

Working Paper
2018 • 1



Mediation masquerade for a land conflict resolution case in Northeastern Cambodia

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Mediation Masquerade for a Land Conflict Resolution

Case in Northeastern Cambodia

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Abstract

In the Mekong sub-region, governments rely on foreign direct investment for promoting national economic development. These external funding sources have contributed to numerous land grabs and forced evictions during the last two decades. In 2009, an open clash erupted between a foreign agro-industrial Company and eleven villages, mostly inhabited by indigenous communities, located in the north-eastern province of the Kingdom. Their moral economy, corresponding to their perception of economic justice and to their concrete definition of what they mean by exploitation, has been violated. But three years after, rather than enduring a strenuous confrontation or launching improbable legal proceedings against the incriminated Company, a group of supporting NGOs encouraged the affected populations to adopt a so-called alternative strategy based on a fair-minded mediation. This institutionalized initiative, the first ever implemented in Cambodia, relied on existing mechanisms associated with international law regulations and bank procedures. This ended in an apolitical and technical intervention, upheld by the World Bank, which, predictably, turned to the disadvantage of already deprived villagers confronted, among other shortcomings, by structural impairment and limited autonomous advocacy.

Keywords

Moral economy, land conflict, safeguards policy, mediation, political imbalance, Cambodia

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Résumé

Les gouvernements de la sous-région du Mékong comptent sur les investissements directs étrangers pour promouvoir le développement économique national. Ces sources de financement externes ont contribué à de nombreuses saisies de terres ainsi qu'à des expulsions forcées au cours des deux dernières décennies. En 2009, un conflit ouvert a éclaté entre une société agro-industrielle étrangère et onze villages habités par des communautés autochtones, situés dans la province septentrionale du royaume. Leur

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économie morale, correspondant à leur perception de la justice économique et à leur définition concrète de ce qu'ils entendent par exploitation, a été violée. Mais trois ans après, plutôt que de continuer à subir une âpre confrontation et au lieu d'engager des poursuites judiciaires improbables contre la société incriminée, un groupe d'ONG encouragea les populations affectées à adopter une stratégie alternative basée sur une médiation équitable. Cette initiative institutionnalisée, la première jamais mise en œuvre au Cambodge, reposait sur les mécanismes existants associés aux réglementations du droit international associé aux procédures bancaires. La mise en place de cette médiation s'est soldée par une intervention apolitique et technique, sous les auspices de la Banque mondiale, qui, de manière prévisible, a désavantagé les villageois déjà démunis, qui se retrouvent maintenant confrontés à des relations de pouvoir qui les dépassent ainsi qu'à un plaidoyer autonome limité.

Mots-clés

Economie morale, conflit foncier, politique de sauvegarde, médiation, déséquilibre des pouvoirs, Cambodge.

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High ranking Cambodian politicians want to show the world that a fair promising era encompasses the Kingdom. Peaceful reconciliation², social stability, national sovereignty, and economic growth are the main keywords in the political propaganda. Considered essential for domestic development, the increasing number of investments and trade treaties is aimed to attract would-be commercial partners. A favorable environment for private business firms is facilitated by foreign investment opportunities³, including in the emerging agro-industrial sector.

The northeastern Ratanakiri province, bordering Vietnam and Laos, has been an attractive destination for speculators, financiers, and agro-industrial companies since the early 2000s⁴. The period coincides with the legal possibility of the government to grant Economic Land Concession (ELC) to national/international Companies. This opening is

² After the demise of the Khmer Rouge regime early 1979, and the definitive incorporation of the last Khmer Rouge soldiers in 1998.

³ IDI 2017.

⁴ NGO Forum 2015.

in phase with Cambodia's economic liberalization⁵, compounded by rising global demand for agricultural produce, generally from China, and particularly from Vietnam with rubber. Scholars have demonstrated, not only in Cambodia but in many developing countries that such external interventions are impoverishing and dispossessing major sectors of the rural society, blocking the improvement of locally based production—subsistence and perennial agriculture—and promoting capitalist expansion by excluding native peoples⁶. Predictably, the arrival of wealthy national/international actors in Ratanakiri threatens the livelihoods of the local population, mostly composed of autochthonous people traditionally practicing swidden agriculture.

This paper retraces the sociopolitical trajectory of a land conflict, from 2009 onwards, between the Vietnamese private Company Hoang Anh Gia Lai (HAGL) and forest dwellers residing in the far eastern part of Ratanakiri. A mediation process, under the auspices of the World Bank Group, started early 2014. But this much-lauded initiative changed into a deceptive wait-and-see, technically biased conciliation, with improbable results. Unsurprisingly, the institutionalized mediation process became a nightmare for many villagers who, still at the end of 2018, were utterly convinced to be misled and manipulated, directly and indirectly, by the majority of outside interventions, including by some of those claiming to take their side.

The chosen orientation of the research⁷ intends to bring the rigor of a scientific analysis to the service of a readjustment of asymmetrical forces relations characterizing populations occupying a peripheral position in the world system. These populations, like the ones in Ratanakiri province, are particularly vulnerable due to insufficient access to knowledge concerning different parameters and challenges occurring now and those about to occur in the coming future. There is also a need to consider the notion of space insofar as articulation between the local, the national and the global composes the

⁵ Cambodia became the 148th member of the World Trade Organization in 2004.

⁶ Borras and Franco 2012.

⁷ The scientific engagement has been detailed in an oral presentation at the ICAS10 International Conference in Chiang Mai (Thailand), *Grassroots Movements Lobbying the International Finance Corporation in Ratanakiri province in Cambodia* (July 20-23, 2017).

problem they are confronted with. The HGAL case is emblematic of this worldwide complex connection. These challenges and parameters need to be taken into account for leading their struggle. In that respect, acquisition and control of knowledge can be a formidable weapon to deal with any kind of social conflicts. For instance, media coverage and alarm raising strategies that social local actors used with profit during their fight, can be supported by the researcher, provided the engagement goes hand in hand with the rigor of scientific analysis. The production of knowledge must at all costs be irreproachable in terms of data collection and interpretation. These prerequisites for real collaboration⁸ must be meticulously addressed in order to guarantee the long term effectiveness of the researcher's alignment with the affected villages.

Main research question guiding the paper consists in pointing out sociocultural parameters shaping the ability of small peasant microsocieties living in the northeastern fringes of Cambodia to fight back against land dispossession threatening their livelihoods. More precisely, what are the moral elements leading indigenous populations to raise their voices against a territorial encroachment orchestrated by a powerful Company? The resource depletion along with the symbolic violence associated with the territorial encroachment have been considered unacceptable by the local peasantries. It has originally generated an active resistance. This intolerable situation led to a social movement characterized by upward and downward trends. Nevertheless, even if its evolution has been far from being linear and homogenous during the last ten years, the great majority of autochthonous populations share a common denominator which is to protect their rights to land use as well as their dignity and memory. These fundamental considerations lead us to envisage correlated questions regarding the nature and the orientation of people's strategies. As seen later, these strategies can be internally developed and/or proposed by national/transnational networks. So the first question is under which circumstances the affected peasantries have complied, at a specific moment of their struggle, with a totally new land conflict procedure? The latter has been encouraged by some supporting NGOs but one may wonder whether the acquisition of new knowledge (technical tools, comprehension of the worldwide system, etc.) has

⁸ Lassiter 2005.

enabled the dispossessed communities to increase their chance of getting back their land and their self-esteem? Importantly, based on more concrete results, if any, have the deprived households benefitted from this so-called innovative mediation procedure in the course of time? Is it a shared benefit for the whole affected villages?

This case study intends to contribute to a comprehensive understanding of an emerging worldwide procedure of land conflict resolution, nowadays translated in an institutionalized mediation. This supposedly neutral mediation between infringing parties is mandated to evaluate whether bank safeguards policies have been properly respected by the infringing party. In the present days, when tragic land conflicts are probably going to increase in most part of the globe, there is an urgent need to decipher if this kind of mediation process really works in an equitable way. One cannot avoid rising this concern because numerous would be-affected societies will be definitely encouraged to rely on a similar resolution strategy⁹. Evidently, the present case analysis cannot be extrapolated. But even if no generalization can be made, it hopes to clarify the social mechanisms at play in a given context.

Following these questions, an engaged political ecology theoretical line of attack has been privileged¹⁰. Besides questions of social justice and agro-ecological deprivation, a political ecology approach facilitates a comprehensive understanding of the way various actors—banks, Company, government, local authorities, villages, individuals—adopt similar/divergent reasoning on access to and control over land. Within such approach, the moral economy of the peasants, as defined by James Scott¹¹ is highlighted. This concept relates to the system of values which underlies the expression of emotion and, in its extreme form, the coming of revolts in the peasant societies. The notion of moral economy corresponds to peasants' notion of economic justice and to their concrete definition of what they mean by exploitation. What is, for the villagers, tolerable and not intolerable in terms of external claims on their production¹². More important than knowing about the cause of an upheaval is to understand the conditions of its emergence.

⁹ Compliance Advisory Ombudsman 2017.

¹⁰ Batterbury and Horowitz 2017.

¹¹ Scott 1976.

¹² Fassin 2009, 1247- 48; Scott 1985

The desire of security appears essential: most of the Ratanakiri peasants are more worried about minimizing their risks of losing everything than for maximizing profit—as a liberal economist would anticipate—specifically in a contemporary local setting with limited government support. Subsequently, any analysis dealing with a social movement has to explore this desire of security, leading to the fundamental notion of moral rights, or more exactly to the subsistence rights, in order to understand why the non-respect of these moral principles may generate peasants’ resentment against development agents and agro-industrial companies. More concretely, the moral economy opens the door to an understanding of how a particular system of exploitation induced by a Company can or cannot be maintained in a context where local principles of justice have been disregarded.

We need to proceed further. The intrusion of the Company followed by waves of popular upheavals leads to an institutionalized World Bank mediation process, which is the first conciliation attempt of this kind ever implemented at such a scale in the Kingdom. So there is a need to be enlarge the scope of moral economy: how victimized smallholders understand, perceive and expect from the interference of a third party mediation and, importantly, up to what extent such unprecedented form of negotiation remains, on the long-term, still feasible, realistic, and suitable for the communities.

A long-term anthropological approach allows a continuing investigation before and after a negotiation process was decided. Following Scott orientations towards moral economy, first inquiries consist in identifying what was perceived as acceptable and non-acceptable by the affected populations before the mediation process started. Second enquiries focus on the moral acceptability, from villagers’ points of view, of this adopted conflict resolution strategy. The methodology is based on multi-sited ethnography¹³ enabling the author to follow webs of power that connect autochthonous communities, local/international NGOs, government agencies, corporations, and transnational actors such as the WB and its affiliates. Contacts and exchanges with these national and international actors started in 2016. Personal enquiries in Ratanakiri dealing with the early social mobilization started in 2011, when it turned into an open land conflict.

¹³ Marcus 1995.

Regular fieldwork lasted from one week to two weeks, and the latest ground investigations were made at the end of 2017.

The research questions along with the proposed theory facilitate the constitution of an analytic framework based on a methodology responding to a series of interlinked matters. I do not pretend to develop a systemic/integrated analysis, impossible to cover in a short paper, provided. However, moral economy and political ecology theoretical insights are better equipped to deal with matters of concern rather than partial, selective and isolated matters of facts¹⁴. The assemblage of these matters of concern will constitute the sequence of the coming sections. Section one introduces a general context showing leading mechanisms allowing the banks, the government and the investors to interact. Companies need to receive a substantial amount of loan from financial institutions in order to implement their project. The latter takes place in a given country provided the host government welcome it. The priority for Cambodian economic growth has given birth to ELCs granted to foreign/national companies like HAGL. But economic development priorities hardly occur in a vacuum. The granted concession, as it happens in Ratanakiri, has been for long inhabited by smallholders whose survival depends on their ability to use their ancestral territories. Section 2 deals with the violent encounter between developers and villagers. Both side have the certitude that they own the land. The company relies on contested juridical rights while villagers defend their cultural moral economy. Unsurprisingly, the conflict turns into an aggressive confrontation. Despite power imbalance, villages defiantly oppose the Company's violent intrusion. But after four exhausting years, they foresee an unexpected alternative, proposed by NGOs, for applying to external arbitration. Section 3 deals with this original envisioned form of conflict resolution based on a so-called peaceful mediation. Villagers initially accepted and worked for it. But years have passed and farmers' hopes have been absconded. Section 4, called mediation masquerade, attempts to gauge the consequences of a foolhardy social movement that shifted in a sanitized deliberation. The conclusion proposes critical insights with regards to this adopted flawed strategy.

¹⁴ Latour 2004, 231-232.

1. Context, Actors and Development Configuration

It did not take long time after the withdrawal of Vietnamese troops, for the Kingdom of Cambodia to change its political economy, inspired by a neoliberal ideology, boosted by Western countries¹⁵ and re-appropriated by some national elites. Since that time, the impact on villagers of government policies towards land and forests has been relentlessly denounced¹⁶.

1.1. *The Primacy for a National Economic Development*

The 2001 Land Law, with additional legislations sanctioned in 2005, offered legal provisions for granting ELCs to national and international companies. In the same vein in 2004, Vietnam, Laos and Cambodia ratified a Master Plan, a long term regional project associated with intensive economic development, in which Ratanakiri was the geographical epicenter¹⁷. Once a remote area inhabited predominantly by non-Khmer populations, the province rapidly became a central agro-land attraction for landless migrants, speculators, wealthy absent land-owners, and foreign companies, due to its location in a borderland region, and because of its rich fertile basaltic soils.

Cambodian laws for protecting forests, limiting the size of land concessions, and requiring consultations with local communities over land use are numerous. The article 29 of the Land Law states “that no authority outside a given community may acquire rights to immovable properties belonging to indigenous communities”¹⁸. Yet, most these laws are rarely enforced, if not deliberately ignored. Main pretext is the absence of land-tilting.

¹⁵ Hibou 2004.

¹⁶ Global Witness 2009; NGO Forum 2015.

¹⁷ Nguyen 2016.

¹⁸ Park and Maffii 2017: 1241.

Until 2013, more than two million hectares, equivalent to over half of the country's arable land, were handed over to ELCs¹⁹. Other estimates effectuated by human rights agencies, but unrecognized by government official figures, maintain that about 770,000 rural people have been affected between 2000 and 2013²⁰. In Ratanakiri, most of these ELCs overlap with villagers' farmland and common forests. It has led to a rapid increase in rural landlessness and caused conflicts with and among villagers. ELCs are frequently granted in an opaque way without any negotiation and awareness with the inhabitants who live on it²¹. Customary land tenure is not officially recognized and fallow lands are frequently considered as wastelands. In a legal context, a full land title—private or collective for autochthonous people²²—is the only indisputable proof of ownership, and there is no exception for autochthonous populations whose historical links to a given territory does not constitute so far a valuable indicator for ownership, contrary to other countries like Brazil and Colombia²³. Villages and villagers who do not have any official land titling, and they constitute the majority in Ratanakiri, can therefore be labeled as invisible occupants. It allows the government and its cronies to expel them without adequate compensation, while stealing portions of their ancestral agricultural land²⁴. Such has been the case, but without village eviction, for the ELC granted to HAGL in a territory which has since time immemorial been populated by various social groups.

1.2. Banks, Government and Companies

Scholarly investigations have shown that many Cambodian undertaking of mega-development projects involves incestuous links among foreign donors, international companies and domestic elites who stand to gain from lucrative procurement and construction contracts awarded to them because of their warm relationships with

¹⁹ Neef, Touch and Chiengthong 2013.

²⁰ ADHOC 2014.

²¹ NGO Forum 2015.

²² Since 2001, autochthonous groups (only) can apply for collective land titling.

²³ Desmarais, Wiebe and Wittman 2010.

²⁴ Global Witness 2009.

government officials²⁵. These characteristics of Cambodia's political landscape have been underscored by the multi-faceted analyses dealing with "political patronage", "neo-patrimonial politics", "authoritarianism", and "structural violence"²⁶.

However, these studies still neglect the primacy of external powerful actors controlling, and monitoring, the financial sector portfolio. For years, banks—like the World Bank (WB) through its private sector agency, the International Finance Corporation (IFC), and some American and European banks—provide loans almost exclusively to companies for their megaprojects or, more frequently, via fiduciary groups²⁷. These financial intermediaries are commercial banks, private equity funds and insurance firms. Exclusive investigations by the NGO Inclusive Development International (IDI), dealing specially with world-wide cases that are questionable, have shown that most investments have caused great harm to people and the environment either in Cambodia or in most parts of the world²⁸.

Main concern is to know whether such intolerable abuses can be reduced as much as possible. Existing international laws have been legally scrutinized and scrupulously passed in review by political scholars²⁹ but the main problems remain unsolved. Is it realistic, and feasible, to rely on universal instructions, and up to what extent these compulsory directives can be nationally/locally implemented or not? While legal emphasis is placed on the obligation of multinational corporations (no interference in domestic politics, human rights, liability for violation of environmental norms) and extraterritorial control by home states (state sovereignty to control multinational corporations, prevailing rules of state responsibility, duty to provide remedies to victims), there is a tendency to disregard the immediate forces that dictate the mode of compliance or noncompliance to state-made rules³⁰. In a socio-political environment bound by cooptation and market-oriented, Max Weber already mentioned the difficulties of

²⁵ Global Witness 2009; Neef, Touch and Chiengthong 2013.

²⁶ Un 2005; Hugues 2006.

²⁷ Such exercises are a common practice in the WB Group for being invisible and for escaping responsibility via the fiduciary Company's actions.

²⁸ Inclusive Development International 2017.

²⁹ Sornarajah 2010.

³⁰ Moore 1973, 721.

effectuating successful legislative coercion in the economic sphere³¹, arguing that “those who continuously participate in the market intercourse with their own economic interest have a far greater rational knowledge of the market and interest situation than the legislators and enforcement officers whose interest is only ideal”. On the other hand, the “private interested parties are in a [better] position to distort the intended meaning of a legal norm to the point of turning it into its very opposite”³².

Financial institutions have nevertheless come under violent criticism³³. Independent analyses have demonstrated complicity between the global mega-development projects and their financial backers³⁴. Such disclosures have severely tarnished the reputation of the banks and their affiliates once they have been highlighted, analyzed, mediatized, and made visible.

Predictably, financial development procedures have been altered by the Asian Development Bank (ADB), the WB³⁵ and, more recently in 2009, by European Banks. The reinforcement of a safeguards policy and the provision for advice and funding for law reform in their development model have been emphasized³⁶. Worried about their credibility, international agencies also claim as a fundamental requirement that the free, prior, and informed consent of rural populations be obtained on projects that may cause their displacement or otherwise affect their land, territories, resources or cultural heritage³⁷.

Under these conditions, the loan agreement is evaluated with a package of ethical considerations to be respected in relation to local people’s well-being. If not, the loan can be refused. If already granted, as with HAGL, it can be retracted because of non-compliance (provided failed negotiations have been followed by an audit in favor of the affected populations). Such innovative regulations theoretically open the world to new

³¹ Weber 1954, 38.

³² Weber 1954: 39.

³³ Human Rights Watch 2015.

³⁴ Barros et al. 2003; Fox and Brown 1998.

³⁵ Krever 2011.

³⁶ Tshuma 1999.

³⁷ World Bank Group 2010.

mechanisms capable of challenging the powerful companies by directly lobbying not only the state—often proven inadequate and insufficient (co-opted, weak judiciary system)—but financial corporations. As a result, communities affected by development projects in Ratanakiri can complain directly to donor agencies through established institutionalized mechanisms. One of the pillars of these mechanisms is the mediation, whose characteristics and expressions deserve to be clarified. Before, an introductory information about HAGL Company is needed.

1.3. An ELC granted to HAGL

The impact of Vietnamese companies' rush for rubber on local communities is known to be devastating. It has been documented in places in Laos³⁸ and in Cambodia³⁹. Financial investigations undertaken by IDI show for HAGL in Ratanakiri how the three international financiers—Crédit Suisse, Deutsche Bank, IFC—are backing these land grabs made by the Company, in contrast with their safeguards policies. HAGL operates through a web of subsidiaries: it helps in hiding the identity of the true owner⁴⁰. This Rubber Baron, as HAGL is commonly called, and its subsidiary affiliates have carried out forced land grabs in their illegitimate concession since 2009, without a single form of compensation for the villagers. Satellite images reveal increasing deforestation⁴¹. Further investigations made by local NGOs at the village level confirm that illegal logging was done in complicity with national forestry enterprises and local individuals, even in protected areas and in a national park closed to the impacted villages.

HAGL's financial backers turned a blind eye to the destructive impacts of the agro-investments they contribute to. The Company has received substantial foreign investments from the two European Banks, and IFC via intermediary funds like Dragon Capital Group Ltd, a Vietnam-based investment group specializing in emerging financial markets. Two possibilities arise: either financial institutions lack adequate systems for

³⁸ Kenney-Lazar 2012.

³⁹ Global Witness, 2013.

⁴⁰ IDI 2017.

⁴¹ Information from Global Witness, June 2016.

ensuring that investments don't spawn human rights abuses, threaten national integrity, and breach the most basic legal, social and environmental standards. Or they just ignore their safeguard policies insofar hardly anybody lobby against such evident malfunctioning.

2. Confrontation

Villagers in fourteen rural communities, with an average of more than eighty-five households per village, experienced the intrusion of the Vietnamese Company in 2009 when tractors, protected by private militia and Cambodian forces, chopped down the forest and appropriated some of their cultivated and fallow lands. None of the fourteen villages, mostly composed of ethnic Jarai, Kachok, Tampuan, Lao, and a few Khmer and Cham peoples, living inside or in the fringes of the ELC, had ever been consulted or informed, either by the government or by the Company when it was granted 16,849 hectares for growing rubber. Only vague meetings occurred: they were told evasively about a modern agriculture project, for the sake of the national development which will benefit to them. The fact that it was located in their ancestral land was totally bypassed.

2.1. Disruption of the Moral Economy of the Peasants

Physical violence, harassment and forced evictions of families living in their swidden fields occurred everywhere. Various appraisals undertaken from 2010 onwards⁴² confirm that hundreds of households were deprived of their livelihoods (forest products, water sources and subsistence agriculture.) Yet, peoples reacted promptly by joining together when HAGL started cutting the forest, destroying cultivated lands, and erecting fences. Men and women reacted by being vocal and defiant against the orchestrated land grabbing operation. The intrusion of the Company was considered unacceptable. Coming back to Scott's terminology, their moral rights have been so aggressively violated that open resistance came out. Initially, their advocacy efforts moved up the chain of

⁴² Sources: NGO members (anonymity requested) and personal enquiries, October 2016.

command, appealing to village, commune, district and provincial authorities. The two smallest units declared their incompetency, which made affected villagers engaging with local provincial departments and public actors who, according to villagers advised by their commune councils, were representing righteousness and law. But access to justice via the provincial court was denied, and dispossession caused by the Company continued, strengthened by physical threats and other forms of structural violence, including refutation of legitimate existence of land tenure for people practicing swidden agriculture, forced enclosure, and arbitrary interdictions prohibiting entry into the controversial ELC zone. Approaching the public institutions led to nowhere in favor of villagers insofar as the current mode of operation of government actors was to avoid direct responsibility to enact authority. As a villager recalled in 2016:

“We did not know where to go to. Most of the solicited officials simply referred us to another department, another person, and so on. It was out of their scope, as they said. It seems that the government civil servants did not know clearly who was in charge of what... unless they were just deliberately made us turning around”

Among the cascade of excuses to justify their incapacity for intervening in the conflict, some interviewed provincial officials⁴³ contended that the ELC had been signed by the ministry of Finance after being accepted by the Council of Ministers⁴⁴ and other ministries in the capital Phnom Penh. Civil servants based in Ratanakiri could not do anything at the provincial level. Others contended that HAGL investment was an opportunity for Cambodian economic development while others, more cautious, were unconvinced due to insufficient knowledge about the granting process. But as the conflict intensified, people’s continuous agitation became perceived as harassment and a source of political instability. The provincial authorities’ initial non-interference position shifted to an attitude of defiance and aggression. Provincial and district authorities assumed

⁴³ Personal enquiries with officials working in three provincial departments (Land Management - Agriculture, Forestry and Fisheries - Environment), February 11, 2012.

⁴⁴ This Cabinet of Cambodia is the executive body of the Kingdom, led by the Prime Minister.

afterwards acting for the protection of the HAGL Company. And they warned villagers not to obstruct the development project, which supposedly would give them well-being, employment, health and social services.

It is uneasy to gauge the role of emotion in this social movement, but affective ties and internal solidarity have been essential ingredients in this mobilization. Not all community members federated and joined their action, and even most of those who suffered from this unjust land deal did not openly resist. But some outspoken individuals tried their best to gather more allies, relying on kinship relations and allegiance to elders. Interestingly, there was no particular tension between non-autochthonous (Lao, Khmer, Cham) and autochthonous communities (Jarai, Brao, Kachok.) Instead, an alliance, maybe circumstantial but de facto existing, was forged among them.

Villagers started looking for updated information from local human rights entities. Access to formal legal norms was considered more important than claims to land based on customary, local discourse and identities. Reason for this preference is because the already mentioned five NGOs started progressively to be involved at this crucial moment, with the aim of providing legal tools to the villages, even if most of the tool-givers did not have substantial juridical background. Nevertheless, some of them conducted field enquiries. It was quickly confirmed that, like many of the ELCs granted throughout the province, HAGL's concession overlapped with land traditionally occupied by autochthonous communities. A human rights impact assessment of HAGL's concessions in the affected villages was conducted in 2014⁴⁵. The size of the ELC was established to be illegal (more than 10,000 ha, with counterfeit names), and, in breach of the right of autochthonous peoples to self-determination included in the Declaration on the Rights of Autochthonous Peoples signed by Cambodia⁴⁶, the Company made no attempt to consult communities and seek their free, prior and informed consent before the launching of the

⁴⁵ Bugalski and Thuon 2015.

⁴⁶ The country has disapproved the ILO 169 declaration.

operations. A compulsory thoughtful ecological and social impact assessment, well-known to be a fiction all over Cambodia, never took place⁴⁷.

The moral economy of the communities who have experienced severe loss of communal and household property was challenged. Access restriction to state forests, grazing lands, water sources, reserved lands, spirit forests, burial grounds and other sacred sites became something unacceptable, and unthinkable, for the affected forest dwellers when the Company prevented them to enter their ancestral domain. Using Scott's words, the feeling of security had vanished. More than a hundred households nearly lost everything sustaining their daily life such as orchid lands, paddy fields, animals, crops and forests used for collecting non-timber products. As a result of these losses and access restriction, many of them could no longer practice their cultural and spiritual traditions. Post-facto personal interviews in 2015 revealed that some of the family burial places, located in their cultivated land, had been physically destroyed. This sacrilege prevented them from conducting their traditional second funeral allowing the spirit of the dead person to quit forever the human world, as it should be. Other stories could be added. If there is no place to write them here, they all share the following statement inducing violation of their moral economy. Occupying people's land signifies more than depriving villagers from land tenure: more fundamentally, it considers with disdain a socio-territorial order, negotiated rules and sociocultural fabrics, all historically validated by a moral economy regulating the ability, and the acceptability, to access to and control over their ancestral territory.

2.2. New Shift?

Paradoxically, at the end of 2013, a timid effervescence prevailed. People have been denied the right to an effective remedy for human rights violations, but inhabitants could foresee possible encouraging results with the seeds they grew themselves. Importantly, the affected villages had been socially united, in spite of status, age and sex

⁴⁷ Personal enquiries to informants from NGOs, government and village representatives (anonymity requested).

differences. They managed, without displaying any manifestation of external violence, or exceptionally, to develop a deep sense of solidarity. For instance, when the provincial authorities tried to identify hypothetical frontrunners of the social movement, interrogated villagers replied “we are all leaders, you cannot divide us.” Nobody recognized as a ring-leader was arrested, simply because no one was mentioned under this category. They retorted “If you want to arrest us, you have to put everybody in custody”⁴⁸. Being vocal was fundamental, for the villagers. Some of them had journalists and well-connected people’s phone numbers. Young inhabitants having access to media via Facebook were attentive to broadcast their story. Villagers welcomed articles published in the Cambodian press. National and international visibility, was perceived to be a redemptive strategy⁴⁹. At this particular moment, the villages were socially united and responsive. Of course not systematically everywhere and not always with the same intensity. But contrary to a common discriminatory scholarly assertion that poor villagers are bound to be quickly discouraged and divided, the present case shows that a shared tragedy threatening smallholders to lose everything can be a vital factor for leading a resistance movement. Nonetheless, with the growing interventions of external actors, a new configuration was about to alter the situation.

3. A Mediation Coordinated by The World Bank

NGO actors started in 2012/2013 looking for an alternative road. Past experiences in Cambodia attested that embarking on legal action was improbable. The national judicial system was known to be in cahoots with the political party in power, and there was very little chance that, according to advisors and investigators supporting the affected villages, a court case would be handled with integrity.

⁴⁸ Personal enquiries, December 8, 2013

⁴⁹ Personal enquiries, December 15, 2013.

3.1. Organizing a Grassroots Initiative

The involvement of a third party, as mediator, was first proposed by some of the supporting actors—not by villagers themselves—as a viable and realistic option. International NGOs led this decision, and they convinced national/local NGOs to act accordingly. They opted to call upon the Compliance Advisory Ombudsman (CAO) for mediation. As mentioned above, key transnational institutions within the neoliberal establishment like the WB are nowadays instrumental in opening up a political space with regards to promulgated safeguards policy⁵⁰.

Let us first make a detour in the USA. The location of the office dealing with WB safeguards policy is revealing. In its impressive and opulent building in Washington DC, one finds located, on the one hand, the powerful IFC providing funds for investors in mining and agroindustry, and, on the other hand, a supposedly independent body, the CAO. In its well-made website, full of magnificent photos and irreproachable rhetoric, the Net surfer discovers that the CAO has been successfully negotiating positive ecological, social and economic outcomes to the advantage of deprived villages throughout the world. The CAO's alleged sincere concern for social justice in all its manifestations can be admired. The Net surfer is encouraged to appreciate the leading international agency's declaration willing to focus on projects aimed at reducing poverty and promoting fair equal development.

However, a skepticism arises with the so-called independent status of the CAO. The latter claims deploying mechanisms for protecting the affected communities against various abuses by private investors while its fellow WB partner, the powerful IFC, is at the origin of some of these land conflicts, with the populations' subsequent impoverishment as a result of its lending to unscrupulous companies and investors.

NGOs operating in the Kingdom of Cambodia and particularly those involved with the HAGL case must be aware of this bias, translated in a conflict of interests, but to be alert is insufficient. More difficult - and risky for maintaining their working authorization

⁵⁰ In some African and Latin American countries, they have provided funds to support land claims by autochthonous communities.

- is to challenge webs of power. Moreover, the NGOs⁵¹ directly dealing with HAGL were having the expectation, some without being directly involved in the decision, that addressing the conflict to the CAO may generate positive results, as it apparently happened in other faraway developing countries. According to interviewed NGO workers in 2013, adopting a similar strategy in Cambodia could create a precedent. But for these practitioners, it remained unclear to know whether the decision to call for international mediation arose from the sincere hope that it would effectively work, or because it was chosen as the last option, because other recourses could not fit, or were unthinkable in the geopolitical context of the country. When interrogated, they provided evasive answers. Some said that they were willing to try, but without an absolute expectation, while others felt uncertain of the capacity of the CAO to handle the case properly. Other NGO members were confident that it could create a scoop in the country, thereby influencing other companies to be more careful. Others still assumed that such an initiative may hit on the rebound other dubious concession deals. On the villagers' side, no other options were conjectured: local residents were repeatedly coached and influenced into thinking that there was no other way out.

At first, the NGOs' tenacity moved ahead: IDI verified whether the IFC's policies on financial intermediaries had been breached. It was a prerequisite to lodging a complaint to the CAO. Another local NGO addressed the question to the affected villages and explained the logic of the CAO mechanisms to the whole population. Two village representatives were elected by their fellows in each community. Then village committees were democratically constituted. After more than twenty months of external and internal investigations, financial tracking, local accompaniment and technical training at the village level, a written document charging HAGL with various encroachments and abuses was co-edited by villagers and NGOs' members. The document endorsed a complaint, transmitted in 2014 to the CAO, and subsequently to the incriminated Company⁵².

⁵¹ One international, four national (including two indigenous). All non-confessional.

⁵² For the content of the complaint, see CAO 2017.

The complaint was sanctioned by the CAO. HAGL did not openly deny the content. The Company was in fact not in position to do it because another important expected loan from the United States of America had just been refused. Everything seemed, at this very moment, to start well. Optimism prevailed. David dared to confront Goliath. This first important step was unanimously considered as a welcome encouragement. A second effervescence was prevailing in the villages, even if not shared by everybody. Some inhabitants suspected the excessive influence of a local NGO, while other villagers wanted more immediate actions because they were landless, with the souvenir of the dispossession extremely acute.

Meanwhile, elected community representatives whose villages lost land to HAGL formally sat face-to-face with the Company for the first time in January 2015, under a so-called IFC dispute resolution process. HAGL representatives declared the Company's commitment not to carry out any further deforestation and amplification of its ELC. In a what was interpreted by government officials and some NGOs officers as a memorable gesture, they promised to return the forests and the lands which had not been exploited. Words were judiciously used by the Company representatives during the first talks. According to the interviewed village representatives invited to attend the first meeting, the HAGL enterprise gave the impression of being truly sorry and repentant. The Company returned 3,129 ha, which reduced the ELC size to 13,720 ha⁵³. In fact, the land was retroceded not because of the CAO intervention, but because a substantial American loan was cancelled⁵⁴. As a villager reminisced, "the HAGL representatives' humble attitude during this first third party's meeting made us believe that they truly recognized their mistakes and accepted peaceful conciliation".

It should not be forgotten that the ostensible commitment, interpreted as a good sign, has to be counterbalanced by already done damages. A close look shows that deforestation has already been perpetrated on a large scale, nearly everywhere. No more precious wood and resin trees (previously tapped by forest dwellers) could be seen.

⁵³ Work 2016.

⁵⁴ Source: NGO advisor, January 23, 2018.

Luxury timbers were exported by a Cambodian tycoon to China and Vietnam. And the retroceded land was largely infertile, composed of meager sections of degraded forests with bad weeds invading shrubs. Besides, the size of the reduced concession was still illegal, notwithstanding the proclaimed repentance.

Local and international NGOs seemed to be confident of having created an adequate social environment for approaching the conflict. At that time, development practitioners, village interlocutors and the majority of the peasants had faith in the adopted strategy. “We were conquering the case”, a confident villager told me. The audacity and tenacity of the complaining party was praised. Nobody had ever done this in the country, and it was a privilege to be the leading actor in the honors list—even if not a single piece of arable land had been returned. But the three years following the public promise made by HAGL would soon reverse the excessive optimism prevailing in the villages.

3.2. Establishing “New Regulations in a Good Spirit”

It was under these allegedly good auspices that a CAO mediation process was about to start early 2015. This international entity is supposed to be neutral and nonaligned. Its role is restricted to ensuring compliance on the ground. Its mandate is to resolve disputes using alternative conflict resolution approaches that include negotiation, joint fact-finding and facilitated dialogues between two parties. But with a fundamental difference: contrary to the recent development of transnational agrarian movements advocating for straightforward incursion into right-making in an effort to legitimize peasants’ autonomous right to choose their economic and environmental model at the local level⁵⁵, mediation precludes no infringement to existing laws shaping ground procedures.

Consecutively, the mediation process became instrumental in avoiding—among other unpleasant options dreaded by HAGL—media coverage, summon to appear in court for illegal activity (because of the oversized concession), and further conceivable call for arbitration in Europe due to the Deutsche and Swiss banks’ complicity. With regards to

⁵⁵ Edelman and Carwil 2011, 83.

evident power imbalance (some deprived villages against one of the biggest Southeast Asian private conglomerates, backed by an impressive battery of jurists, lawyers, and powerful partners like the Dragon Group), the chosen peaceful dialogue could easily turn to the advantage of HAGL.

Moreover, at the time of entering negotiation at the end of 2014, the Company makes clear that it would accept the CAO's intervention, *provided* the communities remain discreet and do not mediatize the case⁵⁶. The explicit message is for the villagers to retain a low profile based on mutual respect, as stipulated by the third party in charge of mediation. The underlying intention is not to spoil the Company's reputation. In a similar vein, the CAO office does not encourage too much publicity either. Its Website indicates that it does not have free hands, being bound by IFC and the Multilateral Investment Agency Guarantee, for access to information policies requiring the confidentiality of certain business information. In other words, critical external voices should not emerge.

Coming back to the short-term excitement in early 2015 with the assurance of a fair and comprehensive conflict resolution, the Company made a series of promises including genuine compensations. The five supporting entities, principally a national one, continued informing the population through the elected village representatives (mostly young men, exceptionally village heads, and just a few older than 40 years) who were regularly briefed with the complexity and the evolution of the process. These interlocutors were native villagers supposed to disseminate the advancement procedures of the mediation at the community level. They were also expected to be attentive to the feedbacks from their peers and eventually report them for next rounds of negotiation. Moreover, they were constantly trained and updated for understanding how the system was working, along with its major juridical, legal and technical mechanisms. Instantaneously, they were told that sensitive details of the procedure had to be kept secret. It came to an aberrant situation when communication between affected villagers and the outside world started to be restricted, if not prevented. In other words, "we can solve peacefully the question, and any interference could threaten this friendly process."

⁵⁶ Personal enquiries with village representatives and government officers, March 2015.

While autochthonous representatives were apparently trained to use the system to fight (part of) the system, not all of them were willing to act as mere interlocutors. Some used their newly prestigious modern status to decry the traditional authorities, arguing that elders were useless and could no longer understand the complex CAO procedures. Predictably, internal tensions started brewing, leaving several inhabitants uncomfortable about being passive recipients, just receiving information from elected empowered representatives. A system has been imposed from the top, and the moral economy of the peasants was again seriously challenged. The chosen path started to be unacceptable, at least not in agreement with their ways of doing and “being together”. Others misunderstood the role of the representatives, assuming that the election had been a trick to replace the elders, supposed to be respected. It happened that newly appointed young village representatives were, according to a few interviewed elders, pretending to know and decide everything. Surreptitious infighting, lack of communication, disagreements, and factionalism plagued some communities.

3.3. En Route for Mediation

Early 2018, after three years of negotiation, cultural vivacity faded away and no livelihood improvement occurred. A first recruited mediator has been repudiated because too acquiescent with HAGL. Another appointed foreign CAO advisor (for assisting the mediator) was accused by the CAO main office in Washington⁵⁷ of bias in favor of the communities in 2015. CAO staff from Washington came for short trip visits to the field and snap photographs of themselves playing football in the provincial capital with the locals and HAGL staff. “A psychological way to strengthen friendship”, a CAO officer told me in 2017. Internationally appointed highly-paid consultants came for providing information and awareness. At the beginning of 2018, NGOs were pursuing their duties, and stakeholders’ meetings were still conducted at the village level, even if HAGL agents stopped attending regularly. The latest appointed CAO mediator, a lively South American

⁵⁷ A Cambodian NGO worker confessed in 2016 that the fired CAO advisor was accused of “lack of neutrality” by some provincial officers.

indigenous woman lawyer, keeps on doing her best to put order and restore hope in this mess.

A lot of money has been spent for keeping the CAO mechanisms alive. Yet nearly nothing has changed for the villagers, apart from their involvement in the mediation process, over which they gradually lost control. Only the mediator still struggles to make them more confident. Until the second semester of 2017, the ongoing procedure showed, to the disappointment of local inhabitants, that HAGL was not willing to honor its promise of real compensation. A culturally-sound strategy had been beforehand deployed. HAGL offered a forgiveness ceremony in each impacted village (buffalo sacrifice with jar rice-wine drinking), but the ritual came to be interpreted by some Jarai elders as a subtle way to befog and mislead the villagers, thus diverting them from their quest for real justice: land return, robust compensations for affected families, improved livelihoods, and quality of life. Villagers also deplored the Company's non-response to their written requests and non-attendance at the meetings supposed to promote dialogue. In time, HAGL requested the provincial government to address the villagers' grievances, given that they had been granted a concession by the national government, which is, in turn, responsible of the welfare of its citizens.

A drop of water nevertheless percolated from the ocean of discontentment. After fieldworks and encounters between the two parties facilitated in July 2017 by the mediator, the Company agreed to return portions of spirit lands located on small hills, however generally unfertile, and some cemeteries, to 11 villages, provided the government georeferences the locations in collaboration with the people. Additionally, the joint statement of the dispute resolution declared that from now onwards, after so many years of strict interdiction, local inhabitants will be allowed to penetrate the concession if they needed to reach their cultivated fields, sources of water, burial grounds and sacred places. Such symbolic action diverted the people from their real concern (land return), but it managed surreptitiously to cool them down when signs of protest seemed to be reactivated. The mediator, in her dedicated fieldwork, still succeeded in bringing together government officials, villagers, and HAGL agents for localizing and measuring the spirits forests, and for being together.

Meanwhile, with an undeniable dexterity, the Company prevented this toxic affair from being excessively mediatized. In the Cambodian national English press, news about the conflict decreased from 2014 onwards and nearly disappeared in 2015, after the complaint was transmitted to the Company. By contrast, the July 2017 episode, with the announcement of token reimbursements, was diffused in Khmer and English, and interpreted as a step forward showing HAGL's clemency.

One can presume that the Company got what it wanted: preserving its reputation, plus promoting its fair play aptitude. Such stratagems had been facilitated by some NGOs interferences (even if their intention was in favor of people), along with the CAO mechanisms, notwithstanding NGOs' devotion, and mediator's professionalism and irreproachable commitment.

Given the two parties' unequal power, mediation has likewise generated economic imbalance. While villagers donated their time, external actors received financial support. Personal anthropological investigations reveal that few practitioners agreed to disclose the amount of money received by their organization. The majority felt surprised, and sometimes irritated, when I repeated the demands of villagers expecting them to be economically accountable. I replied, in vain, that the villagers' questioning was understandable, given the fact that they received neither a piece of arable land back, nor a single dollar of compensation for the time and energy spent for recovering, training, traveling, assisting internal meetings, and other innumerable socio-psychological services. This does not explain the incapacity of the mediation process to resolve the problem but, according to some peasants' points of view, the lack of accountability creates a fissure, if not a fracture, for a genuine collaboration between affected communities and supporting groups⁵⁸.

4. Negotiation Masquerade

⁵⁸ A chief village recurrently insisted on that, arguing that some community members were putting in question the sincere involvement of some NGOs, just doing a routine job, but probably well paid.

The WB mediator protagonists claim that adoption of a mediation agreement goes along with consensual intentions: building empathy, cordiality, and friendly relationship. All types of joint activities with the three parties help representatives understand each other and build trust. Mediation is perceived as a process allowing the disputing parties to make decisions on their own, thus retaining control of the content of the agreement. While the presently appointed mediator personally insists on villagers' empowerment, the CAO website explains that mediation restores and maintains business relationships.

4.1. Submission and Social Derivatives

One may wonder about the nature of business relationships the website talks about when, conversely, peoples' livelihoods kept on regressing. Originally, the Company recruited local people. Only few men and women showed interest. Employment did not appear to be a congenial alternative. For those who accepted, it turned bad rapidly. Working conditions were not acceptable (rhythm, strict time scheduled, authority), sexual harassments by Company's staff against young women occasionally occurred, already low salaries were systematically cut when daily-wagers could not fit with the imposed rules (expected productivity, compulsory attendance.) Employers suspected that health problems were considered as a pretext for disguised absenteeism. With the fencing of the plot by the Company that had already encroached on their traditional territory, how could they survive decently without enough land to cultivate? Without being allowed access to streams and ponds? Without non-timber forest products that have mostly disappeared after rampant deforestation?

Envisioning mutual business relationships is a naïve and unrealistic prophecy, unless people get their land back, along with respectable compensation for environment loss. Obtaining a practical, fair and workable solution relies on these minimal considerations. But how can they go along with a Company that has shown no interest in the well-being, even existence, of the inhabitants, identifying them more as obstacles than as partners?

In the course of time, confidentiality—another implicit in the mediation process—gives no room for alternative ways of expression. The underlying logic, more precisely a defeatist rationale, is that the Company is there. It should be taken for granted that it will stay. And what about improving mutual respect and clemency? Showing compliance, one of the magic spells of the mediation process, tacitly prohibits any attempt to shift the imposed norms, a shift that could otherwise include the right to reject. Subsequently, public advocacy has been replaced by friendly but insipid dialogues. The social space has shrunk, villagers are confined within their universe, and no external interference is permitted (no media, no independent analysts, etc.), with the exception of ‘accredited’ NGOs encouraged to comply with the negotiation process, but not to criticize the system as a whole, in spite of the illegal activities perpetrated by HAGL.

Supporting NGOs could have reminded the government to implement its recent State Land Management policy: in 2012, the State promulgated a directive (called Order 01) to initiate a vast revision of ELC in Cambodia including 1) the titling of land inside economic land concession where rural peoples have rightful claims and 2) an evaluation of ELC to order to identify whether there are in breach of their contractual requirement with the government. As a result, the duration of ELC contracts was shortened, and a significant number of ELC was cancelled. All this process took place in 18 provinces, including in Ratanakiri, but such a directive which turned to be an innovative key element of State Land Management in the last few years in Cambodia did not occur with the HAGL case, for some reasons which should be scrutinized in another study. Put simply, Order 01 made by the government did not shape the outcomes of the mediation. Perhaps if some communities have their land titling, it might have had an influence on how different actors implicated in the conflict could engage, or even question, the CAO mediation process, but neither communal nor individual land titling was existing, in spite of recent attempts of some villages to apply, belatedly, for communal land tiling.

Situation is further complicated in Cambodia in the sense that NGOs must comply with the leading political party’s ideology. Open confrontation is risky, because top-ranking politicians subjectively associate critic with disorder, instability, war threats, and confusion. NGOs apolitical main contribution, under these rough conditions, is reduced

to annihilate the political anger that was anchored at the beginning of the confrontation. Notions of aid, guidance and benevolence have replaced what people ought to have by right, therefore turning people into dependent victims, while blunting the edges of political resistance, as it frequently happens elsewhere⁵⁹. In Ratanakiri, the chosen WB mediation has entirely depoliticized the residual resistance that persisted when the complaint was prepared. By interfering with local peoples' movements, well-minded NGOs' main role turn to be conciliators, interpreters, and facilitators. Combativeness was not part anymore of the curriculum.

The professed neutrality of the mediation is another misleading artifice. Innumerable examples have shown that disputes between transnational entities and autochthonous communities are hampered by profound inequalities, leading to structural impairment, that make easier for corporations to take advantage of juridical-social assessment⁶⁰. And such assessment can be used afterwards to silence opposing voices. Moreover, the self-proclaimed rules of mediation stipulate non-divulgence of the ongoing process. It does not prevent information, but it selects the routes of transmission. For instance, each joint resolution statement—when occurring—is publicly announced. It exhibits a positive outcome, showing that the mediation is going on well. But non-technical analyses are avoided, specifically if they call into question the peaceful evolution of the mediation process.

It is true that NGOs in Cambodia are under pressure and can be closed without justification with the 2016 NGO Law restricting their plans and prohibiting militant actions. They are not immersed in political contexts like in South America, or in Asian countries as in the Philippines or India, characterized by strong indigenous historical social movements, sometimes supported by local public institutions.⁶¹ Still, independent media can have an impact. Government closed some journals and radio stations, and relentlessly limited the freedom of expression since autumn 2017. But information

⁵⁹ CETRI, 2017

⁶⁰ Leclerc-Olive 2017.

⁶¹ Leclerc-Olive 2017: 15-28.

dissemination, at the age of the social media and access to external sources of knowledge production, still works. Mass media shape public opinion, and the circulation of images—a strategy frequently adopted in Cambodia as evidence-based testimonies by some monk activists and engaged workers using smartphone—is in itself an effective way for creating links and mobilizing distant peoples. Sadly, the self-imposed rules of the mediation process affirm the necessity of avoiding this social communication during the deliberation under the guise of confidentiality, in the same way the dominant political party has already shown its decision of repressing pitilessly unwelcome maneuvers of people willing to exchange and join for a dissident cause.

4.2. Gloomy Prospect

Before the WB partially funded the project, supporting actors did not join their efforts to powerfully claim that the Company's enclosure was illegal, considering the Declaration of the Rights of the Autochthonous Peoples which acknowledges their right to protect and keep land or equal land if they are removed, and more importantly, with regard to Cambodia's laws mentioning that nobody outside the community can obtain rights to immovable properties belonging to Autochthonous peoples. Nobody did this in proper time, and now it seems too late. So what can be done, once the damage has been done? NGOs accomplished their valuable work by revealing financial tracking⁶² and organizing communities, but with limited concrete impact. Other supporting groups diligently accompanied the population who received tools and materials (village land maps, Smartphones, iPhones, technical knowledge, opening to the worldwide financial scene...) The last mediator enthused communities to draw their territories. This social mapping, en vogue in Brazil but totally unknown in Cambodia, allowed people to reappropriate their social space. But so far, neither real compensation nor agricultural land redistribution is envisioned.

⁶² IDI 2017.

Without mediation process, Cambodian autochthonous people have adopted other strategies elsewhere in rural areas. For instance, I had the opportunity to meet in January 2016 other local inhabitants from Ratanakiri who have resisted with no NGO support the establishment of a small rubber plantation. Villagers explained me that dreading power imbalance, negotiation was not even envisaged. People started burning down Company housing, and did not hesitate to address threats against developers and their Phnom Penh-based Cambodian government counterparts. Federated against an unacceptable dispossession, villagers kept on occupying parts of the planned concession to prevent the trees from growing. Being aware of impending serious would-be problems (arrest warrants, physical and psychological persecution from the authorities), an ad-hoc committee elaborated a subtle game with the political party in power, not for mere support but to show village's allegiance to a mainstream ideological line stimulating endogenous development. Lastly, villagers have been successful in stopping the Company from moving ahead.

The fact that, in such particular circumstances, villagers defend better themselves without any NGO support does not demonstrate the inefficiency of NGOs in the HAGL case: there are definitely other instances, in Cambodia and elsewhere, where NGOs interventions in favor of smallholders did them good. Moreover, it is not my intention to pretend that the five NGOs handling the HAGL case have gone wrong since the beginning. I just want to remind through this quickly depicted example that it remains fundamental, and specifically for NGOs before choosing a strategy intervention, to better understand local mechanisms and their social dynamics in order to be in phase with people's capacity to organize themselves, for instance in a social movement, if ever such characteristic is meaningful for them.

No independent strong grassroots organizations exist in Cambodia like La Via Campesina (LVC), which has formed a huge international network capable of responding to a politics of representation that too often excluded peasant voices⁶³. Like most genuine

⁶³ Martinez-Torres and Rosset 2010.

social movements, LVC and their affiliates have a special distrust, based on bitter experience, of methods that channel and calm dissent. Conflict resolution, stakeholder dialog, World Bank consultations and participation are avoided whenever possible. Under these conditions, a mediation process, as it is occurring with the HAGL case, is currently replaced by more confrontational attitudes on rural issues, therefore enhancing a militant attitude against multilateral agencies. LVC stands in contrast with most NGOs, like those in Cambodia⁶⁴. Probably because Cambodia has an authoritarian political environment. Martinez-Torres and Rosset maintains that too many NGOs, local and international, depend more on their boards and donors rather than on the constituency they are expected to serve the interests⁶⁵. Main priority for most of these associations is to be recognized as a fundable entity. It encourages them becoming project-based, with easily measurable goals and ready technical tools accountable to their donors, but much less to the vulnerable population, as it occurs in the depicted case. Again, the sincerity of the NGOs dealing with the HAGL case cannot be put into question, but main question that remains unanswered is why a mediation orchestrated by an allegedly independent body like the CAO has been chosen as the only way out by international NGOs and why other local NGOs took for granted this option as the feasible solution?

The HAGL disheartened scenario has nevertheless few interesting outcomes. Dispossession and encroachment debates became tied, at least for some local people, to broader struggles for democratization, access to alternative development, and citizenship. Progressively, the language used by several autochthonous inhabitants became part of an effort to challenge present-day structures of domination and normative discourse. Some, mostly the elected persons, or village representatives, started from 2015 onwards using the modern words of ecologists (biodiversity, climate change, pollution...), and did not miss an occasion, either at the village level, in meetings with HAGL representatives and government staff or with outsiders (scholars, journalists, developers) to raise their voice, challenge destructive resource extraction practices, and the selling of the country to business firms. In a sense, new discourses, instilled by autochthonous activists belonging

⁶⁴ Khieng 2014.

⁶⁵ Martinez-Torres and Rosset 2010.

to a local NGO involved in the HAGL case and with environmental issues, have been intended to empower the historically disempowered autochthonous communities. But, according to what villagers confessed, these opportunities arrived too late, and it remains uneasy translating them into valid arguments during the negotiation that never converted into a collaborative dynamic, as envisaged by anthropologists⁶⁶.

Conclusion: The Demise of a Social Movement

The depicted story is illustrative of what is happening nowadays in Cambodia, and perhaps soon in the neighboring countries. Once rural peoples reach a certain level of anger, protest, and mass mobilization, the authorities welcome any national/international agency to negotiate, form joint study commissions, and engage in various forms of peaceful conflict resolution. Affected communities soon become assisted. Once the simulating energy of direct mobilization passes, the momentum is lost, and the real expectations are never met nor the promises kept. Such is the case with HAGL. Ostensibly, people's organization in Ratanakiri becomes less effective at achieving their demands after being less confrontational. They turn to be less operational when they take more conciliatory positions and invest their energies in endless dialogues. Many people fall in this trap, losing their line, the line of combativeness, are not only fighting for land and for rights. They now rely on an open-air bureaucratization process engendered by friendly mediation meetings leading to nowhere.

As the philosopher Plato alleged, "Nothing is acquired, everything needs to be interrogated." Similar alarming observations have been noticed in the present-days world's confrontation against mega-development projects. The importance of maintaining and strengthening links between the local and the global has been highlighted⁶⁷. An important success factor for local land struggle has been found, in many cases, in the existence of a well-organized and articulated peasant movement that is

⁶⁶ Hale, 2007; Lassiter 2005.

⁶⁷ Borrás 2016.

simultaneously able to communicate what is going on to a supportive global network⁶⁸. Other authors like Tania Li advocate for a more integrated strategy not limited to a mere technical intervention⁶⁹. But these possibilities are not in line with the WB mediation.

For the moment, more accessible and feasible strategies deserve to be explored. It has been shown in many instances that autonomy stimulates more grassroots activism promising to more thoroughly represent the peasantry⁷⁰. It should also not be forgotten that “the principal vehicle for any and all agrarian reform programs in Latin America has been peasant influence over the state; [even if] the principle weakness, by contrast, has been the failure to consolidate a state power so as to sustain the reform and make it irreversible”⁷¹. Conversely, smoothly promoting a fair mediation at a time when “land is war”⁷² contributes to anesthetizing the combativeness of a social movement.

It would be naïve, and shortsighted, not to recognize that such laudable initiative of mediation is inevitably destined to facilitate the games of the most powerful. Undoubtedly, mediation is not the appropriate procedure for conflict resolution, at least in the present depicted case, where legal obligations liable to protect the fundamental rights of people have been violated⁷³. Moreover, the infringing party is much stronger than the harmed party. This disparity is aggravated by the links between government-individuals/agencies and the Company⁷⁴. Such unceremonious alliance makes resolution based on amicable negotiation between the infringements by the proper authorities improbable, if not impracticable.

A methodology elaborated by foremost neoliberal agencies can only give a false appearance of human and ethical concern, but can hardly lead to an effective genuine

⁶⁸ McKeon 2013: 117.

⁶⁹ Li 2007.

⁷⁰ Edelman and Carwil 2011.

⁷¹ Petras and Veltmeyer 2002, 59.

⁷² Personal enquiries with a Khmer peasant, March 2017.

⁷³ The infringing party is not denying his mistakes.

⁷⁴ Global Witness 2013.

justice for the oppressed. A methodology of the oppressed, not driven by top institutions like powerful banks, has yet to come. Under this consideration, two major points of contention can be raised: the right to land, and the right of peasant communities to reject a change of practices. Oppositely, the mediation has reinforced and reproduced the very structures of oppression the villagers intended initially to resist. We can affirm, without exaggeration, that the institutionalized mediation, at least in the present case and notwithstanding the mediator's truthful vision, with its vitrine of sympathetic discourse for the poor, is de facto complicit with an international organization supporting, through substantial benefits, financial activities accentuating the global land grab.

Still, villagers should be more encouraged to lead their campaign under the banner of, for instance, powerful concepts like food sovereignty, self-governance with alternative rules and procedures, and ecological debt already well elaborated in other countries and continents. Food sovereignty, defined as the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agricultural systems, already turned out to be a worldwide major forum's rallying convergent point since 2002⁷⁵. It could be an additional force for dispossessed and about-to-be dispossessed Cambodian peasants to be engaged in. Among other material and symbolic benefits, they could get retroactively more social recognition.

Anthropological investigations have revealed and witnessed experiences of struggles occurring in different places⁷⁶. They can propose other exposures and mechanisms. Social scientists can be associated with jurists for strengthening advocacy with a rigorous production of knowledge. Lobbying for autochthonous people's rights, and pushing for arbitration against Deutsche Bank and Crédit Suisse (main donors) could be envisaged because their compulsory safeguards have not been respected⁷⁷. More than ever, the disremembered concept of "lived world" elaborated by the German philosopher

⁷⁵ Desmarais, Wiebe and Wittman 2010.

⁷⁶ Edelman and Carwil 2011.

⁷⁷ The mediation process can be stopped if one of the parties decides to finish it.

Husserl must be heartened. Adopting indigenous peoples' vision of territory does not only enrich the platform for on-going campaigns but accentuates its radical differences from dominant mainstream concepts that tend to focus exclusively on the economic value of natural resources while, subsequently, neglecting the notion of moral economy⁷⁸. Among the many social and political aspects neglected, or purposefully ignored, by the chains of solicited actors, it is worth reminding that an autochthonous person without land loses his dignity. This fundamental value, deeply rooted in the culture of Ratanakiri highlanders, cannot be forgotten.

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⁷⁸ Scott, 1976 and 1985.

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