Gender Equality and Land Law in Cambodia

Dr. Fabian Thiel (CIM)
Faculty Advisor, Faculty of Land Management and Land Administration,
Royal University of Agriculture (RUA), Phnom Penh

Utilitarian concept of justice

“No man made the land”

(John Stuart Mill, 1848)
Who Should Own The Land?

“The State does not know what land it has or wants” (LIC 2007).

Land as “terra nullius” in Cambodia? And: Who should own the land? Man or woman? Or nobody?

Property Rights and Gender

- Combat gender and market failures by generalizing a regime of exclusive and tradable property rights?
- Increase in efficiency with private property? Women’s access to land via private property and registration only?
- How to reduce transaction costs for the land access of women?
Cambodian Land Law 2001

- Immovable Property (2)
- Principles of Ownership (4, 8, 66)
- Private and Public Ownership (14,15,17)
- Co-Ownership and Possession (29-47)
- Land Concessions (48-62)
- Leasing (106-113)
- Land Administration (226-246)

Data from Land Registration

Systematic Land Registration

1 million land title issued to women and men / couples: 70 % joint titles, 20 % in the wife´s name, 5 % in the husband´s name

(Source: Müller, F.-V/Sar Sovann 2008)
### Land Conflicts and Property

- Inheritance and other disputes between family members are described as common.
- Land disputes arise when land that is controlled by one relative is used by other relatives.
- Land disputes between siblings and non-married spouses are known.
- Overdebtempness and bankruptcy can be the result of using land as collateral.

### Leasehold Rights

- Leasehold rights as alternative secure ownership rights for women and as an instrument of social land policy (Millennium Development Goals (MDG) 3 and 7)
- Short and long term leases
- "Quiet Enjoyment": Divided property between lessor and lessee, e.g. between landlord and female headed household
- Integration of leasehold rights in participatory land use planning, e.g. Organic Law 2008
Associations and Cooperatives

Associations and cooperatives as alternative instruments for secure land rights:

- For landless and land poor female headed households (community building)
- Income generation for women
- Agriculture food processing
- Common use of machines, marketing etc.
- Value chain approach

Legal basis: Royal Decree on the Establishing and Functioning of Agricultural Cooperative (...) (NS / RKT / 0701 / 234)

Conclusions and Outlook

- Skim off the ground rent partly through taxation (e.g. land value tax)
- Redistribute the payments in equal shares so that the access to land for women is affordable and social infrastructure can be paid (low transaction costs)
- Make spatial planning neutral – make it bare of ground rent and of influence
Thank you!

Questions, please?

www.fabian-thiel.de