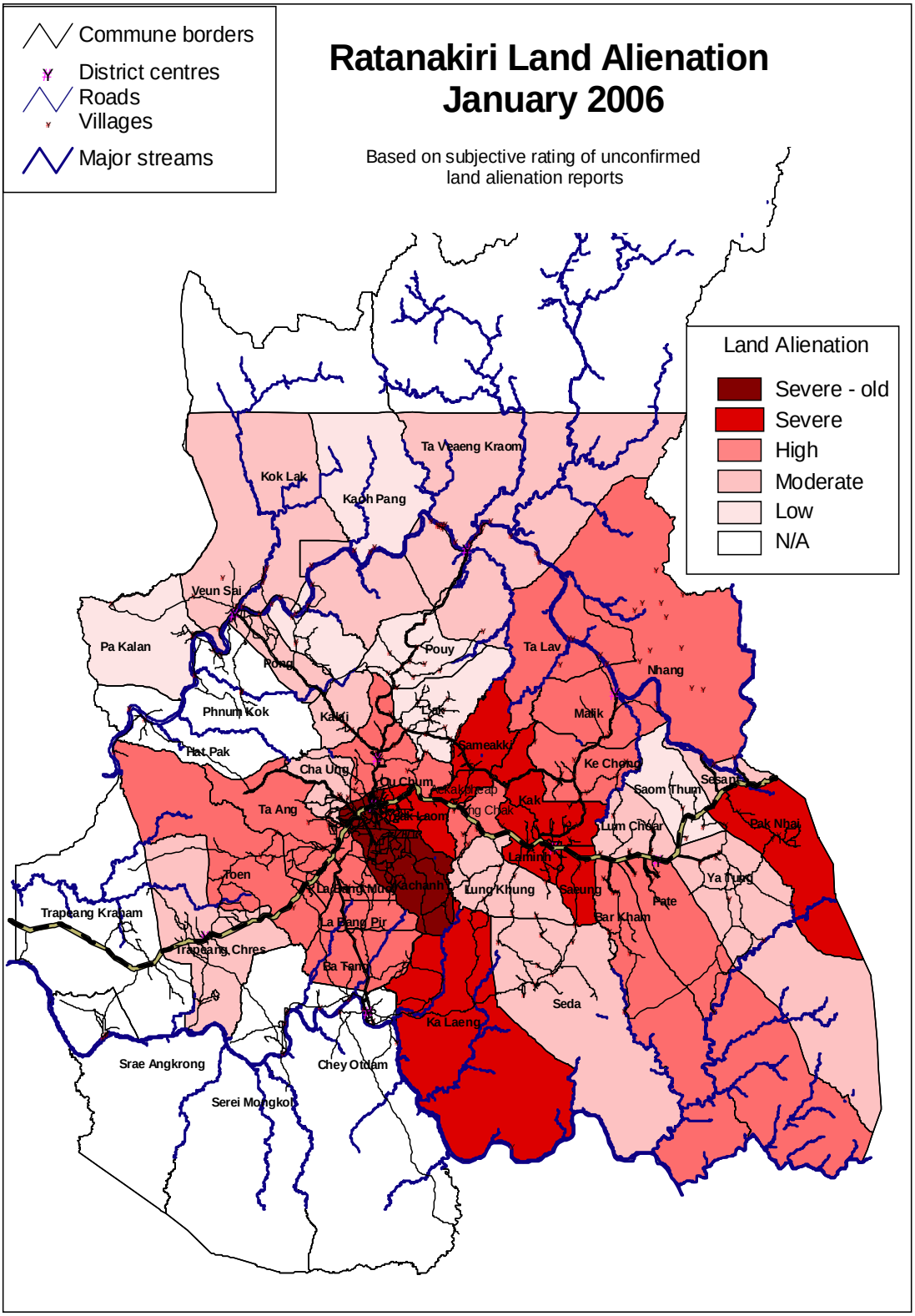
In order to provide a comparison between the November 2004 and January 2006 information, the table in Appendix 1 has been compiled. This presents information as reported by community people and NGOs, and it includes an estimation of the level of severity of the land alienation problem in each commune. These levels of severity have been presented in two maps, one for the situation in November 2004 (Appendix 2) and one for January 2006 (Map 1 below).

The Changes from November 2004 to January 2006

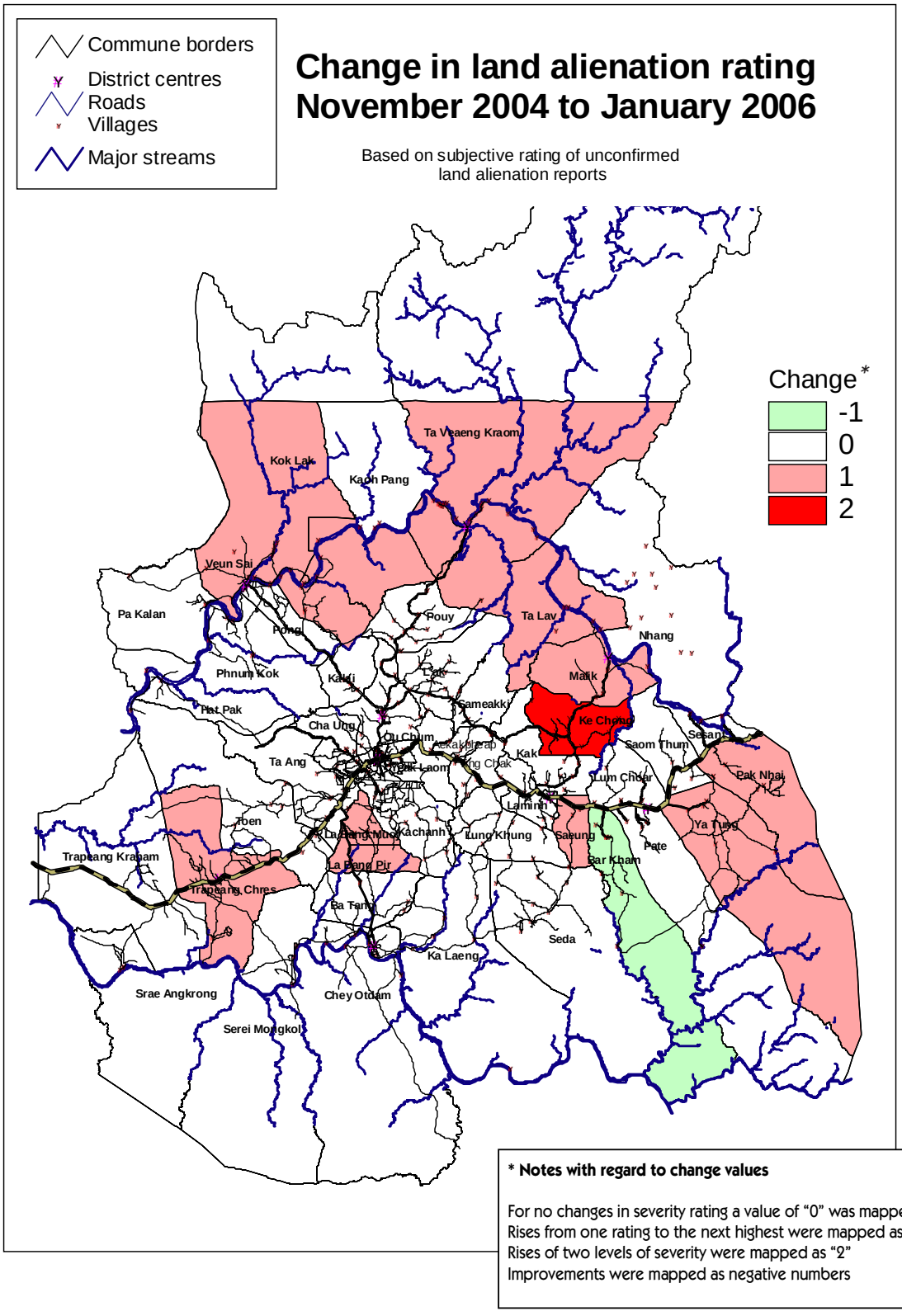
The relative and subjective rating of land alienation situation has been compared between November 2004 and January 2006. Appendix 3 shows the differences. Map 2 shows this spatially. Briefly, since the previous report, land alienation has increased in severity in 30% of communes and has continued unabated in the remaining 70%. The problem has also been reported in 4 new areas.

Whilst these are subjective ratings of land alienation, they offer an insight into the processes that are operating. Map 2 shows that there are large areas distant from the provincial town with significant increases in land problems. This is not to say that these distant places have more severe land problems than land near to Ban Lung or to main roads - quite the opposite is the case. What does appear to be happening though, is that, while close-by areas have received the majority of impact from illegal land deals, new areas are now also being targeted. There are some very concerning reports of large areas of land being illegally acquired (often involving intimidation) in areas previously considered untouched by land alienation.

Map 1: Patterns of Land Alienation in Ratanakiri as of January 2006

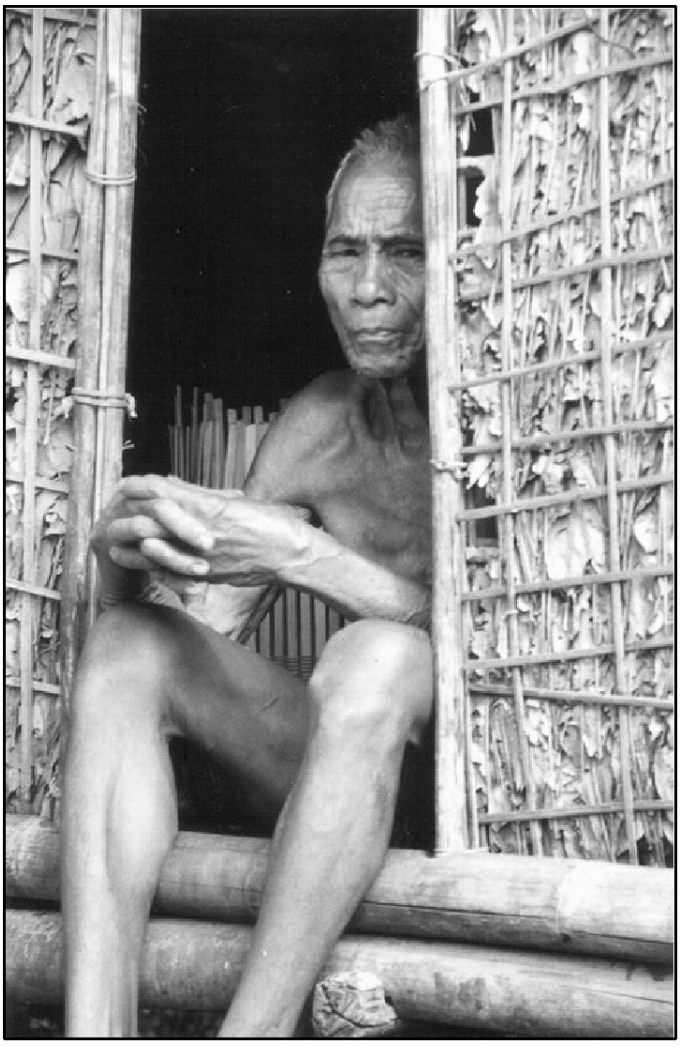


Map 2: Changes in land alienation status from November 2004 to January 2006



Who is responsible and involved?

In most areas, NGOs and communities report (see Appendix 1) that it is people in local government, police and the military who are creating an environment that promotes land alienation. It is very clear that there are many individuals in local, district, provincial and national government, as well as in the police and military, actively involved in illegal activities. Because of this, many community people report being scared to confront the issue. Under these conditions they decide to be involved in illegal transactions themselves before all the land is taken by others. It has progressed to the stage where some community people are illegally "selling" land because it is becoming normal to be allowed to do it. In many cases, land sales have been encouraged by village, commune, district, provincial and national authorities.



The provincial community land forum in October 2005 brought out much evidence from community people about being intimidated, pressured, threatened and coerced by police, military and local government people into clearing and selling land. This is verified by villager testimonies:

"Local authorities said they needed this land for giving to soldiers. The company threatened villagers and told us that this land belonged to the state - if villagers did not give or sell it they would clear it anyway." **(Jarai man, Kong Yu village, Pate commune, Ou Ya Dav district)**

Military police asked elders for 20 hectares. They threatened that if we did not give the land they would take it anyway. We were afraid of them so we gave 10 hectares. ***(Villager from Ka Laeng commune, Lumphat district)***

"I don't agree with those people. The people who have the power just take our land and sell to the people outside, like the police or people who work in government. The police who live along our border have the power and sell to other people. In my village there is conflict at the border between our farms. The people who have sold their land want to take new land for farming. The forest is lost too because the police that live along the border with Vietnam come to cut the trees in our village because our village is near Vietnam. They told the people this land belongs to the state and you must sell it. If you don't sell it now in the future maybe the state can take the land. So people in the village are afraid and because they have no knowledge, they believe what the people outside say about this. So they decide to sell their land."

(Jarai man, Batom village, Pak Nhai commune, Ou Ya Dav district)

The community could not stop the middle business people because the community lacks solidarity among them and is afraid of powerful and rich people".

(Villager from Ka Choun commune, Veun Sai district)

"Since the commune election, there was no land and forest law education for the people. The commune chief did not solve the land problem. On the contrary, he encouraged people to sell land." ***(Villager from Bar Kham commune, Ou Ya Dav district)***

*"I want to tell about the land; it's lost now. A lot of land has been lost. The reason is because of the broker in the village. It comes from the chief of commune as well, as he signed the agreement between seller and the buyer of the land. If the chief of commune hadn't signed then the land would not have been lost. The people in my village worry in the future they won't have enough land for farming and land to keep their animals. Now the people are very worried. 400 hectares of land was sold for the planting of cassava. All the land was sold to Mr ****. It was sold by district chief, but now he is dead. The people did not sell this land. It was sold by the district chief and signed by the commune chief and the commune chief took the 50,000 riel[8] and the village chief signed (by putting his thumb print on contract). He took 20,000 riel for himself, and the villagers didn't know about the agreement. Only now the villagers know about it because the owner of this land comes to check his land and the people are very worried."* **(Jarai man, Lum Choar commune Ou Ya Dav district)**

[8] Riel is the local Cambodian currency. The exchange rate is about US$1 = 4000 riel.

The Impacts

Many of the impacts of land alienation were presented in the November 2004 report and they remain valid in 2006. A summary of these follows:

- Future abject poverty and exploitative forms of income generation are being predicted.
- The clearing of areas of old growth forest as a replacement to land that has been lost by indigenous communities by forced or coerced land sales has been reported to be becoming widespread in Ratanakiri province.
- There are also many social consequences of land alienation reported. These include the rapid breakdown of community solidarity and community cohesion.
- Project staff have reported that in some villages they feel unsafe when asking about land issues.
- A high level of suspicion is developing between members within and between communities.
- There has been a devastating effect on community moral and people's self-respect.
- NGOs are now reporting that projects in Ratanakiri province are being undermined - often seriously undermined – by the land alienation problem.
- Quite clearly, the future of community and social development is being severely jeopardized in Ratanakiri province. With that goes the future for sustainable economic development and r esource management.

Testimonies by villagers confirm the social consequences of land alienation:

"A few bad villagers and local authorities sold land illegally. Now it impacts on our lives because our cattle, pigs and chickens cannot move freely. Now these animals need to be put in cages. Also many workers came to work within these areas and they violated the young girls within the community. I would like to request the government to solve this problem. Now it is a very complex situation in my community. There are many poor people in my village. Powerful people have illegally bought our land." **(Tampuen man, Ping village, Sameakki commune, Ou Chum district)**

"Now it is very difficult. Since our ancestral times, indigenous people never sold land. Now, we cannot collect vegetables and plants like before. All the land they say belongs to a company. I am very concerned for the younger generation when all the land and forest is gone. Now, husband and wife might quarrel with each other because they have no farmland. They might get divorced and it will also break our cultural values. Children will always cry for food. How can we feed them if we have no land for producing food?"

(Jarai man, Kong Yu village, Pate commune Ou Ya Dav district)

"Land in my village was taken by outsiders, and some villagers illegally sold the communal land. Local authorities and many villagers sold their land so that some families had to move to another place. Some have no land because they could not access new land areas. This also leads to breakdown of community cohesiveness and cultural values within neighboring communities. I think that the people in Yak Loam commune will die in the future."

(Tampuen Man, Chri village, Yeak Laom commune, Ban Lung district)

"Due to these issues, children cannot attend school. Children have to take care of their buffaloes all the time. Sometimes they just go to swim for a few minutes and their cattle are taken [by outsiders]"

(Jarai man, Gong Yu village, Pate commune, Ou Ya Dav district)

Since 2004, there have also been a high number of potentially dangerous confrontations between communities and perpetrators of land and forest crimes. It has been obvious that the legal system and local government system have supported the perpetrators of land and forest crimes (see the case studies in Appendix 4 and 5). Without credible official means to resolve conflicts, communities have been left with no option but to confront outsiders by themselves. There have been a number of cases where they have done so in a non-violent manner but have had to confront armed (and sometimes drunken) military and police.

Quite clearly these conditions are a serious threat to security and social harmony and are a growing concern within NGOs. Most cannot see that the situation will change unless the core problem of illegal sales is addressed.

"I am afraid of fighting and disputes between people in the community. If we cannot solve this (land) problem, the situation will be dangerous. Now, villagers in Yem, Lung Khung and Louch villages have been in disputes that have not been solved yet. They complained that this forest area belonged to them. Until now there has been no resolution." **(Tampuen Man, Trom village, Laming commune, Bar Keo district)**

Even more concerning is the appearance of the phenomenon of community people being intimidated into accepting illegal land transactions approved and supported by local authorities. In one case within Ratanakiri province (see case study in Appendix 4) villagers were continuously harassed and intimidated by courts, police, military and local authorities, even though the laws of the country cast severe doubt over an outsiders supposed claim to land. This has lead to two people being arrested and refused bail because they were involved in resisting this apparently illegal confiscation of their farm lands.

Communities and NGOs report that there have been very few if any cases of land disputes being solved to support community land tenure, very few cases where legal issues have been properly considered and many cases where there has been apparent collusion between local officials, land grabbers and court officials. The role of the courts and out-of-court conflict resolution mechanisms needs to be seriously addressed. Without a just and fair conflict resolution system it is reported that there is little respect of law and little chance that land alienation will decline.

Conclusion

Land alienation in indigenous communities in Ratanakiri province has been confirmed to be against the law. It is, however, proceeding at an ever increasing rate. It is the largest threat to the self-determined development of indigenous groups and is already having severe impacts on indigenous communities.

It is one of the first roles of local authorities to show respect for the law. They are meant to be models for others. But when the people responsible for implementing the law are breaking it, an environment of anarchy is created. Even a few NGO staff have become involved in illegal land buying or selling. But no-one is above the law and especially not those people who could be considered to be operating in a position of trust with communities.

Local, provincial and national authorities, and the legal system, appear to be creating an environment that promotes and condones illegal land transactions. When indigenous people are involved in illegal land transactions they are then being blamed. NGO's and communities accept that opportunistic people within indigenous communities are selling land illegally but see that local authorities, provincial authorities, national authorities and court officials are operating in apparent impunity and are creating an environment of anarchy leading to a situation that is now out-of-control.

This situation of indigenous peoples in Cambodia is getting increasing international attention[9]. A number of international stakeholders are beginning to express concern about the lack of implementation of indigenous land rights. In the past year, the land rights situation in Ratanakiri province has been investigated by United Nations special representatives and no less than three ambassadors of major donor countries have visited the province. Respect of indigenous people's rights is a key indicator at the international level of how well governance is being built. Respect of indigenous peoples' rights is a key indicator at the international level of how well governance is being built.

[9] Special Representatives of the Secretary General on the Situation of Human Rights in Cambodia have reported on the situation of indigenous peoples since the mid 1990s. In recent years, other UN agencies, and multi-lateral financial institutions have shown increasing sensitivity to the particular problems faced by Cambodian indigenous peoples. In May 2005, the International Labour Organization (ILO) launched the Project on Rights Based Approach to Indigenous Peoples Development in Cambodia.

Cambodia can learn from international experience, as Dr Christian Erni outlined in March 2005:

- All this does not have to happen: There are many examples that show that if given the time and land tenure security needed, indigenous communities are well capable to adapt to changing conditions, develop their economies and contribute to the development and well-being of the nation.
- Crucial however is that the communities have tenure security over their land and that the land tenure system does not disrupt the cultural system.
- It seems from this that a system of land ownership that respects the indigenous communities' communal ownership is essential for a place like Ratanakiri province.

The next generation of indigenous Cambodians deserve a better future.

Appendix 1: Land Alienation in Indigenous Communities in Ratanakiri province, November 2004 and January 2006

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
			ANDOUNG MEAS	
Ta Lav	District level land dealers were attempting to promote a conflict over an "ancestral land" claim between two villages but this was addressed and resolved.	Low	- There was a land problem in Ta Lav village. A person, named …… borrowed 6 hectares with written promise but grabbed 50 hectares (Veal On Deuk area). Our people could not fish there because the person made a fence around the pond. Some buffalo and cattle were lost there. - The person said he wanted to have land title made. - There were signs on about one hundred trees (..... did it). - Some people from In and Ta Lav villages cut timber to sell. (The buyer was ……, a soldier ….. and some people in In village). - Ta Lav Village, post police and about 17 people confiscated chainsaws. - The community fined the law breakers 1.7 mio. riels. They were able to pay 1 million riel. The people who participated were given 50,000 riels each and the rest (200,000 Riels) was kept in community funds in the two villages. - Some villagers sold wood to.... or 1,300,000 Riels. The sellers were …… *(Update January 2006: number of reports that there is a 3000 ha land deal being made in Ta Lav commune and it affects land of Taveng Ler villages)*	High
Malik	A lot of Khmer people are reported to have moved into the commune but there is a lack of information about what land problems are associated with this.	Low	- On August 2 2005 a man named … met about 50 Ka Hal villagers. He trashed some bushes and walked through the forest to border land with Dal Village in Ke Chong commune. Ka Hal village wanted to sell the land to a tea company but Dal Village did not agree. The land is 2.5km wide and 5km long - Ka Hal Village and Kdeang Village in Ke Chong Commune people argued with each other over land on August 5, 2005. Kdeang Village used a tractor to clear Ka Hal's land from Chrob On Tan till the Waterfall and sprayed blue paint to mark it. Kdeang claimed the land belonged to their ancestors. Previous negotiations were unsuccessful. However, Kdeang Village finally sold the land (5km long and 4.70km wide to a man, named …. He advanced $5000. - Katae and Kdeang Villages had a land border conflict. - On April 4, 2005 Katae Village went to talk with Kdeang Village about their land border. The border was clearly understood. Now Kdeang villagers sold the land along the border to a man named ……., a contractor. Katae Village did not agree to sell land, which is 4km long and 100m wide and sold for 16,800,000 Riels. Now a man, named …. gave $500 in advance on July 20, 2005. The community did not want the money. They wanted their land back. Kdeang Village said if Katae village did not accept the money, Kdeang Village would still sell the land anyway. - Two outside people went to meet first and second CC members, and some community, especially young people, wanted to sell land to a company. - Katae Village had a logging problem. Wood about 8 m3 was sawn. It was claimed it was for the National Assembly. The villagers wondered if it was true. Now they are waiting for their village head to report to the provincial authorities. If it was not true, they would confiscate chainsaws.	Moderate

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
ANDONG MEAS DISTRICT				
Nhang	Initial reports have been received that a 10,000 hectare concession has been granted along the Vietnamese border to a large and powerful rubber company. Village and commune authorities are reported to be saying that they have signed a contract already. The deal is said to affect 360 hectares of swidden land for Tang Chi and Tang Lom. The rest is reported to be old growth forest. It is suspected that the deal will involve logging in order to finance the establishment of rubber plantation. Ching, Nhang, Poeng and Mouy villages have lost all of their land to Vietnamese border encroachment. Tang Ngar has also lost some of their land in this manner. Complaints are being sent to the province but they are apparently not being addressed. The Vietnamese have already made a road into the area Vietnamese people have already commenced to move in.	High	- ***(Update January 2006) There are informal and unconfirmed reports of 5000 hectares of land being sold next to the Vietnamese border. Villagers are reported to be selling because they say there are too many conflicts with this land)***	High
BAN LUNG DISTRICT				
Yeak Laom	It is impossible to define how much land has been alienated in Yeak Laom commune but it is widely known that land sales have been going on unrestrained and even promoted by local authorities. Some estimates say that 70% of the community land has left community ownership and many of the sales can be regarded as illegal. Many people are now lacking land and many are leaving the commune. There is severe cultural breakdown and community disharmony	Severe	- ***(Update January 2006) Ongoing land sales approved by local government. Community relationships in one village disintegrating.***	Severe
Labansiek	The provincial town of Ban Lung now dominates Labansiek commune. Non-indigenous people have colonized the majority of this commune.	Severe (mainly old)	- ***Situation unchanged.***	Severe
Kachanh	Kachanh commune contains considerable areas of old rubber plantation. It has also seen considerable land sales in recent years	Severe (mainly old)	- ***Situation unchanged.***	Severe
BAR KEO DISTRICT				
Kak	Kak commune was widely reported to have been subject to many, many land sales in the past year. It is now said to have very little agricultural land left with the indigenous community. Kak commune land was also involved in the as yet unresolved land case mentioned below with Seung commune.	Severe	- ***Situation unchanged.***	Severe

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
BAR KEO DISTRICT				
Ke Chong	Reports have included that Ke Chong commune still does not have a lot of land alienation but is under intense pressure.	Low	- Leu Khoun Village had border conflicts with Yeun, Sa Lao and Chrong villages because Leu Khoun Village wanted to sell the land of Sa Lao and Chrong villages. Sa Lao Village and Chrong Village did not come to talk as per their appointment. - Leu Hon Village insisted Pa Or Village to sell land. - A man in Bo Loy borrowed rubber land and said he wanted to own the land.	High
Ting Chak	Ting Chak commune has been the target of many old land sales and many of these are possibly non-legal. There are reports of old sales trying to be reactivated. There have been many reports of outsiders expanding land holdings. There has been a 1600 hectare gem mining concession granted against community wishes.	High	- Pa Nol Village lost 50 hectares because they could not stop the cutters. Now they have conflict over benefit-sharing. They are planning to sell 50 hectares. The buyer was …. - Pa Jon Village farmed in Bal Nol village's land and Ba Nol did not want to sell the land. - Jang Ra grabbed 4 hectares from Pa Nol village to sell. - The Korean mining company in Kob Village and Pa Nol Village had 100 hectares. They built an entrance path to Pa Nol farm land. The farmers tried to stop them but could not do so. They were forced to accept 1,600,000 Riels because the company said the governor had decided to give them the concession. - Kob Village planned to sell 60 hectares but the CC chief did not approve. However, the villagers accepted $3000.	High
Lung Khung	Lung Khung commune has some old land sales. Recently they have done a land use plan with the assistance of the Department of Environment. Recent reports, however, have documented considerable land speculation in the area and that there have been a few sizeable land sales "approved".	Moderate	- ***(Update January 2006) There have been informal reports of a worsening situation in Lhung Khung***	Moderate
Laming	Laming commune includes the district centre of Bar Keo. There were a very large number of land sales in the commune in the 1990's and these have continued. There are continuing reports of new land sales and continuing reports of broken community solidarity and conflicts within communities. 10 hectares has reportedly been "bought" by a high-ranking member of the provincial military. There have also been reports of new settlers along the main road denying or charging villagers for road access.	Severe	- 3 hectares was sold in Su Village, La Ming Commune, Bar Keo District. - Nhan Village lost about 100 hectares. - Trom Village had a border conflict with Lut Yeun Yorn Village. - Lut Village sold their land and grabbed land from Trom Village. - Cut timber without asking permission. - Su Village cut timber to sell to businessmen and the cutter was local police. - Su villagers now lack land for farming.	Severe

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
BAR KEO DISTRICT				
Seung	Seung commune was the subject of a contested 1250 ha land transaction by a military general in 1997. This case is still unresolved. The land is reportedly in the process of being handed back to communities, but new illegal land sales have started. This is apparently leading to the military general being resistant to transferring the land back to communities. As well as this case there have been a growing number of land sales reported and recently a 500+ ha land sale rumored to be in negotiation. It is reported that a commune administration staff has secretly sold 10 hectares to a Khmer person from Bar Keo for 600,000 riel (about $15 per hectare). The land is along the road and was "sold" in October 2004.	High	- Seung Village had border conflict with Na Kham village because Na Kham encroached the border by about 300 meters. - There were loggers coming to cut timbers in the border of 3 villages. - Chet and Khlik villages sold the land from a man named ……. - Ya Som Village sold 400 hectares agreed by all villagers. - Chet and Khlis had no land for farming.	Severe
KOUN MOM DISTRICT				
Toen	Toen commune includes La En village, one of the pilot study villages for informing the drafting of the sub-decree on registration of the lands of indigenous communities. In that village alone 38 small land sales have been reported, covering 406 ha in 2002 with approximately 60 owners. In Toen village, there has been considerable concern over ongoing land alienation despite a strong and active community.	High	- We had land and forest problems caused by the Cham people who first borrowed the land and finally occupied it. - After this Khmer New Year, Mr. ……. sold 30 hectares of land and bought a car. - There were valuable timbers (Beng and Kra Nhong trees) cutting by both outsiders and some local community. - Fined two times but not effective. - Confiscated two chainsaws. - Not enough awareness raising. - The sellers wanted to have modern things. - Cooperation between local authority and outsiders. - Intimidation by the authorities and some villagers. - Need to reduce the abuse of power of the authorities. - Some people wanted to be rich for short term without thinking about their children's future and as a result sold land with approval of local authority.	High
Ta Ang	Ta Ang commune have been reporting a large number of cases of land alienation especially in areas of red soil. A military general with a history of land deals has land here and in 5 or 6 other places. Stories of villagers getting shot at for trespassing, anecdotal evidence that child malnutrition is higher than in other communes.	High	- Cham people grabbed land by claiming that they were Khmer people. - There was land sold by 23 community households. - They sold land to some powerful government officers without approval from the local authorities. - Some villagers cut valuable trees such as Beng, Kra Nhong and Sokram - The cutters were the people who had education. - Some villagers cooperated with outsiders to cut Beng trees. - Two hectares of forest land were cleared by two families for farming.	High

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
KOUN MOM DISTRICT				
Ta Ang		High	- The local authority did not stop them. They said it was land for agriculture, which was owned by them. - There were reports to the Forestry Administration but no replies. - No measure to stop land selling, commune council (CC) approved the sale before Ta Ong village head. - Ta Gab Village: Two families sold 1.5ha of their cashew farm and cleared other forest land. - Cutting of big trees for farming by relatives of CC chief. - Some villagers sawed wood to sell to the outsiders. - Si Village: 4 families sold 2.5 hectares of land. - A plot of land owned by several people. One small part of the land was sold and other people also wanted to sell. - 7 hectares of forest land were cleared by the outsiders. - Stopped Beng cutting in August and confiscated a chainsaw. - Some police officers cut Mai Sak tree for sale. - There were land and forest sales with the help of local authority. - Community can not control the middle business people because the local authority supports them. - No participation in education. - Lack understanding of human right, and land law. - Could not stop some bad activities of local authority because the community did not understand their roles and duties and were afraid to talk freely. - The community did not understand about their rights. - Some people desire a motor bike and car. - Some people want to compete with other villagers about wealth. - They do not see the future consequences. - The community thought the land belonged to the state. - The community believed that the land belonged to the state so they could not have it. - Some authorities thought that when they finished their terms, they would not get their salary and, a result, sold land and forest.	High
Trapeang Kraham	Mainly Khmer communities. Land loss from these communities has not been researched.	N/A		N/A
Trapeang Chres	Mainly Khmer communities. Land loss from these communities has not been researched.	N/A	- Forest clearance for farming in protected forest. - There was land and forest sale. - Stopped timber cutting one time. - Worked together to stop timber cutting done by some villagers.	Moderate
Serei Mongkol	Mainly Khmer communities. Land loss from these communities has not been researched.	N/A		N/A
Srae Angkrong	Mainly Khmer communities. Land loss from these communities has not been researched.	N/A		N/A

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
LUMPHAT DISTRICT				
La Bang Muoy	Threatening large forest area, the case was complained to provincial court. There have also been a number of reports of non-indigenous people moving into the commune to take up land. This is joined by reports of many indigenous people from other areas with severe land alienation moving into the commune and land conflicts arising.	Moderate	- ***(Update January 2006) There have been a number of recent conflicts where powerful people taking forest and land have been confronted by villagers.***	High
La Bang Pir	La Bang Pir commune has already had a very significant number of land problems. There are reports of large areas of forest being "sold" to powerful people who have been converting them into grazing fields. In addition to this, large areas of land have been acquired by land brokers and sold to lowlanders.	High	- My community had conflict with Pruch Village. Before Ka Janh Village protected this forest. Now Pruch and Plen villages grabbed the land to sell. Now my community worries about not having enough land for farming. The forest land, which Pruch village grabbed, was 20 hectares. The buyer was ….. After the Khmer New Year 2005, there have been secret land sales. The CC stamp was used to approve the sales. The land area sold was quite large with the Pruch village invading some parts of Ka Janh village land".	High
Ka Laeng	Nearly all of the community land of Sayos Village is now occupied by Cham families. In Kanang-Keth Village, a rubber company purchased 250 ha of land in 2003. According to a member of the Commune Council, the villagers did not want to sell the land, but they were afraid that a neighboring Village would sell the land instead. Reports are that villagers feel that their fears are founded because the District supported the land sales, without consulting with them. There have also been many reports of illegal selling or taking of forest areas and many reports of illegal logging activities.	Severe	- Mr. …. Ka Leng villagers sold 1 km of land to a Cham and the person expanded the land in May, 2005. Military police asked elders for 20 hectares. They threatened that if we did not give it to them they would take it anyway. We were afraid of them so we gave 10 hectares. - Mining company polluted water, which is used by 100 families. - Mr. … said before the forest was owned by Pa Tat and Ka Nang Ket villages. Now Pa Tat village wants to sell.	Severe
Pa Tang	Pa Tang commune has numerous land problems. An example of these, a case of 6 hectares, is included in this report as a case study. People from lowland areas are taking land without permission and large areas have been sold illegally. Many of these areas are old forest areas. An area of 100 hectares within a provincial protected area has reportedly just been sold and is being cleared by people from Kompong Cham province. In this commune, as in many communes in Lumphat district, there have been many reports of district and commune level involvement in land sales. Despite this there have been considerable achievements by people in the commune to unify against land alienation.	High	- Mr. … said his community was facing serious land problems in June, 2005. Ka Nang Ket Village sold 180 hectare to my village for 5 million Riels but Sa Yoh Village sold the land to others in July, 2005 by claiming that the land belonged to their ancestors. - Some Pa Tang Leu villagers sold 20 hectares to middle business people. The elders did not approve of the sale but the sellers did not listen. They claimed the land belonged to their ancestors, not to any organizations or groups. - Mr. …. said Pa Tang Krom village wanted to take land from Ja Ra village. They claimed it belonged to their ancestors and the CC did not inform us about the land sale. - There was valuable timber cutting that the Ja Ra villagers did not approve of. Pa Tang Krom villagers said Ja Ra villagers had to sell but Ja Ra villagers did not approve.	High

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
LUMPHAT DISTRICT				
Seda	Seda commune is a commune that is said to be where a major road will go linking Mondolkiri to Ratanakiri then going on to Laos and Vietnam. It also includes Lum Kut Lake that is being proposed as a tourist attraction. There have been new reports of land sales, especially in the area adjacent from the road from Lum Kut Lake to Bar Keo. One recent report was a rumour of a 500-hectare land sale in progress. Padot village "sold" 100 hectares next to Ul village because they were told by a government department that it was state land and it would be taken back from them. It is possible that some of this land is within the Lumphat Wildlife Sanctuary. There are reports of another 100 hectares being sold to Cham people within the O Sinlear Provincial Protected area.	Moderate	- ***Situation unchanged.***	Moderate
Chey Otdam		Unknown		
OU CHUM DISTRICT				
Aekakpheap	Aekakpeap commune is reported to be experiencing severe problems, many of them linking back to large land sales in the 1990's. These were said to have weakened communities considerably. Now rampant land selling is reported. Conflicts within communities are said to be high in relation to land issues. A restaurant owner in Ban Lung, is reported to have "bought" 100 hectares in July 2004	Severe	- People in Om Village sold 150 hectares of Pa Or village's land for $50 per hectare. They claimed it was ancestral land. - A provincial policeman made a small waterway surrounding 200 hectares of land to identify ownership. - The Kroch village head sold 10 hectares to Khmers for $800. - Some valuable timbers such Sro Lao, Ko Ky and Beng are being cut for sale. - **(Update January 2006) There has been a major conflict in this area. Courts have arrested 2 people for protesting against what they claim to be an illegal taking of their land.**	Severe
Cha Ung	Reports are that the Cha Ung commune has quite low land sales in relation to the amount of pressure currently on it. There have, however, been considerable land sales and rubber plantation developments in the commune in the past, some of the land sales being expanded in recent times (since the 2001 Land Law). There are a number of small land cases being contested.	Moderate	- There was logging of Cheu Teal, Neang Noun and Beng outside the community (some community people were involved).	Moderate

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
OU CHUM DISTRICT				
Ou Chum	Ou Chum commune is in Ou Chum district, close to the provincial centre. It has seen many early incursions such as rubber plantation and early land grabs. It now appears that in 2003 and 2004 there have been considerable efforts on the part of authorities and land brokers to acquire land in the commune. This is creating much concern within communities and Ou Chum commune is reported to be under intense pressure and at risk of strong internal conflicts.	High	- A timber logging deal with community (2 m3 for loggers and 1 m3 for community). - 10 hectares were sold ($100). Kamis Village sold some parts La En Village's land (planned to sell 20 hectares but confiscated 10 hectares and the rest was sold because it was "ancestral land"). - Five m3, timber logging deal with community. The community received an initial payment from the sale and a final payment will be given later. The community will use the final payment for a village festival.	High
Kalai	Kalai commune is located along the road to Veun Sei district and has seen some recent land deals that communities are not happy with. These are reported to be the responsibility of very high-ranking provincial officials with involvement of local authorities.	Moderate	- Ka Lai Bey Village sold land 5 hectares (Old farm land) for $300 to outsiders. - Ou Chum district police cut 12 Beng trees to sell to Kalai commune.	Moderate
L'ak	An area of 100 hectares was sold to a provincial government official in 1999. The community in this area report that they are unsatisfied with the deal and that the area is possibly in excess of 200 hectares. It is also rumored that a high ranking official of Military Region 1 has bought land in this commune.	Low	- Some villagers planned to sell land but the community stopped this in time. - Kam Village cut Beng trees to sell to the outsiders.	Low
Pouy	Only one small land case reported. This community has a history of being strong and solid against natural resource alienation	Low	- Post Police cut Beng in the community forest in Kan Seung, Kreh, Guy and Sa Tuk villages.	Low
Sameakki	Sameakki commune is reported to be experiencing severe problems, many of them linking back to large land sales in the 1990's. These were said to have weakened communities considerably. Now rampant land selling is reported. Conflicts within communities are said to be high in relation to land issues. It is reported that in Raech village the commune chief sold 100 hectares for $3000 in 1993. This lay dormant until 2004. The "buyer" is now reported to be trying to claim the land.	Severe	- Ha Rach community sold 10 hectares of land bordering Klos Village.	Severe
OU YA DAV DISTRICT				
Saom Thum	200 Ha of land lost in 1992 to failed Oil Palm plantation (now planted in coffee). One or two additional small land sales reported	Low	- Forest was maintained, practiced traditional land use. - Fresh air. - No outsiders disturbed.	Low

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
OU YA DAV DISTRICT				
Pak Nhai	Pak Nhai commune borders Vietnam. Recent reports have been received with regards to attempts to buy 1,000 hectares of land in Lom village. This is said to include significant areas of old forest. There have also been reports of a growing number of land sales along Road 19 to Vietnam by Military and Police officials.	High	- Today money talks. People sell land and forest. - Within only 6 months 875 hectares of land was sold and 450 hectares were cleared in a concession area because of the police post guard, No 623, military and police. - Police post and military involved in logging with Vietnam. - People sold land because they believed that the government would take the land in the future. - Did not understand the benefit of land uses. - The local authority promoted the Land Law but could not solve any land problems. -	Severe
Lum Choar	Lum Choar has had a number of old land sales along Road 19. The people claiming to have bought land have not occupied some of these. Recent reports have included that an area of 500 hectares that Military personnel are attempting to gain ownership of following an earlier, prior to 2001 district allocation of land. It is also reported that land being farmed by people in Lum Choar has been "sold" by a village in Pate commune as part of a contested 500 hectares of land deal.	Moderate	- Some people did not understand the importance of their land. - Lost community solidarity and cultural identity. - Law breakers are some elders and powerful people. - 676 hectares of land were sold by some community members, land brokers, outsiders, and rich and powerful people. This may have been stopped - 50% of forest was lost because of the rich and powerful people. - CC chief approved land sales and did not stop them but encouraged them to sell.	Moderate
Ya Tung	Ya Tung is reported to be strong against land alienation despite approaches being made by land dealers and authorities. There are reports of small land sales and grabs along Road 19.	Low	- 60% of forest was lost in Ya Tung Commune (proposed concession). - O Tang Village lost land because it is located near the Vietnam border. Four villages such as Khnheng, Dor, Som and PaTang were also lost. - Land was lost because the chief of post police contacted Vietnam from his office and sold land near O Tang Red Soil. - CC members in Ya Tung Commune worked very hard to solve problems for community after election. - The problem occurred because the community did not understand the importance of land and forest. Moreover, they were illiterate. - Because the community loved money and did not think about the future of their children. - Ya Tung CC chief did not respect the state law. - He did not listen to the community. He listened to the outsiders. - The local authority did not respect the elders and had poor communication with community.	Moderate

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
OU YA DAV DISTRICT				
Pate	Pate commune has considerable problems with land alienation. Many old sales have alienated the land along Road 19. Now new land sales are apparently being forced on communities. One case of 500 hectares is reported to involve considerable local government pressuring for the sale against community wishes.	High	- ***(Update January 2006) People in Pate report that their commune council are still involved in trying to sell land.***	High
Bar Kham	Bar Kham commune has considerable problems with land alienation. Many old sales have alienated the land along Road 19. Now new land sales are apparently being forced on communities. One case of 1,000 hectares is reported to be creating much conflict within communities. Another case of 500 hectares is reported to be being done with "approval" by the whole of one village despite the fact that local authorities recognise that the sale is non legal.	Severe	- About 500 hectares from the village were sold by land brokers and powerful people. - 50% of forest was lost because of house building. - CC members, police and military worked together in logging. - Since the commune election, there was no land and forest law education for the people. - CC chief did not solve the land problem. In contrast, he encouraged people to sell land.	High
Sesant	Land problems are being reported along the border area. These are sometimes reports about Vietnamese people and authorities taking land claiming it is not Cambodian land. Other times there are reports of land concession and land deals by Cambodian people and authorities. Pi village are reported to have lost almost all of their land to Vietnamese border encroachment.	Moderate	- Lost land because Andoung Meas District grabbed about 500 hectares of Sesant's land. - Sesant lost 5 hectares because of police post chief and sales by some community members.	Moderate
TA VEANG DISTRICT				
Ta Veang Kraom	Only minor land sales have been reported in Ta Veng Kraom. There have, however, been reports that authorities have been promoting an individualistic land allocation, something which has been linked to rapid land alienation in other areas.	Low	- There was timber cutting with many picky choices (wood with small holes or big holes were not accepted), leading to more cutting by police and military - Some Khmer people from lowland areas, authorities, military with uniform and weapons cut timber such as Beng, Ka Nhong, So Kram …etc. - Businessmen, who were also police, cut valuable timber without permission from local authorities from the Khmer New Year up to August. - Police post worked with businessmen to cut timber for sale. - Chainsaws were used to cut wood for robber. The law breakers were not identified.	Moderate

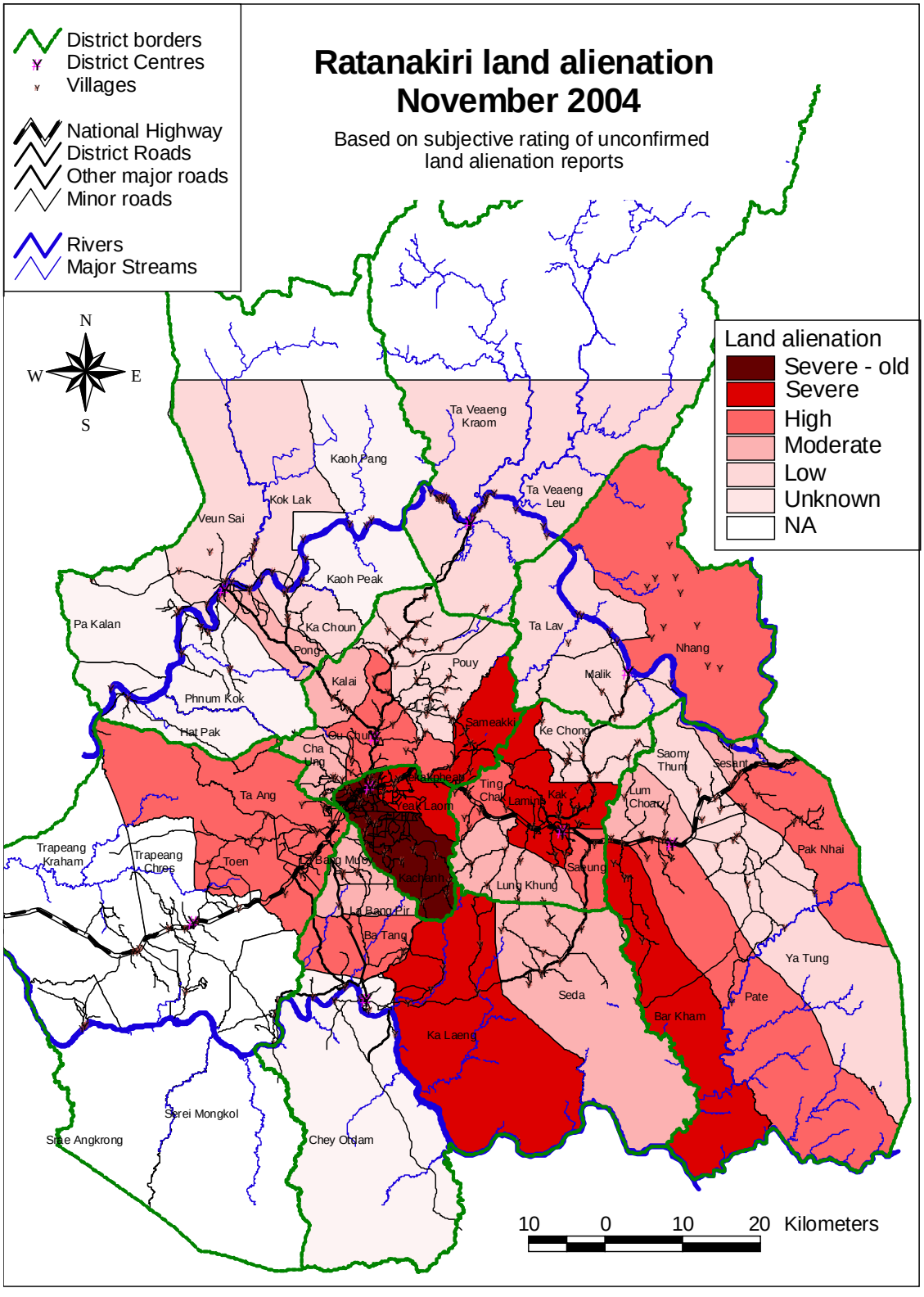
Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
TA VEANG DISTRICT				
Ta Veang Leu	Only minor land sales have been reported in Ta Veng Leu. There have, however, been reports that authorities have been promoting an individualistic land allocation, something which has been linked to rapid land alienation in other areas.	Low	- There was timber cutting with many picky choices (wood with small holes or big holes were not accepted), leading to more cutting by police and military and other officials. - Some Khmer people from lowland areas, authorities, military with uniform and weapons cut timber such as Beng, Ka Nhong, So Kram …etc. - Businessmen, who were also police, cut valuable timber without permission from local authorities from the Khmer New Year up to August. - Police post worked with businessmen to cut timber for sale. - Chainsaws were used to cut wood for robber. The law breakers were not identified. (Update January 2006)There have been a number of reports that there is a 3000 hectare land deal being made in Andong Meas district but that it affects land of Ta Veng Leu villages)	Moderate
VEUN SAI DISTRICT				
Kaoh Pang	No problems reported	Unknown	- Cutting wood for building house. - The local authority did not educate people and did not see any problem. -	Low
Veun Sai	A few small cases of land sales have been reported	Low	- 10 hectares of land was grabbed by Lao people for growing cashew trees. - There was timber cutting for housing without asking CC and committee. - CC did not educate the villagers. They only informed village heads not the villagers. They did not help us solve any problems, only the committee. - The timber cutting is still the problem because of lack of CC's participation. CC involved with law breakers because they get benefit from these people. - Some community members also involved because they get money for doing so. - The community dare not stop illegal logging because they were afraid of powerful and rich people.	Moderate

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
VEUN SAI DISTRICT				
Kok Lak	A few small cases of land sales have been reported. Chinese people from the district town are reported to be taking land along the access road to the commune.	Low	- Land is still the issue. A CC member, named ….. sold 3 to 10 hectares to a Chinese man. The seller, named ….. and the buyer, named ……. As a result some communities also wanted to sell for survival. - Forest issue: outsiders encroached on the forest and cut some valuable timbers. - The CC cooperated with the committee to educate people about land and forest law but did not solve any land and forest problems. - The reasons were powerful people involved. - The community was afraid of powerful and rich people and intimidation. - The community could not stop the CC because the community had no power. - People sold land because of poverty and availability of land everywhere.	Moderate
Kaoh Peak	No problems reported	Unknown	- Land is still the issue because the second CC member grabbed 20 hectares for outsiders. He threatened villagers with a fine of 100,000 Riels and 4 pigs and one buffalo if anyone dared to remove his border sign. - There was a company putting a border sign in the community forest land. - The CC cooperated with the community committee and went to educate people about the Land and Forestry Law, Sub-decree and provincial order but did not solve any problems. - The problems are still happening because the law breakers were powerful and rich. They were CC members, police, military and government servants. - The community lacks knowledge, rights, power and solidarity. - The community could not stop the CC.	Moderate
Pa Kalan	No problems reported	Unknown	- Some valuable timbers such as Kro Nhong, Beng, Neang Noun and KoKi are still disappearing. - The local authority did not stop it because they were the ones who did it. The normal people could not do so. They would be arrested if they cut timber. - The traders were from outside. They were from district level. - Pak Kalan did not form a community forest committee so we dare not stop illegal logging. - Land grabbing for farming is occurring in Phnom Kok village, posting fences and cutting wood for building houses and sale.	Low

Commune	Summary of reported land alienation November 2004	November 2004	Summary of reported land alienation April 2005 to January 2006	January 2006
VEUN SAI DISTRICT				
Ka Choun	Land sales and occupations have been occurring along the road from Ban Lung to Veun Sai. There have been reports of 200 hectares of forestland being "sold" years ago near to O Tang but that villagers were not informed of this.	Low	- There was land sales and land grabs to reserve for farming. Each family reserved 1 hectare each. - Timber was cut for building houses without asking the community. The cutters were the outsiders, who were soldiers. - There was animal hunting and fish shocking by the outsiders who were soldiers and police. - The local authority cooperated with the community committee to educate people about the Land Law and Forestry Law and provincial decree. The community also worked on illegal logging. - Some community members are still grabbing land for farming and land for housing. However, timber cutting was stopped. - The cutters and land grabbers were members of community, police, and military police with support from the CC. - The community could not stop the middle business people because the community lacks solidarity among themselves and are afraid of powerful and rich people. - The community could not stop CC because the CC has power.	Moderate
Ban Pong	Land sales and occupations have been occurring along the road from Ban Lung to Veun Sai.	Moderate	- There was cutting of valuable timber for building houses. The community chief was involved in this. He took all the money for himself. - Now the community decided to stop cutting from August, 2005. Any timber cutting must have a permission letter and payment to the community fund. - Asked the relevant authorities to support and solve our problems according to law. - There was law education program in the village but it seems people still continue to cut. The law breakers were military police, named ….	Moderate
Phnum Kok		Unknown		Unknown
Hat Pak		Unknown		Unknown

Note: Names of individuals in the above report have been removed.

Appendix 2: Map showing Land Alienation severity in 2004



Appendix 3: Severity of Land Alienation in Ratanakiri province

- November 2004 and January 2006

District	Commune	November 2004	January 2006	Change
Andoung Meas	Ta Lav	Low	High	1
	Malik	Low	Moderate	1
	Nhang	High	High	0
Ban Lung	Yeak Laom	Severe	Severe	0
	Labansiek	Severe (mainly old)	Severe	0
	Kachanh	Severe (mainly old)	Severe	0
Bar Keo	Kak	Severe	Severe	0
	Ke Chong	Low	High	2
	Ting Chak	High	High	0
	Lung Khung	Moderate	Moderate	0
	Laming	Severe	Severe	0
	Seung	High	Severe	1
Koun Mom	Toen	High	High	0
	Ta Ang	High	High	0
	Trapeang Kraham	N/A	Unknown	0
	Trapeang Chress	N/A	Moderate	1
	Serei Mongkol	N/A	Unknown	0
	Srae Angkrong	N/A	Unknown	0
Lumphat	La Bang Muoy	Moderate	High	1
	La Bang Pir	High	High	0
	Ka Laeng	Severe	Severe	0
	Pa Tang	High	High	0
	Seda	Moderate	Moderate	0
	Chey Otdam	Unknown	Unknown	0
Ou Chum	Aekakpheap	Severe	Severe	0
	Cha Ung	Moderate	Moderate	0
	Ou Chum	High	High	0
	Kalai	Moderate	Moderate	0
	L'ak	Low	Low	0
	Pouy	Low	Low	0
	Sameakki	Severe	Severe	0
Ou Ya Dav	Saom Thum	Low	Low	0
	Pak Nhai	High	Severe	1
	Lum Choar	Moderate	Moderate	0
	Ya Tung	Low	Moderate	1
	Pate	High	High	0
	Bar Kham	Severe	High	-1
	Sesant	Moderate	Moderate	0
Ta Veng	Ta Veang Kraom	Low	Moderate	1
	Ta Veang Leu	Low	Moderate	1
Veun Sai	Kaoh Pang	Unknown	Low	0
	Veun Sai	Low	Moderate	1
	Kok Lak	Low	Moderate	1
	Kaoh Peak	Unknown	Moderate	1
	Pa Kalan	Unknown	Low	0
	Ka Choun	Low	Moderate	1
	Ban Pong	Moderate	Moderate	0
	Phnum Kok	Unknown	Unknown	0
	Hat Pak	Unknown	Unknown	0

Appendix 4: Case Study - Land Conflict in Ou Chum district, Aekakpheap commune[10]

Aekakpheap commune is located in Ou Chum district, one of the 9 districts of Cambodia's remote Northeastern Ratanakiri province. It is situated less than 10 km from the provincial capital along a dirt road and is the traditional communal land of the Tampuen indigenous minority people. The area has fertile red soil and is forested with a characteristic mosaic of natural ecosystems due to centuries of sustainable farming by shifting agriculture. With few other options, villagers almost completely rely on their land and natural resources. They have previously been subsistence farmers but many families are now starting to practice cash cropping in addition to traditional agriculture. Aekakpheap commune has been the target of land occupations before the 2001 Land Law. Now the villagers of Paor, Om and Rach have only a minimum of land left to support their livelihoods.

What distinguishes indigenous peoples' relationship to land from many other peoples is that land is not just an economic resource. The Tampuen people, like most other indigenous populations, have a unique and profound relationship to their land and resources which has social, cultural, and spiritual dimensions. This relationship also has collective and intergenerational aspects which makes it crucial to their survival and cultural identity.

Now a significant proportion of the land in Aekakpheap commune is currently involved in a land dispute. The area is sparsely populated but the dispute affects just over 700 people comprising 147 families in three villages. The Aekakpheap case casts serious doubts on the independence and impartiality of the local government and justice system. The characteristics of the conflict are symptomatic of a land crisis faced by indigenous communities in Ratanakiri province.

CHRONOLOGY OF EVENTS

In 1996, according to Aekakpheap villagers, officials of the Land Title Department, the previous commune and the district came with the "buyers". The villagers were told that the land was needed for a "development project" and that they had to accept. They were told that the "development project" was for their benefit. The outsiders were issued "temporary possession certificates", not ownership titles. Community people were told that, if there was no activity within 3 years the land would return to them. The 1992 Land Law, which was in operation at the time, indeed says that the temporary possessor relinquishes his rights if land is abandoned for 3 consecutive years (Article 76).

[10] The land conflict in Aekakpheap commune is described in more detail in a forthcoming publication by NGO Forum on Cambodia: A case study on land conflict in Aekakpheap commune, Ou Chum district, Ratanakiri province, Cambodia.

From 1996 to 2003 there was no activity on the land by the outsiders. Indigenous villagers continued to use the land for their subsistence livelihoods. This means that the certificates of temporary possession issued in 1996 (which some regard as illegally issued anyway because of non-transparent means used for the transaction) by 1999 had become invalid. The land reverted to the private domain of the state. It had become land which indigenous communities have a right to manage and collectively own under the 2001 Land Law. Selling and buying of land eligible for indigenous collective title is illegal. The land has first to be registered as collective title and transferred to an individual member of the community before it can be sold, if it can be sold at all.

2003

Villagers were officially told by the authorities that the land was not theirs and that the "owner" was coming to take the land. The "owner" claimed to hold "title" to the land.

November 2004

Villagers lodged a complaint with the provincial Cadastral Commission. The Cadastral Commission is an out-of-court dispute resolution mechanism responsible for the solving of conflicts over unregistered land (the courts have jurisdiction when the conflicts are over registered land). The Cadastral Commission took no action.

September 2005

A Deputy Provincial Governor and Deputy District Governor told the commune and the villagers that the land had been sold and that the community had to accept 10,000 to 30,000 riel per family as an extra gift to finalize the deal. Villagers were told that if they did not receive the money the land would be taken anyway. Villagers tried to send back the money and stop the deal.

Key community people were offered thousands of dollars if they stopped trying to claim the land which was the land they farmed and relied upon for subsistence livelihoods. In many cases armed police and military accompanied officials and business people when approaching community people.

October 2005

Criminal charges were filed against villagers who tried to stop tractors from clearing their crop land. Villagers filed a complaint which the Provincial court did not uphold.

November 2005

The court issued an "urgent Deika" (court order) to allow continued clearing of the land.

January 5, 2006

Two villagers were called for questioning and subsequently arrested.

March 2006

The two villagers were released on bail 2 months and 12 days after their arrest. This followed much media coverage and the fact that support organizations brought the case to the newly formed National Authority on Land Dispute Resolution. Charges are still lodged against the two villagers and they were told by court authorities that they would be arrested again some time in the future. The courts have ruled that villagers cannot use the land for farming until the dispute has been settled. This is despite the fact that the villagers are subsistence farmers with no other livelihoods.

July 2006

Another outsider claiming to be a creditor of the person with claims on land in Aekakpheap commune demands that he was to receive the land in payment for the amount owed to him. Community people were approached by the new outsider. Twice the community told him that they did not want to relinquish their land. It is suspected that on the third attempt key community people were paid, coerced and perhaps threatened to get community agreement. A small number of these representatives, with the support of the commune council, made an agreement to transfer the land from the previous outsider to the new outsider. Community people reported being tired, harassed and poor from continually having to go to court inquiries. Very few people were in attendance when the deal was made.

Following the "agreement" by community "representatives", the Ratanakiri provincial court ruled that the land will be granted to the new outsider and $3000 given to the community as compensation for the troubles they had received.

August 2007

Some affected villagers attempted to lodge an appeal and a new legal case claiming that the land was communal land owned by all members of the community under the 2001 Land Law. The Ratanakiri provincial court refused to receive the complaint.

Appendix 5: Case Study - Ou Ya Dav district, Pate commune , Kong Yu village[11]

The earlier report on Land Alienated from Indigenous Minority Communities in Ratanakiri (November 2004) detailed how an area of 500 hectares of land was illegally purchased by private individuals with strong government connections. So far there has been no resolution of the dispute. This has been despite:The villagers lodging a complaint with the Cadastral Commission.

- Villagers complaining to and requesting support from their commune council.
- Villagers complaining to and requesting support from the district government.
- Villagers complaining to and requesting support from the provincial government.
- Villagers requesting an investigation into the role of their commune council.
  (This investigation was done but never acted upon).

At the time of writing, villagers had resorted to protesting at the site. This has had no effect. A number of villagers were called for interview by police and told that protesting was illegal.

In addition, the land clearing is still continuing. Land is now being cleared in a neighboring village. None of the villagers in the neighboring village received money for the illegal land sale and none approved the sale or use by outsiders.

The land of both villagers was recognized in land use plans drawn by the provincial government. These plans and maps showed the land as being community land.

An article from the Phnom Penh Post relating to this land case is shown on the next page.

[11]This case study provides an update on "Case Study 3" of the November 2004 report: Land Alienated from Indigenous Minority Communities in Ratanakiri province.

June 17 – 30, 2005 Phnom Penh Post 3

Pork, wine and threats clinch Ratanakkiri land sale

Jarai villagers say they were cheated out of 500 hectares of communal land

BY JANNA HAMILTON

Bulldozers continue to clear forest for a rubber plantation in Cambodia's northeast despite resident's claims that they were coerced into selling their land.

Residents of Kong Yok village in O'Yadav district, Ratanakkiri province, said district and commune council authorities forced them last August to sell 500 hectares to a well-connected woman, and that they only received $20,000 from the $90,000 deal.

The buyer, Keat Kolney, is the wife of Charn Saphan, secretary of state for the Ministry of Land Management, Urban Planning and Construction. She is also the sister of Keat Chhon, a Senior Minister and the Minister of Economics and Finance.

"They told us if we did not agree with the land sale or accept the money they would take it anyway without pay or [even] one grain of salt," said Sayo Tem, a resident from the ethnic Jarai village.

According to Un Samay, a Partnership for Local Governance information advisor who investigated the case two months ago, Kolney paid $90,000 for the 500-hectare block, but the villagers received only $20,000. He said 45 families received $400 each, with the remaining $2,000 shared between widows and single people.

Samay said the other $70,000 went into the pockets of provincial and district authorities, commune council members, and the village chief.

Advocates for the villagers said the sale not only cheated the Jarai villages but violates the laws governing land sales and contract negotiations.

JANNA HAMILTON

Jarai villagers in Ratanakkiri province got $40 per hectare in a questionable 500-hectare land deal. The wife of the secretary of state for the Ministry of Land Management, Urban Planning and Construction is the new owner, but according to the 2001 Land Law, land under the collective ownership of indigenous people cannot be sold.

Under the 2001 Land Law, it is illegal to sell land that is under collective ownership by indigenous people, wrote Huon Chuny, a senior attorney for Public Interest Legal Advocacy Project (PILAP) in an October 2004 report.

The land sale also breaches a 1988 decree governing contract law, Chuny said. The contract should be deemed void because the villagers were forced into signing the agreement through threats and trickery, never given the opportunity to meet the buyer, read the contract, or informed of the size of the land sold, he said.

Further casting doubt on the sale's legitimacy, commune officials closed the deal by organizing a party, plying the land owners with liquor and then asking them to sign the contracts.

Authorities supplied two cases of Crown lager, two large jars of rice wine, seven bottles of soft drinks and about 40 kgs of pork. Once the party was well under way, officials then asked the villagers to dip their thumbs in red ink and thumbprint their approval of the deal.

The party was one of five meetings arranged by the Pateh commune council and the district governor's office in order to persuade Kong Yok residents to give up their communally owned land.

On August 27, a week after the thumpprint party, Siev Vow, the Pateh commune council chief, Puh Svanh, Kong Yok village chief, and Kolney coached villagers on what to tell media.

Siev Vow warned them not to speak in Khmer or talk to NGO workers. He told them to say the sale took place before the 2001 Land Law came into effect and that the land was already agricultural, not covered in forest. Kolney then handed out sarongs and envelopes of money to the villagers.

The residents of Kong Yok have since appealed to the village chief, district chief, commune council, NGO workers, cadastral committee, and Ministry of Interior to have their land returned.

Kham Khoeun, Ratanakkiri provincial governor, who according to PILAP was present at the August 27 meeting, disagrees that the land was sold illegally.

"It's not true that the villagers were forced into an agreement," Khoeun said. "But later NGOs were [in the village], and they encouraged the people to be angry."

Khoeun said he sent someone down to research the case and that person concluded the agreement was legitimate.

Kolney, who was only present for the last meeting, said the local authorities and the commune council had been encouraging her to buy the land since 2000.

"At the beginning I thought there may be a problem with the law, but the authorities and people from the village told me there is no problem," she said. "The people said they are happy I was developing the area. ... I bought the land legally."

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THE NGO FORUM ON CAMBODIA

P.O. Box 2295, Phnom Penh 3.

Telephone: +855 (0)23 214 429
Fax: +855 (0)23 994 063
E-mail: ngoforum@ngoforum.org.kh
Web: www.ngoforum.org.kh

INTERNATIONAL WORK
GROUP FOR INDIGENOUS AFFAIRS

Classengade 11 E, DK 2100 - Copenhagen, Denmark

Telephone: +45 (0)35 27 05 00
Fax: +45(0)35 27 05 07
E-mail: iwgia@iwgia.org
Web: www.iwgia.org

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