

Communities, NGOs and Accountability

Briefing Paper 3: Approaches to Seeking Accountability

The Community Driven Accountability Study

Oxfam has been working with Monash University on a 3 year research project in Cambodia, exploring how communities impacted by large-scale development projects, such as dams and urban infrastructure, understand accountability and its implementation, and how different stakeholders, including NGOs, influence and shape this process. The research, funded by the Oxfam-Monash partnership, has been conducted in close partnership between Monash academics and researchers and development and human rights practitioners from Oxfam Australia and Equitable Cambodia.

The research examined three case studies of communities in different geographic locations in Cambodia, both rural and urban, and each affected by different projects or challenges to their way of life, and each with different levels and types of engagement with local and international NGOs. The study looked at the mechanisms and processes communities were using to seek accountability and to solve problems.

The case studies were:

- Two remote, rural villages situated along the Mekong in the provinces of Stung Treng and Kratie, which have been supported for many years by the Oxfam Australia Integrated Community Development project, but now face new challenges to their livelihoods if the proposed Mekong dams in Stung Treng and Sambor go ahead. The villages have worked for many years to address livelihood needs through community committees and participatory decision making processes and by linking with district government departments.
- The Boeung Kak community in Phnom Penh city who have been fighting against eviction from their homes and land in the face of a luxury urban development project. The Boeung Kak community have spent over 7 years advocating to keep their land, using various strategies and approaches, including submitting a complaint to the World Bank Inspection Panel, accusing the Bank of failing to adequately administer a Land Management and Administration project which left the community with no claim to land titles.
- Four villages in Sesan district in Stung Treng province which face imminent resettlement if the Lower Sesan 2 dam project moves ahead. The situation regarding the Sesan dam is ongoing and rapidly changing. As remote communities with ethnic populations supported by mainly provincial based NGOs, the ability of the villagers to seek consultation, information and accountability from the dam developers is proving an ongoing challenge.

Channels to seek solutions

During the research villagers were asked how they went about making decisions as a community, how they would resolve a dispute, and how they might pursue a grievance on behalf of the community. The research found that normally when communities or individuals face problems or issues they first turn to traditional, village-centric channels to seek solutions and find answers. The village chief was consistently named as the primary problem solver and decision-maker that villagers would go to, although in fact other village members such as neighbours, elders and relatives might also be involved, depending on the nature of the problem. If problems were considered bigger, or had not been solved at village level, the commune or district authorities and the commune police post were commonly called on to find a solution.

However, as communities are being impacted by larger-scale external development projects, such as major infrastructure projects like roads or dams, economic land concessions or land redevelopment, it becomes more complex for communities to seek accountability. Some of the key challenges the research found people faced were as follows:

- **Identifying who is responsible**

Often it is difficult for communities to identify who is responsible for these larger projects impacting on their villages and those responsible are often powerful and remote from the communities, making accessibility to these decision makers problematic. Communities and individuals in communities frequently lack confidence in their ability to solve problems, aware that they are relatively powerless when compared with the powerful. As a female respondent in Sesan district noted with regard to the Sesan 2 dam, *“I don’t know how to stop them either. I wouldn’t be able to do that. They would still build it because they are ‘bigger’ than me. I wouldn’t be able to stop them.”* In some cases, as in the villages in Sesan district, when communities have been impacted by companies encroaching on village land and forest, the local people have tried to negotiate with the company staff on the ground, but with little success as these people also have little decision-making authority or interest to raise the community’s concerns upwards.

- **Understanding the impacts**

People in Cambodia are still relatively inexperienced at dealing with large scale development projects and often there is a lack of belief or understanding about what will actually happen until it is too late. As one NGO representative reflected when talking about the Boeung Kak villagers, *“It was very hard to organize the people and to get the people to wake up until, really until, until August 2008 when they started pumping the sand [into the lake].”* A lack of information and knowledge about the projects, their scale, their size and their impacts can result in people being inactive and not organizing themselves adequately in advance so that they can be prepared to deal with the issue.

- **Raising concerns through local authorities**

The normal channels of raising concerns and seeking solutions through the local authorities also appears to be problematic when dealing with external development projects. While the Oxfam Australia project helped to link local government officials to the villages so that they were much more aware of the issues faced by the communities, the ability of local officials to raise concerns to higher levels was limited. Village and commune and even district and provincial officials often noted that they couldn’t *“change the project because it is the government project.”* Despite decentralization, the hierarchy to central government still persists and inhibits the role of local authorities to act on the behalf of the people and to raise concerns upwards. In addition local authorities often have little information about the large scale development projects and lack influence in the political hierarchy, which seems to result in a lack of responsiveness of willingness to take responsibility. Authorities have also been co-opted by the more powerful or have simply felt unwilling or unable to challenge those above. As a village chief in Boeung Kak complained, *“We [local authorities] are affected [by the development project] too as we live here, but we don’t have a choice as this is an order. If we go against them...going against the higher level means supporting the people.”* National government may also bypass local level during decision making, as was the example in Sesan district when a request for logging to begin in the reservoir area was not approved and signed by a commune chief but went ahead regardless.

Seeking NGO support

During the research communities explained that often when they were unable to raise their concerns with the local authorities their next action would be to seek support from NGOs. NGOs have been working

for several years now to help communities impacted by different development projects such as concessions, dams, urban development and railway constructions to seek accountability. There are a range of methods that have been employed by the NGOs to support communities, some more successfully than others. While this briefing paper does not allow us to look in depth into these strategies, here we look at the pros and cons of three key methods, with some challenges and lessons learned that emerged from the study.

Community Organizing

“Before I know that I was like a toad in a well, because I can only see a hole from the well. I couldn’t see how big it is around the well. And when I am doing this (working as a community representative), I was able to know about how the problems are in Cambodia, how many cases of problems with land there are.” Female Boeung Kak community representative.

The research found that one of the key factors in enabling some communities to be able to develop stronger processes for demanding accountability is through organization. For communities to be able to challenge more powerful actors they need to have a solid base of popular support and clear goals. Community organizing and the selection of community representatives can have significant impacts for the communities.

NGOs have played an important role in supporting communities to organize, network and to build their capacity to act collectively. NGOs have been working with communities in this way for a long time in a community development context. In villages working with Oxfam’s Integrated Community Development project, people were organized around village committees which provided them with the experience of working together and making decisions and solving problems as part of a group. As a government official noted, *“they are braver when they work in a group. If they do not work in a group they dare not to express their ideas in a meeting.”* Early on in the struggle against eviction at Boeung Kak lake, the NGOs working with the community realized that the people needed help to organize and come up with a cohesive strategy and clear demands to protect their rights. The organizing of the Boeung Kak community was combined with training the community representatives on legal rights and advocacy strategies, linking their community with other communities in Cambodia being impacted by eviction, and taking them to visit communities in the region to share experiences. Role models of strong, organized communities in Cambodia, like the Boeung Kak community, are emerging, that can inspire and inform other communities.

However, there are challenges to community organizing that NGOs and communities should be aware of so that strategies can be taken to mitigate these challenges before they become problematic.

- With the nomination of community representatives, there is always some danger of community representatives taking advantage of their relative knowledge and power, and to begin acting more from self-interest rather than on the behalf of the community. Where possible several representatives should be elected, ensuring a broad cross-range across wealth, gender and age categories. Representatives also need to be accountable for their roles and it should be clear to the rest of the community what their roles are. The community should understand that community representatives are accountable to them, and not that they are “under” the community representatives.
- Community representatives can also become the target of threats and intimidation and so strategies for protection should be in place. NGOs should ensure that communities and representatives understand that activities should be in compliance with the law and a safe place to

go should be identified by the NGOs in case the representatives or other people in the community are threatened.

- Community representatives are not always experienced at consulting and providing feedback to their communities. It is important for NGOs to ensure that community representatives receive skills and techniques in how to disseminate information clearly to other community members, ensuring that groups who are normally marginalized in the community also receive and understand the information.
- NGO support in communities can be divisive, particularly if NGOs are seen to be supporting the interests of a certain section of the population at the expense of others, or if resources and money are brought into the community and are seen to be benefiting a few individuals rather than the community as a whole. NGOs should try to spread their support as evenly as possible to ensure that all sections of the population have their voices heard and needs addressed. NGOs should consider very carefully the input of financial resources into a community and how these resources will be distributed and accounted for.
- NGOs working in the same communities need to coordinate and work together to ensure that their inputs help to strengthen the organization of the community rather than divide and cause confusion. It is important to make sure that NGO activities don't undermine or take over from the community goals.

National Advocacy

Another strategy being facilitated by NGOs to support communities seek accountability is working to bring the people and government together so that affected people can raise their voice directly to the government authorities in charge. Advocacy at the national level helps to enlarge the democratic space in which dialogue between government, civil society and the private sector take place. As a representative from a national-level organization explained, *"We also work and are involved with the government because we coordinate the NGO networks and the community networks to come together and discuss on the [development project] issue. So finally we give one message and then we influence the policy of the government."* National advocacy of this nature has included involving government officials in community work around policy issues; bringing communities and national decision-makers together through workshops and meetings; providing feedback on policy, laws, studies and assessments; organizing exposure visits for authorities and communities; training and reporting to media; and engaging in organized action such as demonstrations, protests and delivering petitions. Advocacy work at national level can help to develop an engagement between the national level decision makers and impacted communities, promote transparency and information sharing and lead to policy changes for the better. It can also help communities and their representatives better understand how upper levels of government work. However, challenges identified during the research include:

- There is often a lack of response from national government, particularly concerning sensitive issues. In some cases where forums and workshops are organized to bring the community and government together, the government fails to show, demonstrating a limited democratic commitment among politicians.
- Advocacy and lobbying in Cambodia is often interpreted by the government as being anti-government, and the provision of additional information to communities, for example, about alternatives to the compensation being offered, is sometimes labeled as "incitement." This tends to pit advocates against authorities and doesn't necessarily open the space for dialogue.
- The absence of the rule of law in Cambodia has meant that many protests and demonstrations have been violently broken-up by the authorities.

These above challenges are difficult to address except through patient and persistent engagement with the authorities in line with the laws of Cambodia. However, for communities facing imminent impacts to their livelihoods, the response of national authorities is often slow and inadequate. As a result, NGOs are beginning to turn more and more to advocacy at an international level and to support communities to access international accountability mechanisms.

Accessing International Accountability Mechanisms

As more and more large-scale economic development projects in Southeast Asia are trans-boundary in nature it becomes more difficult to influence these projects and seek accountability through national advocacy alone. Targeting international accountability mechanisms are therefore one way for communities and their NGO supporters to gain leverage. In Cambodia, NGOs have also supported communities to access international accountability mechanisms when communities have been unable to gain a solution through national advocacy efforts. As one NGO representative explained, *“If we go to find that ‘homeowner’ [the government], they can’t solve it. So we will go to the people [the donors, IFIs, companies] who participate with the ‘homeowner’ for them to solve.”* International advocacy involves investigating where the money for the projects comes from and then holding the financiers, companies and government accountable. Often international financial institutes, like the World Bank and the Asian Development Bank, have accountability mechanisms which can be accessed for this purpose.

The Boeung Kak lake community was able to find a link between their evictions from Boeung Kak and the failure of a World Bank funded Land Management and Administration Project to assess their land rights claims prior to the lake area being leased by the Royal Government of Cambodia to the private developer Shukaku Inc. As a result of the complaint of the Boeung Kak people, a World Bank Investigation Panel conducted an in-depth investigation and found in favour of the complainants. The World Bank accepted responsibility for failures in its project and committed to take action to redress the harms caused. Subsequent pressure was placed on the government to halt the evictions by freezing all new lending to Cambodia. This resulted in the Prime Minister of Cambodia, Hun Sen, issuing a sub-decree awarding 12.44 hectares of land within the developer’s concession to 631 of the families remaining in Boeung Kak. The Boeung Kak case is a good example of how targeting financial institutions can demand corporate responsiveness and vigilance among companies and investors which in turn can put pressure on the government to also be accountable. The international advocacy around these cases can also raise awareness among the international community and overseas consumers, who can provide additional support and voice to the case.

The experience of NGOs in Cambodia in raising community-level issues to these international accountability mechanisms is still relatively new. There are a number of identified challenges that need to be considered when accessing these mechanisms to ensure that the impacted communities understand the process and possible implications, that they are properly represented by the NGOs, and that they are not put at greater risk.

- Tracing the source of financing for development projects, usually to international companies or banks, is often complicated and can best be done by NGO representatives who have access to and familiarity with internet and investigative research and who can read and write English. However, complaints cannot be legitimately submitted on the behalf of a community unless the community has a clear understanding of the links of the company or finance institute to the project and what strategies are possible to bring about accountability. NGOs need to be able to explain clearly and in a way that communities can understand, what the links are, what the potential strategies for action are, and what the possible outcomes and impacts could be.

- Representation becomes an issue when community problems are taken out of the community to seek accountability from distant actors. Accessing international accountability mechanisms often relies on NGOs to make the case, to submit the complaints and to advocate and lobby at elite levels internationally. While in the Boeung Kak case communities were able to accompany the official complaint with their own letter of complaint and were able to meet the World Bank officials in country, it was the NGOs who had to take the lead in filing the complaint and in lobbying the World Bank in Washington, albeit with the permission of the community. It is therefore important for NGOs to consider how they represent the community voice and remain true to the community concerns, ensuring that the NGO advocacy agenda does not dominate the community agenda. NGOs need to guarantee that their own process of decision-making is transparent and accountable and that strong links are fostered with the community and across different groups in the community. Actions taken on behalf of the community should be approved by written consent by the communities prior to the actions taking place. NGOs should provide regular documented updates to the communities on the process, the meetings attended and the decisions made.
- The time frame between submitting complaints to international accountability mechanisms and receiving a final reply is often long and drawn-out. In the case of Boeung Kak, the initial complaint was submitted by the community in September 2009, but the final decision on the case was not made until March 2011. By this time many of the original complainants had been forced to move from the lake area as their houses had been submerged by water when the company began to fill the lake with sand. They have still received no redress for harms caused from the Bank or the government. NGOs need to ensure that communities are aware of the possible time frame for complaints to be processed and that interim strategies are in place for other advocacy actions, for livelihood maintenance and also for security, to ensure that communities do not receive further intimidation and threats as a result of having submitted complaints.
- When the complaint was submitted on the behalf of the Boeung Kak community to the World Bank Inspection Panel, some of the NGOs who had been working with the community opposed the action, believing that the process would have broader negative impacts for Cambodia as a whole. The issue was not resolved adequately due to the tight time-frame in which the complaint had to be submitted before the Land Management and Administration project was closed and complaints would have been invalid. Ensuring broad discussion around the issue, the pros and cons and gaining as much consensus among NGO partners is an important part of the process that can give more strength to the community case. Solid NGO support at both national and local level can also ensure that communities have channels to request information updates and to discuss solutions for issues arising in the interim. NGOs can also help to provide a service in terms of monitoring actions of authorities and companies after the complaint has been submitted.
- The risks of holding international companies and financiers to account should also be considered carefully by NGOs and communities before action is taken. Timelines and deadlines for submitting complaints can complicate intentions to ensure full consultation and participation, and so the pros of submitting the complaint against the cons of inadequate consultation should be considered fully. The threat of complaints being lodged can also result in companies and finance institutions wanting to quickly and quietly withdraw from a project, which could leave the project run by companies with no mechanisms for safeguards or complaints to which the community can appeal.