

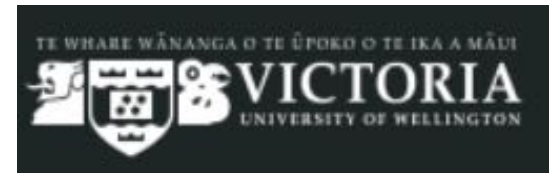
# My-field or minefield?

## Lived experiences of communal land titling in North-eastern Cambodia

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# Outline

- Background
- Challenges and critique
- Caritas experience from NE Cambodia

**“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.”**

*- Erica-Irene Daes*

former Special Rapporteur on Protection  
of the Cultural and Intellectual Property of indigenous peoples



# Obstacles

- Lengthy process / extremely slow
  - By early 2017 only **14** Cambodian communities had successfully completed the process
  - At current pace **57** years to complete the process
- Costly
  - Information very scarce, but perhaps as much as US\$30,000++ per village
- Diverging agendas / lack of political will and support from local authorities / collusion with the companies, often under cloak of land concessions.
- Tensions within communities over communal or private titling preference
  - Since the 2012 'Order 01' allowed people on any rural/frontier state land areas to claim/pursue individual title

# Other critique

Ian G Baird:

- 2001 Land Law didn't specify what groups in Cambodia were Indigenous
- Nor did it provide a process for defining communities as Indigenous
- Can be tricky to draw the line between those who are indigenous and those who are not. For example:
  - Groups who speak mainly or only Khmer, engage in similar livelihoods, but identify as different
  - Groups who have identified in the past as Khmer – perhaps to avoid discrimination – but later decide to self-identify as indigenous
- Central government has certain expectations of what it is to be Indigenous:
  - Should speak an indigenous non-Khmer language
  - Unique song and dance
  - Tied to other static ideas – such as the practice of traditional agriculture
- Limited support from central Govt

# Caritas Experience



- Currently 2.5 years into 5-year MFAT-backed partnership programme with major Cambodian NGO, Development and Partnership for Action (DPA).
  - Implemented as an Integrated Community Development (ICD) project targeting indigenous communities, land titling increasingly taking centre-stage as the programme matures
  - Working closely with 7 indigenous villages to secure legal Communal land Titles
  - Several villages visited in Nov/Dec 2018 (last week) to ascertain their respective CLT progress and experiences

# 3 Key Stages of the CLT Process

## Stage 1: IP self-identification and determination

The village community(ies) must first be formally recognised as an Indigenous Community by the Ministry of Rural Development

## Stage 2: Registration of the indigenous community as a legal entity

Once recognised as an Indigenous Community they must be registered as a legal entity by the Minister of Interior.

## Stage 3: IP land registration or issuance of communal land title

Application for community land titling made to the Ministry of Land Management, Urban Planning and Construction (MLUPC)

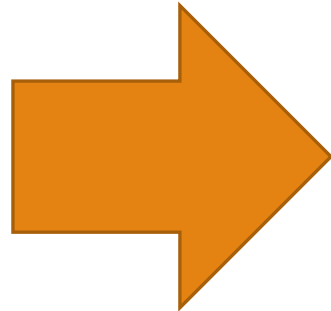
Once approved, the Communal Title Certificate will list the name and location of the community; the reference number; the location, size, boundary, classification and coordinates of all the parcels of land under the collective title

6 of 7 villages in the Caritas programme have achieved this stage of CLT registration, from as far back as 2012

Of these 6, most are now involved in boundary negotiation and demarcation



**A key aspect to stage 3 is hand-drawing/mapping the communities own understanding of where their boundaries lie.**



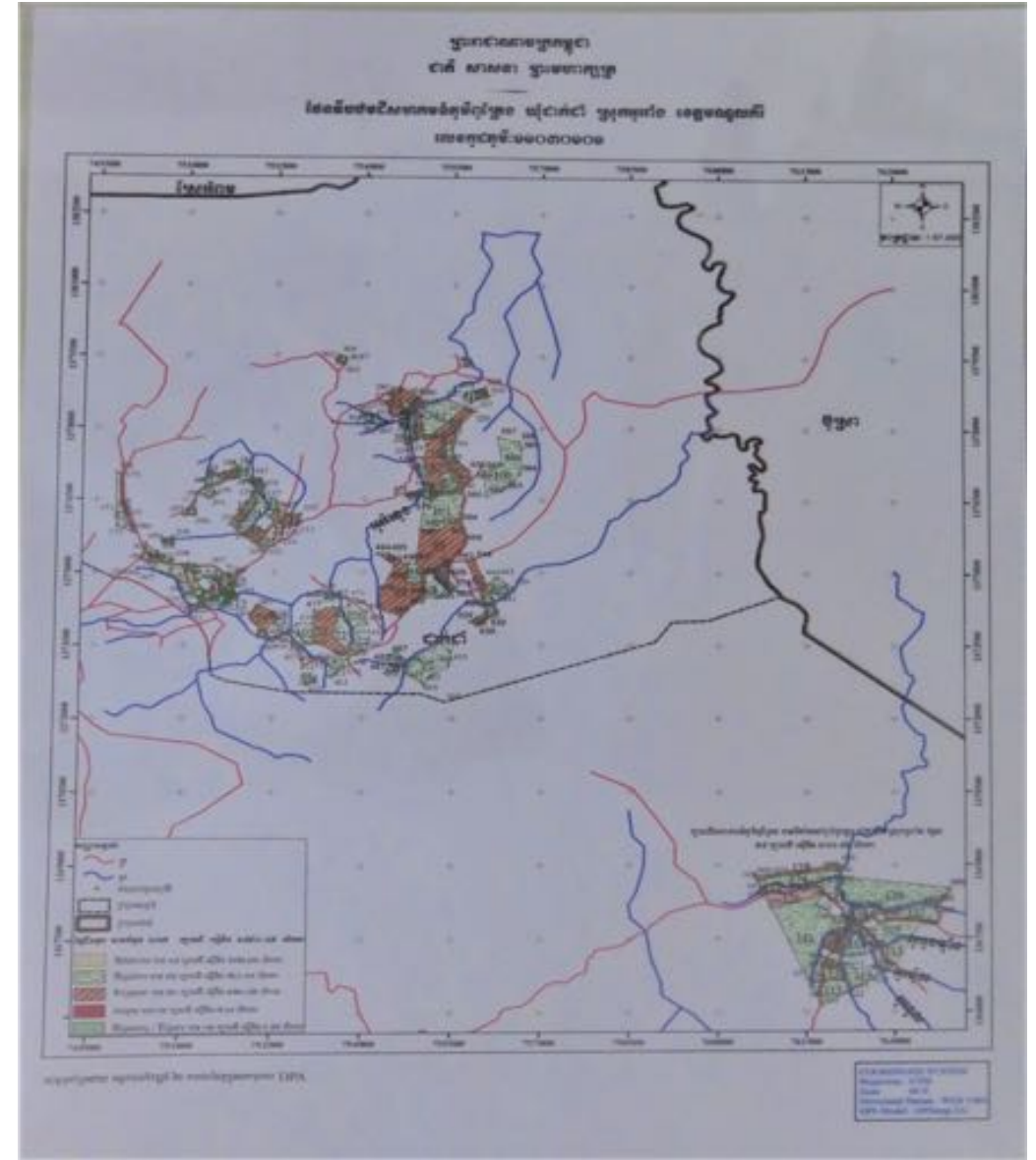
# Mapping the Boundaries – An opportunity for tension, conflict and violence

Once a community has mapped their understanding of boundaries - negotiations, and potential for disagreements and conflict with neighbours have to be overcome to produce a GPS-located boundary map agreed upon by all stakeholders. This map becomes central to the 3<sup>rd</sup> stage application documentation.

Boundary stakeholders may include;

- Neighbouring villages, both Khmer and indigenous
- Companies and business possessing a land concession
- Government-held land (akin to DOC land in NZ)

Recent violence, such as witnessed in Kratie province in March/April this year, illustrate the tensions that may boil-over during this often-protracted stage of the CLT process.



Thailand

# CAMBODIAN CONCESSIONS

Laos

Khmeng Village

Background  
Full Screen

Total ELC Land = 2,102,388 Hectares  
In 2012 alone - 170,000 hectares granted in protected forest areas.

Land Concession Ownership > 1000 Hectares

1 - Cambodian	933
2 - Chinese	264
3 - Vietnamese	204
4 - Singaporean	139
5 - Malaysian	91
6 - Korean	50
7 - Other	80
8 - Thai	38

In Phnom Penh - Estimates of 120,000 forced evictions since 1990

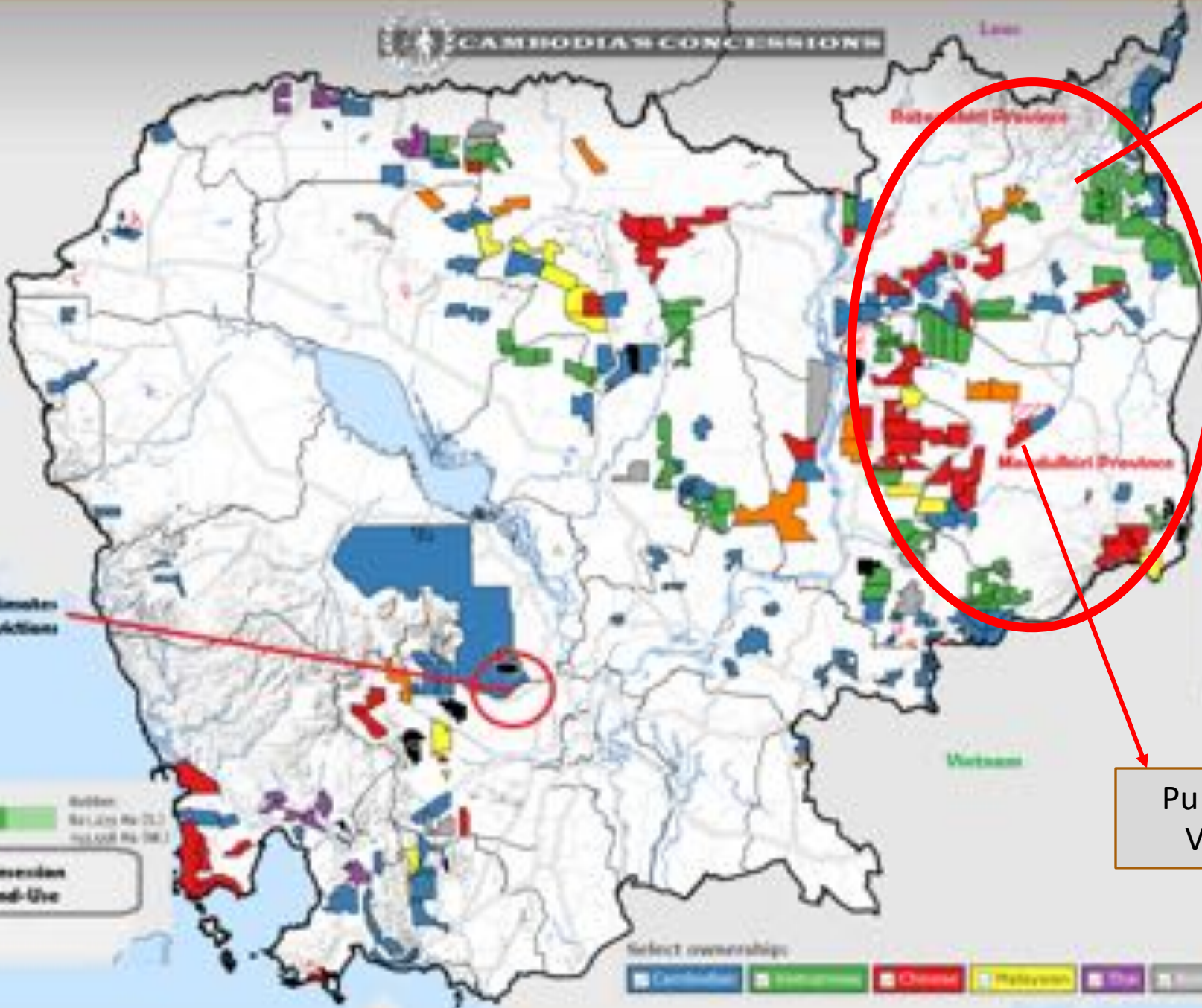
Concession Land-Use

Buttons:  
No. of Areas: 100  
No. of Areas: 100

- Forest: 144,000 Ha
- Forest: 144,000 Ha
- Forest: 144,000 Ha
- Forest: 144,000 Ha

Select ownerships:

Cambodian
  Vietnamese
  Chinese
  Malaysian
  Thai
  Korean
  Singaporean
  Other
  Unknown





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# Challenges of Place and Identity

- Indigenous peoples communities in Cambodia are increasingly being recognised as legitimate and requiring support to ensure secure access to their land, and by extension the continuation of their culture for the future.
- Place is important – access to roads may also enhance access to markets and services, but also encourages illegal logging, resource extraction and land-settling by outsiders who may consider these villages an 'easy target'.
- The security CLT brings to indigenous communities will also help secure Cambodia as a primarily agricultural country – for without land security, many of these communities are reluctant to embark on alternative agricultural practices (such as employing more climate-resilient approaches, enhancement strategies for crop yields, or committing to membership in a local agricultural cooperative).

# Summary

- communal land titling is very important for indigenous communities to protect their land, culture & livelihoods
- A fairly robust process behind communal titling exists but few communities have succeeded with the process
- Tensions between desire for communal title vs. individual title continues to divide communities engaged in the CLT process
- Indigeneity increasingly recognised in Cambodia and potentially very empowering - but also very contested



# References

- Baird, I. G. (2013). 'Indigenous Peoples' and land: Comparing communal land titling and its implications in Cambodia and Laos. *Asia Pacific Viewpoint*, 54(3), 269-281.
- Baird, I. G. (forthcoming). The Politics of Indigeneity Recognition in Southeast Asia: Opportunities, Challenges and Some Reflections Related to Communal Land Titling in Cambodia. In *Indigenous Places and Colonial Spaces: The Politics of Intertwined Relations* N. Gombay and M. Palomino-Schalscha (Eds.). Routledge.
- Cambodian Center for Human Rights (2016). *Access to Collective Land Titles for Indigenous Communities in Cambodia*
- Caritas/MFAT (2016). *Activity Design Document: Promoting Security, Resilience and Economic Development for Indigenous Communities in Cambodia*
- Caritas/MFAT (2018). *Year 2 Progress Report. Promoting Security, Resilience and Economic Development for Indigenous Communities in Cambodia*
- Development and Partnership in Action (2012). *Lessons Learnt of Communal Land Titling for Indigenous Community on La In Village Ratanakiri Province, Northeast Cambodia*
- Milne, S. (2013). Under the leopard's skin: Land commodification and the dilemmas of Indigenous communal title in upland Cambodia. *Asia Pacific Viewpoint*, 54(3), 323-339.