



SWOT Analysis of Systematic Land Registration's Procedure under Order 01 for Strengthening Land Tenure Security in Cambodia

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Abstract In 2011, the conflicts over economic land concession (ELC) were hardened and became more violent than before. Hence, Order 01 on “measures for strengthening and increasing effective management of economic land concession” was decreed on 07 May, 2012. The aims of this study were 1) to evaluate the strength and the weakness of the land registration procedure under Order 01, and 2) to assess the challenges and opportunities for improving land registration. A qualitative approach, incorporating observations and semi-structural interviews with 96 local families based on questionnaires survey and 23 key informants, were applied in this study. Secondary data were collected from Cambodia’s ministry of land and land administration sub-sector program (LASSP). The results of this study showed that land conflicts were reduced and solved, measures for preventing land conflicts were taken, illegal land occupations were regularized and 361,734 titles were provided to the people. The process was fast. Local people were satisfied and confident on its implementation. Moreover, the local people’s livelihoods were improved as well as the public awareness of systematic land registration (SLR) was spread throughout the country. However, the weaknesses of its implementation were: technical problem, lack of information and quality control, poor governance, state land decreased and it impacted on educational institutions and on the environment, wildlife and indigenous culture. Its opportunities were found that the investment on land will be more active from now on due to the investors’ confidences and trust on land titles. Its challenge was identified that financial support of technical assistances was pulled out from LASSP. In conclusion, its implementation was very useful for the landless people, and the poor. Quality control should be included into the process and land occupants should be seriously identified. SLR should be sped up to register in hot-issue sites.

Keywords Order 01, Systematic Land Registration, effectiveness, challenges and opportunities

INTRODUCTION

In 2005, one fifteenth of the Cambodian households were involved in land disputes due to the lack of tenure security (LHWGC, 2009). In order to improve the land tenure security, a sub-decree on the procedures to establish cadastral index map and SLR and sub-decree on sporadic land registration (LR) were formulated. In particular, to solve land conflicts, sub-decree on organization and functioning of

the cadastral commission were established as well (RGC, 2002). However, the land conflicts still occurred throughout Cambodian territory. Furthermore, according to the NGO Forum (2011), rural communities are heavily relied on land and forest resources, but landlessness has become a significant cause of widespread poverty for rural Cambodians and landlessness has risen to 20%, beside 40% of rural households have farms that are smaller than 0.5ha (Üllenberg, 2009). Moreover, statistics showed that out of 282 land dispute cases, 14% or 39 cases have been rooted in development projects, especially in the granting of Economic Land Concessions (ELCs). Most land disputes triggered by ELCs can be found in Kratie, Rattanakiri and Kampong Cham (NGO Forum, 2011). Moreover, it was estimated that in total about 1.5 million hectares of ELCs were granted to investors as of April 2010 (Ngo and Chan, 2012).

Hence, Order 01 on “measures for strengthening and increasing effective management of economic land concession” was established on 07, May 2012. One part of this Order is a temporary postponement of granting new ELCs in order to prevent land conflict occurring (RCG, 2012). Moreover, RCG decided to provide land ownership to people who occupy and use the ELCs land, forest cover and protected area within the framework of land distribution reform. The campaign of SLR in 21 provinces of the country was established and it was called “New Action on Existing Policies for Land Sector”. Volunteer youths were engaged to survey land for people under the ministry of land management urban planning and construction (MLMUPC)’s instruction and guideline. They were trained only 2 days about how to register and survey the land (Yeang, 2013).

OBJECTIVE

The objectives of this study were to evaluate the strength and the weakness of the land registration’s procedure under Order 01 and to assess the challenges and opportunities for improving LR.

METHODOLOGY

The qualitative and quantitative approach, incorporating observations semi-structure interviews and focus group discussion had also been done as well as recorder was used to record participants’ point of view. Survey with questionnaires had been used to know the respondents opinions. The research study focused on systematic land registration under Order 01 that has been carried out since June, 2012 in Pi Tnou commune, Snoul district, Kratie province located in forest cover, protected area (National Park) and economic land concession area. Furthermore, 96 local families and 23-key informants were chosen to be interviewed. Secondary data were collected from Cambodia’s ministry of land and LASSP.

RESULTS AND DISCUSSION

Strength of the Procedure of Systematic Land Registration under Order 01 (SLR BB01)

Land conflict resolution: The study showed that there were 39 people among 96 interviewees involved in land conflicts. Most of land conflicts were happening to LECs companies and others occurred with forest and environmental department. 33 cases out of 39 cases were solved by the implementation of SLR under order 01 (BB01). These were because its implementation had cut the land from ELC company, measured and gave to people who were actual occupants even though the company claimed that the areas were belonging to it. Most of the land conflict had been solved, but 6 cases were not solved due to in the fact that they encroached environmental land. According to Müller (2013) the implementation of SLR BB01 was to solve the land conflicts over forest land and ELCs for the targeted 700,000 parcels in only one year. The campaign had to speed up the normal title

production levels of 350,000 per year during SLR and went countrywide into 21 provinces where these types of conflicts exist. MLMUPC opted for staffing up and bringing in extra workforce from outside.

Land conflict prevention: The research found that 15.88% of interviewees expressed their opinion that the implementation of directive BB01 really prevents land conflict occurrences in the future. They added that its implementation measured the land and provided the titles for them, and no one could seize their land now.

Regularizing not-yet-legal land occupation and its main achievement: According to Im (2012), the implementation of SLR BB01 had solved irregular issues: regularizing not-yet-legal land occupation in rural areas through donation of completed land ownership, providing a small-scale economic land concessions and social land concession in order to improve and guarantee land tenure security, to improve people's livelihood and to enhance national economy. The achievement of its implementation for 12 months (June 2012 - June 2013) was the 361,734 titles with approximately 595,534 hectares have been granted to probably 200,535 families (MLMUPC, 2013).

Local people satisfaction and confidences: The study found that 94% of interviewees satisfied with its procedure and were also confident on the land certificate (title) that government issued to them. They reported that once they have a certificate, no one could seize their land anymore. However, 6% of the respondents were not satisfied with the implementation of the procedure and they were less confident in it. This was mostly because they were occupying the land located in protected area so their land have not been measured and registered. They further added that if they get the certificate they will be satisfied with its implementation and they will be confident in the certificate.

Improving local people's social economic: The implementation of Order 01 provided the full ownership to the people as well as securing on their land. As a result, some villagers could be able to use the land title provided/registered from government to borrow some loan from micro finance or bank which the interest rate is low (1.2% - 2% per month) comparing to the loan borrowing from money lender which it is high in interest rate. The bank will not provide loan for villagers if their land titles would not be appropriately registered, so some villagers had to borrow money from other money lenders with a high interest (7% - 10% per month). The interest rates varies in accordance with kinds of land certificates and titles (commune, provincial or governmental level). For instance, if the land certificate is certified at commune level (from commune chief), the interest rate would be around 4% - 5% per month. Consequently, being implemented by this Order, the people's social economic would be improved through borrowing loan with low interest rate for their small business or farming such as buying crop seeds, seedlings, fertilizers and agricultural equipments etc.

Improving and speeding up the procedure of SLR under LASSP: The research found that it is an opportunity for the MLMUPC to receive additional modern equipments and materials for land administration during and after its implementation. Moreover, 600 out of the total youth volunteer were recruited to be MLMUPC's new staff. According to Sar (2013), to strengthen the quality, effectiveness of field work management and to continue the smooth and high effective procedure of SLR, the 25 provincial department directors in the department of land management, urban planning, construction, and cadaster have been proposed to readjust and reorganize the SLR team. The team number of SLR was adjusted from 26 to 15 members per team in order to reduce the expense and to increase the number of SLR teams that can be implemented throughout 25 provinces.

Strengthening land concession economic management: Concerning the implementation of Order 01, the Royal Government has decided to abolish economic land concessions which have not followed the agreements and has given the expropriated lands to the Provincial State Land Management Committee to manage those lands for social land concession programs. Meanwhile, state land in the area where RGC implemented SLR BB01, was to be cut off in the form of Leopard's skin to existing land occupants using and cultivating it and also to the provincial committee for state land management and be used for social land concession programs. Therefore, this land can be used in the future for land distribution program of the Royal Government in a larger scale than before.

Spreading out the public awareness through country: The implementation of SLR BB01 was carried out throughout 21 provinces at one time. So far though the rural areas are, the land registration teams could manage to reach those places. Previously the LSR under LASSP always avoided to provide registration in those areas, yet the donors (world bank, GIZ, Finmaland and CIDA) always force LASSP to do so. As a result, its implementation is appreciated by all stakeholders including donors.

Weakness of Its Procedure and their Causes

Technical problem: The weakness of the LR procedure was divided into three categories, losing of parcel size, lacking of neighbors’ printed thumbs and losing parcel size and lacking of neighbor’ printed thumbs. Fig. 1 illustrates that only 63% of respondents’ neighbor could participate in LR process and have their thumbs printed while registering the parcels, whereas 37% out of 100% had some troubles during the land demarcation registration in which 12% of respondents mentioned that the area of their parcels showing on the land title had lost some compared to the actual area on the ground due to handheld global positioning system (GPS) and volunteers and land officers probably did not accurately measure their land as the respondents said, 19% told that their neighbors were absent to print their thumb and 6% were losing of parcel size as well as figureprint had not been done. The volunteers had been trained about its procedure and technical work for only 2 days.

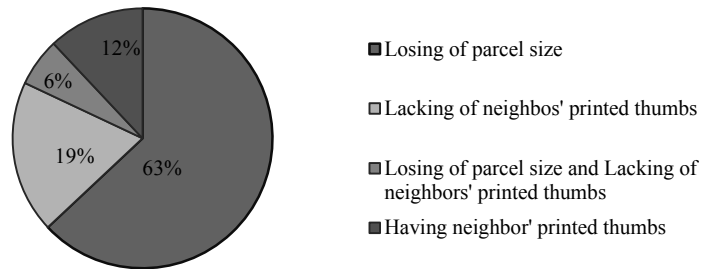


Fig. 1 Technical problems associated with the land registration procedure

The other weakness of technical problem was that the monument poles have not been installed on adjudicated boundaries. Installed-boundary poles had been done for parcels which were registered, but the poles were just small sticks to recognize the boundary, such as a small wooden stick, digging small holes on boundary, and using color spray as some villagers and some volunteers said.

Lack of information and poor governance: Due to lack of information that implementation under directive Order 01 could not spread widely across the country, many villagers did not know how to prepare documents for applying to register their land; as a result, some people haven’t had their land registered. According to the survey, it was because of poor governance as some villagers said that they could not find the person who was responsible for this registration; for instance, when they came to meet land officers or students to certify some documents: residential certificate, widow's certificate or land occupied certificate, they were told that it was not the land officers’ responsibility, but the commune chief’s responsibility, and when they went to meet the commune chief, they were told that it was not commune chief’s responsibility, but the land officers’ and students’ responsibilities. Moreover, LR was so fast to follow by people as all people could not have thier land registered because some people were absent due to thier personal tasks while LR team implemented the registration. This was because when the LR teams completed registration of one area they would move to other area and they would not come back to register the land title of those who were absent during registration process.

Impact on educational institutions: The implementation of SLR BB01 had used approximately 2,000 volunteer youths who were mostly students which 305 students were from Royal University of Agriculture (RUA). The registration exercise had caused two faculties of RUA to be closed for one semester namedly, faculty of land management and land administration and faculty of forestry. While students returned to study, their studies were incomplete because some subjects were taught for less hours than regular curriculum did.

State land loss and negative impact on environment, wildlife and culture: According to Council of Ministers, (2012), the ownership was donated for the requests of people who actually occupy the land not exceeding 5 hectares. Furthermore, for people occupying more than 5 hectares, whether the land contains a residence or not, the part of the land that has truly been cultivated shall be donated as ownership. Parts of the land claimed that has not been developed shall be registered as State private land and the claimant shall be given the right of “small economic concession”. In such a case, the land shall be registered in the name of the Governor as the chairman of the provincial state land management committee, and the Governor shall be granted the mandate to establish the contract of “small economic concession” with the concessionaire. However, the researcher found that the actual implementation has not followed guideline above and the more than 5 hectares land where are not only the clear land but also forest land have been registered via SLR BB01 as well as sporadic land registration. Consequently, some area of forest cover were lost during its implementation and the land cover has changed very fast. According to Rabe (2013), the Directive BB01 caused numerous issues for indigenous people in Ratanakiri Province. Moreover, it would cause loss of indigenous land, livelihoods, identity, and culture and it divides communities. For example, for those who received the private land during this implementation, will stop doing the slash and burn cultivation because they do not have the reservation land.

Lack of quality control of the parcel and land owner: The research showed that the quality control of the implementation of SLR BB01 was not mentioned in the guideline. Particularly, most of the students were not skillful in technical and practical work such as, using of GPS, geographic information system (GIS) and land law. As a result, some people had taken this chance to claim the state land as their own land. According to the guideline of SLR under LASSP, it claimed that 5% of parcels which have already been registered, have to be selected to cross check in the field such as resurveying parcels, database of parcels owners.

Opportunity of the Procedure of SLR BB01

Positive external influences can be taken advantage from this implementation in order to solve land conflict in city because some development partners provide funding for urban land dispute conciliation. Furthermore, communal land registration for indigenous people is implemented because of development fund. For instance, GIZ not only supports the implementation of circular 03 “resolution of temporary settlements on state land illegally occupied in the capital, municipal and urban areas” but also supports communal land registration for indigenous people. Land policy will be successfully established because all stakeholders understood about the importance of land. It is still supported by the politic and development partner, GIZ. Investing on land will be more active from now on because investors have confidence and trust on land title. Hence, land price will be increased mostly in rural area.

Threat of the Procedure of SLR BB01

According to Rabe (2013), in Ratanakiri province, the students and local government officials threatened indigenous people who said that a regular statement was from the Commune Councils, District Governors, and Provincial Governor, who told villagers, “If you do not choose the private titles and if you have a conflict with the company in the future, we will not help you resolve the issue.” This

made villagers believe that dispute resolution mechanisms would be unavailable to them, and that the BB01 titling was the only solution to protect their land against the companies.

Financial support from another development partner will be pulled out from Cambodia for instance, Finnmap, Finland and CIDA, Canada. The government thought that Cambodia can implement by itself but MLMUPC still needs the development partner's assistance of technical issues. The database of parcels has been stored in Microsoft office Access, so all parcels throughout country cannot be used as one database because the data of parcels in whole country is bigger than 2 GB while Microsoft office Access enables to store only 2 GB.

CONCLUSION

It could be inferred that the implementation of SLR BB01 was very useful for landless people, and the poor. It was also the crucial chance to divide land from the rich and the companies in order to grant to citizens in the rural areas. The land conflicts were reduced and solved, measures for preventing land conflicts were taken, illegal land occupations were regularized and 361,734 titles were provided to the people. The local people's livelihoods were improved as well as the public awareness of SLR was spread throughout the country. However, the weaknesses of its implementation were: technical problem, lack of information and quality control of the parcel and land owner, poor governance, state land decreased and it impacted on educational institutions and on the environment, wildlife and indigenous culture. The opportunities of its implementation were: land policy which will be successfully established and investing on land which will be more active from now on due to land title. Eventually, the financial support of technical assistances was pulled out from LASSP.

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