



AN ASSESSMENT OF FOREST CONFLICT AT THE COMMUNITY LEVEL: EXECUTIVE SUMMARY

ACTUAL CONFLICT OVER FOREST RESOURCES IS INCREASING IN CAMBODIA AND THE RATE OF INCREASE APPEARS LIKELY TO ACCELERATE OVER THE NEXT SEVERAL YEARS.



ARD, INC.

The land upon which forest grow in Cambodia is becoming increasingly valuable for both subsistence and commercial agriculture .

The vast majority of Cambodians live in rural areas, earning their livelihoods through agriculture and depending on natural resources for daily needs and as an economic safety net. Indigenous communities living in the forested uplands are almost totally dependent on forest resources and forestland. Resource tenure is still insecure despite initial steps by the Royal Government of Cambodia (RGC) to provide legal guarantees. The current situation of legal uncertainty has encouraged land grabbing by the elites in Cambodian society as well as encroachment on forestland by the landless. Forest and wildlife resources are being lost steadily through illegal harvesting at a range of scales. These trends are causing conflict between the communities that rely on land and resources for their livelihoods and the outsiders that are seizing them or using them illegally.

Natural resource conflict is an important development issue in Cambodia because it is very closely related to government efforts to reduce poverty and improve governance. Forest resources are an important source of illegal income for corrupt civil government officials and the military. The next few years will be a pivotal period for improving natural resource governance as a means to reduce conflict, fight poverty, and avoid human rights abuses. This assessment is intended to provide an overview of forest-related conflict in Cambodia to help the RGC, USAID, other donors, and nongovernmental organizations (NGOs) to take effective steps to avoid or mitigate conflict. It is also intended to identify important lessons learned from the Cambodia experience that can be applied more broadly in Asia.

Actual conflict over forest resources and forestland is increasing in Cambodia and the rate of increase appears likely to accelerate over the next several years unless steps are taken to reduce the underlying and direct causes of conflict. The ability to reduce conflict has important implications for the RGC's efforts to reduce poverty and improve governance in the country.

The Case Studies included in Appendix A of the full report were chosen to give the reader an indication of the various conflict scenarios in Cambodia. Conflict caused by land grabbing, encroachment, and land concessions are increasing rapidly in the country, while those driven by timber harvesting have been reduced. The primary locus of conflict has shifted from forest resources to land.

Purpose of the Assessment

The assessment of community-level forest conflict in Cambodia was conducted within the context of a task order under the Biodiversity and Sustainable Forestry Indefinite Quantity Contract (BIOFOR IQC) entitled “Managing Conflict in Asian Forest Communities.” The purpose of the task order is to understand the types, causes, and impacts of conflicts over forest resources at the community level in selected Asian countries and to assess current or proposed methods to avoid, reduce, and monitor conflict. This assessment is intended to provide regionally relevant information while also identifying opportunities to address forest conflict in Cambodia.

The tasks of the Cambodia Conflict Assessment are as follows:

- Describe the context of forest conflict in Cambodia.
- Assess the nature of forest conflict including causes, scenarios of conflict, how conflict is expressed, and examples of conflict.
- Describe and evaluate current and proposed methods used to avoid, mitigate, or monitor forest conflicts at the community level in Cambodia.
- Identify additional actions to be taken by the RGC, donors, and NGOs to support or expand efforts to reduce conflict. Identify follow up actions that could be taken under this task order or by USAID/Cambodia and its implementing partners.
- Identify key lessons or innovations in Cambodia that might be applied to other Asian nations to reduce forest conflict.

Approach to the Assessment

Issues related to forest conflict are multidimensional and often complex, and cannot be addressed in isolation from larger issues of natural resource management, national economic development, rural development, land tenure, and poverty alleviation. We found that issues related to forest resource access by forest communities and their tenure over land are closely linked and are addressed as such in the assessment.

Conflict over forest resources at the community level can occur in many forms and at many levels of severity. The **working definition of conflict** used in this paper is:

Denial or restriction of community use of forest resources or forestland necessary for their material or spiritual needs through forest degradation/clearance, access restrictions, or land appropriation.

Under this definition, a livelihood or social impact constitutes a conflict even if the conflict is not expressed publicly or does not lead to direct confrontation between the parties. We argue in this assessment that the best way to prevent conflict is to develop mechanisms and criteria for

assigning use and tenure rights to communities, make the rules for obtaining these rights clear, and enforce these rules.

Forest conflict must be viewed from the perspective of Cambodia's recent history and trends in economic and social conditions in rural areas, including:

- Cambodia's 30-year history of warfare and violence has led to massive displacement of rural people and destruction of property records.
- The majority of Cambodians live in rural areas below or near the poverty line, struggling to earn their livelihoods through subsistence agriculture. A significant proportion of families are landless or nearly so.
- The population is growing rapidly with the age distribution heavily skewed toward children and young adults.
- Weak governance of land and natural resources is exploited by the powerful and politically well connected, who illegally "grab" land and natural resources.
- The forest and land concession systems have thus far failed to meet the real need to use rural land and natural resources to promote economic growth and provide rural jobs. They have instead diminished livelihood options for the rural poor and degraded natural resources while failing to capture economic benefits for the nation.
- Degradation of common or community property resources has weakened the traditional social safety net.
- Most ethnic minority forest communities are unable to defend their land or forest use rights due to their marginal status in Khmer society, widespread illiteracy and poor understanding of the Khmer language, lack of knowledge of the law, and self-perceived powerlessness in the face of the authority figures or outsiders.
- The RGC lacks the political will to guide and control migration to sparsely populated forest areas.

The Context of Forest Conflict in Cambodia

Cambodia is one of the poorest countries in Asia with a per capita gross national income of US\$ 297 and was ranked 130th on the United Nations Development Program's (UNDP) Human Development Index in 2003. Approximately 36% of the population live below the poverty line. In a nation where 85% of the population lives in rural areas, with 63% earning their living by subsistence agriculture, more land is needed to accommodate young families each year. The stage is set for forest conflict as population growth, landlessness, and lack of alternative income opportunities are pushing poor people out of the rice-growing lowlands to settle in resource frontier areas, putting them in conflict with indigenous forest communities. Forest communities are also competing for land and resources with land grabbers and land concessionaires, who are also converging on the forest-rich upland provinces.

Sparsely populated, forested uplands are located in the east and north of the country, particularly in the provinces of Mondulkiri, Ratanakiri, Stung Treng, Preah Vihear, and Oddar Meanchay, and in the Cardamom Mountains in the southwest, within Koh Kong and Pursat Provinces. The forested uplands are home to an ethnically diverse group of people, including Khmer and ethnic minorities. As is the case in the lowlands, forest farmers cannot grow enough rice to last the entire year, and usually rely heavily on collection of non-timber forest products

(NTFPs) to provide food, building materials, cash to buy rice and other household necessities, and funds to meet family emergencies.

The disparity in population density between the lowlands and forested uplands is stark. For land poor lowlanders, the forested uplands appear to offer a wealth of underutilized land and resources, a view shared by entrepreneurs and the government. Landless lowlanders are attracted to the resource frontier provinces where land and resources are seemingly abundant, putting them into conflict with the people who already live there.

The Nature and Use of Cambodia's Forests

Forest of some type is estimated to cover 10 million ha of Cambodia, approximately 60% of the nation's land area. There are a diversity of forest types reflecting various combinations of rainfall, soil type, elevation, and human disturbance. Virtually all of Cambodia's forests have been disturbed by shifting cultivation, logging, fires, and warfare. Many valuable forests have been logged past the point of commercial viability and others are seriously degraded. Over the last decade it has become apparent to all that Cambodia's forests are finite and are rapidly being depleted. Like a game of musical chairs, the various groups of players are trying to lay claim to one of the remaining forest areas while the rules of the game remain weakly enforced and unknown to many of the players. As forests are degraded and converted to other uses, demands on remaining forestlands and resources are in rapid transition, creating an environment conducive to greater conflict over forests and the land they grow on.

A fast-growing, young, rural population has surpassed the carrying capacity of the nation's lowland rice-growing areas, creating a large number of landless and land poor people who are attracted to sparsely populated forests, already degraded by three decades of unmanaged logging. Powerful people, entrepreneurs, and agricultural settlers have strong incentives and few constraints to grabbing or encroaching on forestlands. Forest communities typically lack the political power, knowledge, and resources to contest illegal takeovers. The structure of a legal framework for forestland allocation is in place, but the means, capacity, and will to implement it remain weak. Allocation decisions are made without any real effort to evaluate competing uses based on economic, social, or environmental criteria. In an effort to conserve remaining areas of forest, the RGC has designated approximately 30% of the country as protected areas,¹ in some cases creating conflicts with communities over forest resource access. A protected area system covering 3.3 million ha was established under the management of the Ministry of Environment (MoE) and additional areas of Protection Forest have been declared by the Forestry Administration.

Between 1994 and 1997, the Ministry of Agriculture, Forestry, and Fisheries (MAFF) awarded more than 30 forest concessions covering 6.5 million ha. Logging was conducted during the mid-1990s on a massive scale, with virtually no concern for sustainable management or impacts on the environment and local communities. The forest concessions had an enormous impact on the lives and livelihoods of people living in or near them. The concessionaires viewed the forest resources within the concessions as their property and routinely hired armed guards, including police and military personnel, to guard the concessions, resulting in intimidation of local people and often direct conflict with them. Communities were affected even after logging was halted

¹ This includes the flooded area of the Tonle Sap (Great Lake) which covers about 8% of Cambodia's land area.

because important resources, particularly resin trees, were either depleted or totally lost and the overall quality of the forest was degraded. Roads cut into the forest for log extraction provide continuing access for illegal loggers and agricultural settlers into the forest, both of which continue to threaten the livelihoods of local people.

The Legal Framework for Forest and Land Management

The combined effect of the weak observance of the rule of law, the incentive to harvest forest resources and claim forestland, and the inability of traditional users to gain recognition of and defend their use rights creates a climate for conflict. Among these, the most serious and difficult to address is the failure to enforce laws that allocate and protect forest resource access rights in a transparent, rational, and equitable manner.

The legal framework for allocating and managing Cambodia's forest resources and forestlands were recently put into place and the remaining structural elements are being formulated. The two key pieces of legislation are the Land Law approved in 2001 and the Forestry Law approved in 2002. These laws are in the process of being elaborated through sub-decrees that clarify specific provisions of the laws and *prakas*, which are implementation guidelines issued by the responsible ministry. The procedures and criteria for land classification and allocation spelled out in the sub-decrees and *prakas* will determine how difficult it will be for communities to obtain land and forest use rights, which will largely determine how much conflict there will be in the future.

Local government has an important role to play in reducing community-level forest conflict, and provincial governments have in fact done so, most notably the provincial government of Ratanakiri. A law has been passed describing the responsibilities of the newly formed commune councils, but there is as yet no law that states the roles of provincial and district government or their relationship with sectoral ministries.

The Causes of Forest and Forestland Resource Conflict

Conflicts over forest resources in Cambodia result from direct causes that are driven by multiple underlying causes related to the following enabling factors:

Enabling Factors of Conflict

- Timber is valuable and relatively easily harvested and sold in relation to other natural resources, making logging an attractive source of cash to a wide range of groups including the military, government officials, and businessmen. Ready markets for timber exist in neighboring countries.
- The land upon which the forests grow is becoming increasingly valuable for both subsistence and commercial agriculture.
- The political elite has little reason to observe existing laws because doing so would eliminate an important source of funds and political patronage.
- The landless have nothing to lose and much to gain from encroaching on forestland.
- Communities that most depend on forest resources make up a relatively small portion of the national population and have very little power because they are socially, linguistically, and politically marginalized.

Direct Causes of Conflict

- **Land grabbing** (the illegal appropriation of land) is taking place at a wide variety of spatial scales.
- Agricultural settlers are **encroaching** on forestland.
- **Economic Land Concessions** have major impacts on forest communities in terms of reducing or eliminating access to both forest resources and forestland.
- **Forest concessions** have been put on hold by the logging moratorium, leaving a management vacuum that in many cases is being filled by illegal loggers and agricultural migrants.
- **Illegal timber and NTFP harvesting** is a chronic and difficult to control source of conflict.
- **Forest use restrictions related to protected area management and protection forest** have mixed results for communities living in or near protected areas. In some cases, protected area status has reduced illegal encroachment and harvesting by outsiders, while in others it has not. Enforcement of protected area regulations also places restrictions on forest use by communities, or may simply create uncertainty over what their rights are within protected areas.

Underlying Causes of Conflict

- **Weak governance and observance of the rule of law** puts forests at the disposal of the powerful. This results from the uncertainty surrounding the still-evolving legal framework and role of provincial and lower levels of government in land and natural resource management, the weak enforcement capacity and will to enforce by government agencies, little judicial involvement in land and forest cases, and no effective extra-judicial mechanism to settle land and resource conflicts. Weak governance is also related to the following three causes:
 - **Forest communities** in most cases do not understand their rights and are unable to defend them.
 - **Forest use classification and comprehensive land use planning** for forest areas has not yet been started as required by the 2002 Forestry Law. Forestland and resource allocation decisions continue to be made on an ad hoc basis without consideration of the full range of forest values for actual and potential uses.
 - **Economic incentives** for illegally harvesting timber and grabbing forestland are enormous since much can be gained with a small investment risking little chance of prosecution. The military has a particular incentive because their personnel are poorly paid, field units have limited operational funds, there is an excess of armed soldiers in rural areas, and military units have a history of financial dependence on forest resources.
- **A growing population of young, landless people** who have limited employment and livelihood options in their home areas are increasingly attracted to encroaching on forestland.
- **Forest access has been improved** by the extension and upgrading of the nation's primary road network including major links with neighboring countries providing easy access to remote forest areas and a means to move timber quickly. Forest roads that were built by concessions and have been abandoned now provide forest access for spontaneous migrants, commercial agriculture firms, and illegal loggers.
- **Social Concession Sub-Decree** could cause conflict if landless people are settled in forest areas without adequate prior planning and mitigation measures.

The Nature of Forest Conflict and Approaches to Reducing It

There are several common scenarios for forest conflict at the community level in Cambodia. Most conflicts are with outsiders, but are sometimes with neighboring communities or within a community. In some cases the conflict is limited to forest resources and in others conflict includes both forest resources and land. Most of the scenarios are asymmetrical in that the communities have limited political and economic power in comparison to opposing groups in the conflict.

Conflicts between communities and outsiders over land and forest resources are viewed by many donors and NGOs as a fundamental rural development issue in Cambodia and a major human rights and governance issue as well. There seems to be broad recognition among those working on forest and land conflict that a comprehensive strategy comprised of a number of approaches is needed to successfully reduce forest and land conflicts. This strategy is comprised of the following interventions:

- Finalize the national **legal and spatial planning framework** for allocating forest resource and land use/tenure rights. It is absolutely critical that forestland be comprehensively and rationally allocated in order to create a spatial framework within which to allocate forestland for community forestry, timber production, protection, conversion to other uses, and smallholder settlement.
- Instill **respect for the rule of law** regarding forest and land allocation, tenure, and use. Accelerate political reform to reduce corruption and political interference in administrative decisions and strengthen the judicial branch of government, which is currently very weak.
- Develop the **capacity of forest communities** to effectively demand their rights. A number of NGOs are helping communities to improve their capacity to understand and demand their forest use rights through education, empowerment, organization, networking, advocacy, and training. The Forest Network, comprised of local NGOs and forest communities and facilitated by the NGO Forum, acts as a mechanism for communities to report forest crimes and conflict, and coordinate with each other.
- Develop **mechanisms and procedures** for conferring tenure and use rights and assist the government to confer these rights. The ultimate means to halt community-level forest conflict is by legally protecting community land and forest use rights through community land titles combined with community forestry agreements.
- Improve **natural resource governance** at the province, district, and commune levels including detailed land use planning at the village and commune levels. The Participatory Land Use Planning (PLUP) methodology is now being modified for use in indigenous forest communities and communes.
- Avoid conflict before it occurs by **providing alternative livelihoods** for potential or actual land encroachers.
- **Monitor and report forest crimes** and community-level conflict.

The Role of Government in Reducing Conflict

The role of the RGC in reducing forest conflict is clear, but will require considerable effort and political will to achieve. Necessary actions are:

- Complete the legal framework established by the Land Law and the Forestry Law, especially with regard to community land titling, community forestry, and forestland classification.

- Enforce and implement existing laws as well as the provisions of the Land and Forestry Laws.
- Begin and complete the process of nationwide forestland classification as soon as possible.
- Accelerate the review and approval of existing and pending community forests.
- Make a good faith effort to control land grabbing, encroachment, and illegal timber harvesting.
- Recognize and respect community land and forest use rights in the process of identifying and awarding economic land concessions.
- Clarify community forestland use rights in protected areas.
- Support the judiciary to uphold the law through the judicial reform process.

The Role of Donors and NGOs in Reducing Conflict

The combined donor and NGO community has played a large role in the dialogue over forest management in Cambodia and has also been actively involved in assisting forest communities through efforts to secure their rights to land and forest resources. These efforts must be continued and increased to take advantage of the legal framework that is now being put into place. Key actions include:

- Assist the Forestry Administration to expand community forestry nationwide.
- Facilitate the issuance of land titles for indigenous communities.
- Continue dialogue and advocacy with the RGC, emphasizing respect for the rule of law.
- Educate, organize, and empower communities to demand their rights.
- Continue/strengthen the Forest Network.

The Role of USAID in Reducing Conflict

USAID/Cambodia, through the following existing activities of implementing partners, contributes significantly to the effort to reduce forest conflict at the community level:

- The **Human Rights in Cambodia Project** (East-West Management Institute/American Bar Association) pursues “impact litigation” cases focusing on forest or land conflicts to raise the level of compliance with the rule of law. They will also train people in legal advocacy, using the media and lobbying.
- The **Community Forestry Alliance for Cambodia** (CFAC) brings strong regional and Cambodian expertise to community forestry and is assisting communities to establish community forests. CFAC is also working on policy and procedural aspects of implementing the Community Forestry Sub-Decree.
- There are important opportunities for follow-up activities under the *Managing Conflict in Asian Forest Communities* (MCAFC) BIOFOR Task Order that provided funding for this assessment. The MCAFC task order sponsored the **Workshop on Community Level Impacts of Forest and Land Conflicts in Mondulhiri** on 26 and 27 May 2004. The objectives of the workshop were to give forest communities the opportunity to explore their experiences with forest conflict, learn their forest and land rights, and to develop a preliminary action agenda to be carried out by the communities, NGOs, and local government. The workshop participants developed a Draft Action Plan to avoid and mitigate

forest and land conflict in the province, which prioritized several follow-on activities including the need to educate indigenous communities about their forest and land rights and to help them to organize to protect these rights.

What Has been Learned in Cambodia That May be Applicable to Other Countries?

The nature of conflict over forest resources varies considerably among Asian countries, largely in relation to the extent and quality of the forest resource and the amount of pressure being put on it. These differences indicate that there can be no single blueprint for addressing forest conflict, but rather a toolbox of approaches that can be tailored to particular situations. It is clear that the multifaceted efforts now being employed to protect resource access and decrease conflict in Cambodia provide an important body of experience from which to draw lessons, if only preliminary ones. The overarching lesson from Cambodia is the importance of a comprehensive approach that addresses all aspects of the problem including:

- A sound legal basis to protect forest resource and land rights;
- Political will and capacity of government to implement the laws;
- Respect for the rule of law in all sectors of society and support for the judiciary to uphold the law;
- Capacity of communities to demand their rights through education, organization, and empowerment;
- Mechanisms at the community level to monitor conflict and report this information to higher levels of government; and
- Technical and administrative skills to manage community forests.

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