CHAPTER 8

‘Better-Practice’ Concessions? Lessons from Cambodia’s Leopard-Skin Landscape

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Abstract

In the context of the global land rush, policy debates are split on the question of state land concessions: are smallholder-centric ‘inclusive’ investment models the only real form of responsible agricultural investment, or are ‘responsible’ concessions possible when it comes to the protection of local land access? To help move this debate forwards, this paper examines two case studies in Cambodia—an oil palm plantation recently certified by the Roundtable on Sustainable Palm Oil (RSPO) and a teak plantation certified by the Forest Stewardship Council (FSC)—which we refer to as ‘better-practice’ concessions. These cases reflect efforts to operationalise the Cambodian government’s ‘Leopard-Skin’ policy, which stipulates that concessions be developed around smallholders rather than directly on top of them. We argue that regularisation is not inherently objectionable, but carries risks when carried out on a concession-by-concession basis, because it distances vulnerable land users from the potentially protective effects of the law and defers to localised, and often unequal, relations of authority. The paper thus highlights the challenges that investors and communities are likely to face even when concession developers seek to respect existing local land claims, and suggests that models based on empowered communities with more secure forms of tenure are likely to work better for all parties involved.

1 Introduction

In many destination countries in the global land rush, the state lays legal claim to large swathes of land, including land occupied and used by smallholders and managed under a variety of customary governance systems. This disjunction between formal and de facto property is exacerbated by many states not even knowing the extent of their landholdings (FAO et al., 2010), and has in recent years been used to put large amounts of land into play through the blurring of both legal and cartographic boundaries (Cotula et al., 2009; Deininger and Byerlee, 2011; HLPE, 2011; Borras Jr. and Franco, 2012). This imprecise legal
geography has major implications for investors who have been lured into so-called ‘frontier’ markets by promises of cheap and abundant state land (Adler and So, 2012; Borras Jr. and Franco, 2012; de Leon et al., 2013). If state land is actually state-owned in the sense of being demarcated and uncontested, it can give investors attractive incentives: ‘one-stop’ acquisition, efficient regulation and, most important, low cost of access. But when land is state-‘owned’ in only the formal sense—that is, when it remains occupied, used, or even locally held under soft forms of title—investors are vulnerable to a range of delays, additional costs, and reputational risks (Munden Project, 2012; de Leon et al., 2013). Whether state ownership of land is actual, merely formal, or somewhere in between is thus a subject of great interest.

The role of the private sector in helping bridge the gap between formal and de facto property remains a key point of contention in debates about land grabbing, responsible agricultural investment, and the gulf in between (Cotula and Leonard, 2010; FAO et al., 2010; UNCF, 2012). In many ways Cambodia is exemplary of the global land grab problem, in which local elites and foreign investors collaborate with each other and with state officials to acquire and develop large concessions of putatively state-owned (but previously undemarcated) land. State land concessions in Cambodia, various estimates of which range between 1 and 3 million hectares (Titthara and Boyle 2012a; ADHOC, 2013; 2014), have reportedly flouted legal provisions on landholdings and community protection, and many have reportedly involved substantial violence and displacement yet delivered minimal or no benefit to locals (LICADHO, 2009; Chak, 2011; Müller, 2012; Kuch and Zsombor, 2013; Neef et al., 2013). But while this may be the standard story within the Cambodian land sector (see Gironde and Senties Portilla; Cismas and Paramita, both in this volume), this pattern has nonetheless become a growing liability for the actors involved—not just companies and their investors, but also state officials at multiple levels, and even foreign donors. This article focuses on two cases where companies have sought to develop more socially benign—and, they believe, more profitable and sustainable—plantation concessions in a context that is still marred by extensive land conflict. The first is the Mong Reththy Investment Cambodia Oil Palm (MRICOP) Company (Preah Sihanouk province); the second is the Grandis Timber Company (Kampong Speu province). We examine each case empirically, investigating how two well-intentioned yet strategically oriented companies navigate the complex landscape of multiple entitlements and competing claims that lurk beneath the surface of state ownership in Cambodia’s rural hinterland. In doing so, we interrogate the private sector’s role in helping address the state land problem, both in Cambodia and elsewhere.