CUSTOMARY LAND RIGHTS OF INDIGENOUS PEOPLE AND THEIR VIOLATION IN RATANAKIRI PROVINCE, CAMBODIA: AN ASSESSMENT OF THE GOVERNMENT'S RESPONSE

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ABSTRACT

Indigenous people have a special cultural relationship to their customary land. The Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169) and the Draft UN Declaration on the Rights of Indigenous Peoples require governments to respect this special relationship to land and the customary land rights of indigenous people.

This thesis argues that the customary land rights of indigenous people in Ratanakiri province have been violated by the previous Cambodian government's granting of land and forest concessions, by the establishment of protected areas, and by land speculation.

This thesis examines relevant international and domestic laws in order to assess the response of the government pertaining to the violation of customary land rights of indigenous people in Ratanakiri province. The study found that the Cambodian government has not ratified any international laws concerning indigenous peoples' rights yet, and Cambodian land laws are ambiguous and incomplete regarding the rights of indigenous people. This situation has allowed violations of customary land rights to continue until now.

In-depth interviews with indigenous people and land experts explored their opinions regarding the land section of the draft General Policy for Highland Peoples' Development (GPHPD). The interviewees agreed that the main obstacle to the adoption of the policy was the central government. However, the study also found that the draft GPHPD was generally seen as having the potential to make a positive contribution to indigenous people's land rights and the protection of their customary lands.

Finally, this thesis recommends that resolution of past violations is the most important work for the government to deal with before moving on to register communal land title for indigenous people in Cambodia. If past violations of customary land are ignored, the violations will be legalized and indigenous people will continue to suffer because their traditional lands will never be returned.

KEY WORDS: CUSTOMARY LAND RIGHTS/ /INDIGENOUS PEOPLE/ HUMAN RIGHTS VIOLATIONS/RATANAKIRI PROVINCE/ CAMBODIA

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