

MEDIA RELEASE

14 March 2013

“Access to Land Title in Cambodia” Launch of major report on land registration issues

Today the NGO Forum on Cambodia, in cooperation with World Vision Cambodia launched its latest report, ***Access to Land Title in Cambodia***, which reviews the progress of Systematic Land Registration (SLR) in four areas: Banteay Meanchey, Kampong Cham and Preah Sihanouk provinces, and areas of Phnom Penh. The study provides important insight into how the SLR process is being undertaken in four diverse areas of Cambodia.

The study found that, while the process appears to have been conducted appropriately for those who had access to the system in two of the four study areas, in Phnom Penh and in Preah Sihanouk provinces there were widespread exclusions from the SLR process. There were also significant disputes involving high numbers of households in conflict with small numbers of influential people.

The SLR process was initially conducted under the Land Management and Administration Project (LMAP) which commenced ten years ago with the support of development partners. This project has concluded, but SLR continues and is active in 15 of Cambodia’s 24 provinces and the capital. To date, the land registration process has successfully issued over 1.7 million titles in the past decade. A legal framework has been developed, mechanisms established and a dispute resolution process set up. Yet there is no comprehensive data on how the SLR process is being conducted throughout Cambodia. Evidence has suggested that the system is working well in some areas and not in others.

The report estimates that 80% of land parcels remain untitled in Tumnap Village, Phnom Penh and in Village 3 of Preah Sihanouk province more than one third of parcels were left untitled after the SLR process concluded. By contrast, in the rural villages of Kampong Cham and Banteay Meanchey provinces there were very few exclusions, and the SLR process appears to have run smoothly with the majority of parcels registered.

“It is pleasing to find that the Government’s Systematic Land Registration process is working effectively in some areas of Cambodia,” said Mr Chhith Sam Ath, Executive Director of NGO Forum.

“However it is concerning to discover that there are also high levels of exclusions and disputes, especially in Phnom Penh where land is highly valued, and we urge the Royal Government of Cambodia to address these issues so land registration can proceed successfully with access by all to the process.”

The process appears to be successful in rural areas with high numbers of land parcels, low levels of dispute, minimal state land, and where land was not targeted for development. In the Banteay Meanchey and Kampong Cham provinces study areas, over 99% of parcels were registered and the large majority of survey responders were happy with the process.

By contrast, in Tumnap Village Phnom Penh, although 861 families are resident there, only 195 parcels were adjudicated, and only 41 titles were issued, which means that only 1 in 5 of the total plots were registered. Reasons for this low registration included the complexity of the process; and that the SLR process was cut short during the survey and demarcation stage. In 2011 residents were told that in principle additional land

registration can be conducted in the area, but nothing has yet resulted and people residing in the area of real estate development will be excluded.

Land plots appear to be left unregistered for a number of reasons, including on-going land disputes, overlaps with State property, or lack of data. In Preah Sihanouk province, 668 parcels were never adjudicated because they were located within the vicinity of the port development, Special Economic Zone development, railway rights of way, or in the path of a road upgrade.

These exclusions were seen to have taken place in the absence of any clear legal process. The legal framework for SLR contains no legal provisions for excising areas from adjudication because they are “too complex” to adjudicate and it is not clear what legal justifications exist for such exclusions. In both Phnom Penh and Preah Sihanouk province the exclusions were conducted in an atmosphere of low transparency and access to information was very poor. There was no formal complaint mechanism for the people who were excluded, and for the most part they only found out that they were denied land titles after they heard that the SLR process had already concluded.

“There is currently no publicly available data on the prevalence of exclusion from the SLR process throughout Cambodia, and it is therefore more difficult to assess how widespread the issue is, and the impact it is having on the system overall”, said Mr Sam Ath.

A further concern raised by the study is the low levels of properly registered subsequent registration. Transfers must be properly registered with presentation of documents by the parties to the cadastral authorities, not just at local level, as has been previous practice. There is a great need for further information to land owners, and stricter enforcement of the process for subsequent registration.

“We encourage Government to provide full and transparent information about the overall progress of the SLR process, which in some areas is delivering impressive results but for which the total picture is not known”, he said.

The report includes practical recommendations for RGC to improve the SLR process, as follows:

- Develop a plan to avoid further exclusions and to deal with areas already excluded from SLR. If it is found during the adjudication process that there are overlaps with state land or rights involving dispute, these should be dealt with according to the existing legal process.
- Clarify the status of pre-approved developments vs. legal possession rights. In regard to cases where people have been denied title due to development projects; in such cases, private development should not override existing land rights as set out in the Land Law.
- Clarify the legal status of projects approved pre-1979. The Land Law states that pre-1979 ownership regimes are no longer valid. It should be clarified if this also applies when the state claims land that was approved for development pre-1979 but has since been occupied by private individuals.
- Clarify under what circumstances the term “unclear status” can be applied.
- Develop clear plans to improve state land management, incorporating the input of all relevant ministries.
- Assess the dispute resolution mechanisms, following on from studies by GIZ and the World Bank
- Provide support to complainants, with guarantees of access to dispute resolution procedures.
- Undertake studies into the challenge of improving the rate of subsequent registration on how local officials should refrain from witnessing transactions non-formally; introduce a one-stop window service to clarify the Tax rate for specific plots and provide clear information for the public, and penalties should occur for officials who seek informal payments. Landowners and local officials should be encouraged to follow the appropriate process.
- Undertake more comprehensive monitoring of the SLR system, and enhance access to information regarding SLR.

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