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## **Time as the Enemy? Disjointed Timelines and Uneven Rhythms of Indigenous Collective Land Titling in Paraguay and Cambodia**

Tusing, Cari ; Leemann, Esther

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## Article

# Time as the Enemy? Disjointed Timelines and Uneven Rhythms of Indigenous Collective Land Titling in Paraguay and Cambodia

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**Abstract:** Indigenous Land law reforms in Paraguay and Cambodia proposed collective land titling to secure land tenure through community ownership. When we look at land formalization through a temporal lens, we see the on-the-ground dynamics of how communal title may or may not be achieved by examining the ethnographic case studies of Guarani and Bunong land titling. We argue that the temporality of land titling processes creates disjointed, shifting timelines mediated by relationships of power and disrupted by fast-tracked private and state concessions. This uneven relationship between time and titling interrupts, undermines and fragments Indigenous land possession with serious ecological and livelihood impacts.

**Keywords:** temporality; timing; Indigenous land rights; collective land title; livelihoods; deforestation; anthropology; political ecology; Cambodia; Paraguay



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*“Time is an enemy of the process of securing indigenous land. The road to effective land rights both narrows and lengthens as it is traversed” [1].*

## 1. Introduction

Indigenous forest-based livelihoods in both Cambodia and Paraguay are threatened by deforestation. The ecological landscape in Cambodia and Paraguay is characterized by overwhelming deforestation through large-scale land use change. In eastern Paraguay, less than 7% of the Atlantic Forest remains, fragmented into small islands [2]. Monocropping and cattle ranching continue to drive deforestation and declines in small-scale agriculture [3], despite a zero-deforestation law in eastern Paraguay. In Cambodia, 24% of the national forest cover was lost from 2001 to 2015 [4]. In northeastern Mondul Kiri Province, plantation-based agriculture represents the main driver of deforestation [5].

Indigenous people have turned to collective land titling as a way to safeguard their forests and their ways of life. It is often presented as an easy solution to gain tenure security by the development sector; however, as critical studies in Cambodia and Paraguay point out, collective land titling in both countries has many flaws and weaknesses. In particular, it is a very slow process that faces difficulties in protecting Indigenous livelihoods and land [6–11]. Scholars have documented the foot-dragging of both the Paraguayan and Cambodian governments on the issue of Indigenous land titling [7,12–14]. In contrast, land destined for agricultural concessions, development projects and influential individuals is expeditiously carried out [15–17]. That is to say, the state plays a key role in slowing down the process of Indigenous land titling and speeding up private titles and concessions. In the context of the neoliberal, extractivist capitalism that prevails in both countries, the state usually takes the side of investors who want to obtain the land for profit-making purposes, thus shifting the political focus of formalization against Indigenous interests,

while gesturing toward Indigenous rights on paper. While privatization and concessions continue apace, the prolonged collective titling process has important impacts as Indigenous land claims are fragmented through community-based titling [13,18,19], that is, made into “reductions” [20], where Indigenous collective land titling is circumscribed only to the areas surrounding specific communities, instead of covering the entirety of “traditional territory” [21]. Leeman and Tusing [22] have identified this process as making “leftovers”: the irregular process through which Indigenous land claims become fragmented as they are taken up into the market, deforestation continues despite collective titling efforts, and land continues to be affected by capitalist logics despite its legal designation as inalienable.

Indigenous collective land titling takes place in a dynamic political, economic and ecological environment, informed by different rhythms and timelines of land formalization. We center how Indigenous people experience and navigate these uneven processes of formalizing land, exploring the lived experiences of land titling itself, to interrogate how temporality plays an active role in the titling processes. As Stocks [1] shows, “Time is an enemy of the process of securing Indigenous lands”. We will show that the temporality of Indigenous land titling is not just long and slow, it is disjointed and irregular, mediated by relationships of power and disrupted by fast-tracked private and state concessions. This uneven relationship between time and titling interrupts, undermines and fragments Indigenous land possession with serious ecological and livelihood impacts.

## 2. Land Titling and Temporalities

Indigenous territorial movements attempt to safeguard Indigenous land from dispossession. Specifically, they often see safeguarding Indigenous lands as a proxy to safeguard their way of life, including community well-being, autonomy and livelihoods. State support for collective titling laws is on the rise [23], yet scholars have shown that, in practice, titling comes with a range of issues. There is often a large gap between communities’ expectations and actual results in terms of territorial rights [24], as titling processes are often controlled by authorities, such as state agents and technical experts [25,26]. Land claims formally recognized on paper do not guarantee land possession and control [27,28]. Land security is not the same as the complex task of ensuring community wellbeing [29]. As such, collective land title is a compelling yet imperfect measure to safeguard land and livelihoods, which requires further scrutiny to understand its impacts and limitations.

Titling schemes may in fact facilitate land dispossession. Individual titles are often used as collateral on loans that farmers may struggle to pay back ([30], see also Bate-man, this issue), creating increased commercial pressure on land [31] and allowing for its commodification. Further, multiple critiques of the colonial and post-colonial legacies of property show that modern legal frameworks reinforce discrimination and facilitate the dispossession of Indigenous land by modifying the legal nature of entitlement, such as the spatial extent, alienability or conditionality [19,32,33]. As Nichols lays out, “to speak meaningfully of dispossession appears to presuppose a prior relation of possession” [34]. This “recursive logic”, as Nichols calls it, defines Indigenous people as original owners with valid claims only in retrospect and reduces their diverse relationships to land according to property, all while divesting and alienating Indigenous possession. As Harris has shown in her research on North America, property is linked to the privilege of whiteness, and “possession maintained by the Indians was not “true” possession and could safely be ignored” [35]. Bhandar deepens this argument to identify a “nearly uniform justification for casting Indigenous populations as premodern” and “failing” to make improvements to the land, thus justifying the implementation of modern, racialized property law that carries out indigenous dispossession while maintaining the veneer of recognizing Indigenous collective rights [36]. As German concludes, this recognition “brackets away” rights through the process of their formalization [19]. Thus, modern property law redefines collective land rights as a step-by-step legal process to achieving property, where Indigenous relationships with land are erased, simplified and encoded in legal conceptions of racialized ownership, while at the same time, the land they can claim is reduced.

As part of the politics of recognition that are key to racialized property law, the state positions itself as the central agent in defining indigeneity [37] and defines whose rights are recognized [38]<sup>1</sup>. In this legal framework, Indigenous people must navigate the double bind of being both Indigenous enough, yet not too Indigenous [39]. As Leemann shows in Cambodia, state laws regarding indigeneity are tied to so-called traditional livelihoods, and Indigenous status can be revoked by state officials, thus precluding Indigenous land claims [9]. However, Indigenous people may practice a politics of refusal [40] that evades or refuses to engage with state projects of defining indigeneity. The uneven processes of engagement, refusal and negotiation with state processes show that Indigenous people seek creative ways to navigate state logics of dispossession [41].

Critical legal theories and Indigenous critiques of the politics of recognition show how state laws designed to recognize and protect Indigenous rights can become pathways to dispossess and curtail rights; however, temporality is largely absent in both bodies of literature. Recalling Stocks [1], we investigate timing as a key factor in the process of Indigenous collective land titles. Modernist transformations, fueled by the emergence of infrastructure, transport and other technological innovations, are posited to increase time–space compression and accelerate life under the expansion of capitalism [42]. Yet, they also initiated processes of exclusion and marginalization, as the way in which people are situated in the time–space compression is complex and deeply varied [43]. Anthropologists have increasingly paid attention to the diversity and heterogeneity of social times in capitalist modernity [44], highlighting differences in the pacing of trade and accumulation [45,46].

Time has been identified as a crucial element of experiences of social inequality [44,47]. Bear points out that rhythms in time are mediated through complex networks of human practices of time, with bureaucratic planning as one key facet [44]. We highlight that the “politics of waiting” [48] comes with the expectation that certain people should wait patiently. The experience of waiting has thus become central to the subaltern experience [49] and has long characterized the experiences of colonized populations [50]. Fent explicitly links temporal frames with mechanisms of dispossession, arguing that anticipation impacts people’s decision-making in order to confront dispossession [51]. Thus we argue that the lived experience of how Indigenous people experience and navigate the “politics of waiting” is key to understanding the temporalities of collective land titling.

This evidence is in line with critical literature on the role of the state in the politics of waiting, which exposes a lengthy bureaucracy of collective land titling. As such, the state critically impacts timing to hinder some processes and to facilitate others, impacting who waits and who does not. Indeed, a comparative study of a number of countries has shown that Indigenous land title takes decades to achieve both on paper and the ground; in contrast, companies take months to formalize their claims [52].

We observed that land titling is presented to Indigenous people by government officials, some NGOs and multilateral donors as a step-by-step timeline in Paraguay and Cambodia (see Figures 1 and 2). In this context of contested land, Indigenous land may be expropriated, and restituted, recovered or land held may be legally recognized, depending on the case, supposedly by following the steps outlined by the law. We use the term “timelines” to illustrate this purported linear process toward gaining land title, in order to highlight interruptions and irregular progress towards title. Therefore, private and concession land timelines have a comparatively quick progression toward title, and we will show that the timeline towards Indigenous collective land title is full of irregular opportunities and attempts, some of which are even blocked, where timing matters.

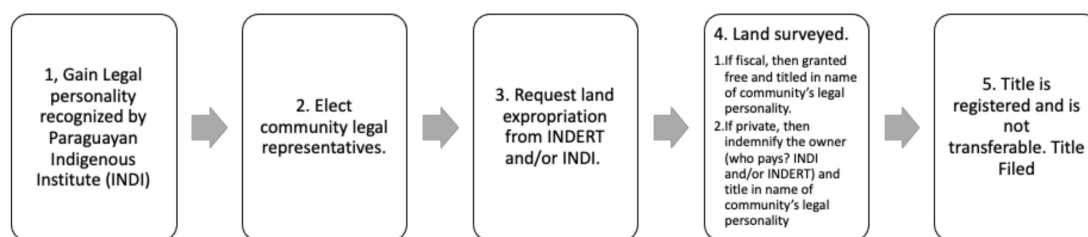


Figure 1. Paraguay's collective land titling timeline.



Figure 2. Cambodia Indigenous collective land titling timeline as presented to Bunong communities.

We suggest that the timelines of facilitated privatization and concessions interfere with Indigenous collective land title, where the timeline to achieving Indigenous land title needs to be seen as “uneven”. Hence, during the protracted struggles for land, some opportunities to title may be closed, while new options appear [53]. Drawing on Lefebvre [54], rather than a continuous speeding up of a “modern” neutral state process, we can see that the rhythms of the titling processes stop, stutter, loop, accelerate or may not be achieved at all. In sum, it is important to consider the temporality and pace of land titling as lived by Indigenous people, through the lens of disjointed timelines, both socially and materially.

The article is structured in the following way. First, we highlight the political–ecological context of Indigenous land titling for the Guarani in northern Paraguay and the Bunong in Cambodia. We then present the methods and selected results from our ethnographic case studies, leading to a discussion of the cases. We analyze the uneven rhythms of land titling as a process of disjointed timelines. We end with our consideration of the broader implications of uneven temporalities for Indigenous lands and livelihoods.

### 3. Comparing Paraguay and Cambodia: Collective Indigenous Land Titling

When we look at collective land title through a temporal lens, we can see the on-the-ground dynamics of how Indigenous title may or may not be achieved and the implications of pacing therein. Paraguay and Cambodia are particularly appropriate countries for examining the impacts of timing on Indigenous collective land titling, as they both implemented community-based land titles for Indigenous people and there is a 20-year time difference, allowing for a comparative view of the experience over time. The Paraguayan state implemented their Indigenous land law in 1981, granting permanent title, which cannot be rented or sold, to state-recognized Indigenous collectives. After significant input from international financial institutions and NGOs and national civil and Indigenous organizations [55], the Cambodian state established a section on Indigenous land in the donor-backed Land Law in 2001, recognizing the legal right to communally hold Indigenous land.

Indigenous land titles in Latin America have been critiqued as being too big to govern for too few people, leading to the argument that Indigenous people should not be granted such extensive territories [1]. In contrast, in eastern Paraguay, Indigenous collective land titling is based on community-level claims, thus granting smaller, titled areas instead of an unbroken territory. This is the same communal titling scheme as that in Cambodia, where communities are granted smaller extensions of Indigenous territories. Both countries follow a “permanent titling model,” [56] where the Indigenous people are permanently granted private collective ownership over their community land (see Table 1). This form of community-based permanent titling reconfigures extensive, unbroken Indigenous territories as titled, piecemeal properties [57]. Legal communities are constituted through

the state legal process of recognition, where Indigenous communities must conform to the legal requirements, essentially creating a new kind of community [9].

**Table 1.** Collective titling models in the comparison.

Indigenous Collective Land Title	Paraguay	Cambodia
Legal framework first established <sup>2</sup>	1981	2001
Inalienable	Yes	Yes
Exclusive	Yes	Yes
Title holder	Community's legal personality	Community's legal personality
Renting	Unconstitutional	Not addressed
Community-based titling vs. Extensive Indigenous territories	Community-based titling	Community-based titling

By bringing together Paraguay and Cambodia, we document the way that Indigenous people navigate the community-based collective land title model in the context of this land loss, comparatively. While attending to the specific histories of the Guarani and the Bunong, there are similar issues in the proposed, step-by-step process to community-based collective land title, namely the disjointed timelines of land formalization and fragmented outcomes, where land titling is not so straightforward as it seems.

### 3.1. Paraguay

The Indigenous Guarani in northern Paraguay began mobilizing to protect their land in the 1960s, when their forest-based livelihoods were threatened by encroaching peasant settlements and elite land grabs during the Stroessner dictatorship. These livelihoods require an ample area of forested land, where the Guarani carried out rotating agroforestry [58], cultivating the forest in small patches of diversified crops, such as corn, manioc (cassava), beans and squash, among others, and then leaving them to eventually fallow. Guarani communities formed and reformed around extended kin groups, moving around the landscape, caring for the forest and sacred sites along the way, and sometimes taking on great migrations across the great Río de la Plata river basin [20]. In the 1980s, Paraguayan dictator Stroessner declared Law 904/81 to permit Indigenous land titling, mostly as an attempt to head off international criticism of the regime's human rights violations, including accusations of genocide against the Aché Guarani.

The Paraguayan Indigenous Land Law 904/81 laid out a number of steps required to gain collective land title, including electing political representatives, receiving legal personality, surveying and title transfer, and the process often involves two different government agencies with very low budgets (see Figure 1). Communities may get stuck at any stage when officials drag their feet, and many steps are required to be carried out in-person, meaning Indigenous political leaders must trek back and forth to Asunción and figure out how to afford the bus tickets and stay in the capital [32].

While many Guarani communities have entered the titling process, many others are not successful, with approximately 8% of communities receiving collective land title in northern Paraguay (42 Mbya and Paĩ Tavyterã Guarani communities in Amambay and Concepción) [59], author's own calculations]. In fact, these government survey-based numbers should be taken with a grain of salt, as based on this study's ethnographic research. I found that some communities listed as having land title in the survey did *not* hold land title—they were still in the formalization process. Many successfully titled communities have taken over 15 years to achieve collective title, while others have claims dating back to the 1950s, before the Land Law. Land titles and claims are fragmented into

smaller areas of land throughout the territory, opening large swaths to privatization and deforestation through large-scale agriculture, such as soy farms, sugar cane plantations and cattle ranching.

### 3.2. Cambodia

In Cambodia, the Indigenous Bunong fight for land in Bu Sra began when rubber concessions cleared forests in Bunong territory in 2008. Human rights organizations directed the Bunong towards the 2001 Land Law subsection based on communal land title as a way to protect their forests from rubber plantations. The opportunity for communal land title opened to the Bunong only in the context of their land lost to the rubber concessions, which marked a turning point where it was possible to forge interpersonal alliances and cobble together the necessary economic resources and legal expertise from assisting organizations. The forests formed the basis for Bunong livelihoods as swidden cultivators of upland rice and a variety of other crops, such as corn, squash and other vegetables; they needed extensive lands to rotate their fields and leave them up to fifteen years to fallow. Forests were also rich sites for hunting, gathering resources and grazing animals. The Bunong indicate that spirits inhabit many areas of the forest; these areas are subject to specific duties of care and restrictions of use.

The 2009 Sub-decree established the procedure for the registration. The process for Indigenous collective land titling in Cambodia is lengthy, involving three different ministries at the national and provincial levels (see Figure 2). Only with the financial support of assisting organizations do the government agencies move forward with the various steps. The timeline to achieving collective land title was presented to Bunong communities thusly: the first step involves the formal identity recognition by the Ministry of Rural Development, the second step requires registering as a legal entity by the Ministry of Interior. The third and most costly step comprises the registration of the communal land title with the Ministry of Land Management, Urban Planning and Construction. Most communities become stuck with their application for communal land title here, mainly because there are remaining conflicts over land claims that need to be resolved before the land can be registered. From the 458 Indigenous communities in Cambodia, only 18 communities (4%) completed all stages of the intricate titling process and actually received a collective land title [60]. And those who received title could safeguard only fragmented pieces and not their whole territories [13]. During this fragmentation, concessionaires and private owners opened up large, formerly forested areas for rubber plantations and other monocultures. In this study's case in Bu Sra, none of the Bunong communities who entered the process in 2011 have received land titles; they are all stuck in the last stage of the titling process as of writing, and deforestation continues apace.

## 4. Materials and Methods

Ethnographic data for the two case studies were documented through participant observation and semi-structured interviews on Indigenous Guarani and Bunong collective land titling in Paraguay and Cambodia, respectively. Specifically, Tusing carried out fieldwork in Paraguay beginning in 2013, with a longer period from 2016 to 2017 and follow-up in 2018. Leemann has worked in Cambodia from 2011 to 2014, with follow-up research in 2016 and 2022.

Ethnographic fieldwork permits long-term engagement with complex issues, paying attention to everyday dynamics of change and continuity, both through participant observation and semi-structured interviews of key figures identified through observation. In particular, ethnography as a method sheds light on "large issues", such as the implementation of land titling, in "small places", such as local Indigenous communities [61]. Ethnography seeks to document the lived experiences of the people involved in these large processes, from the viewpoints of both the people involved and the researcher's analytical lens. As such, it is particularly suited for comparative case studies, in order to show the complex similarities and differences on the ground and also highlight the larger dynamics.

We also compiled relevant political, economic and legal statutes and data from secondary sources, such as government archives, including census and land titling paperwork. Our data analysis involved identifying themes and concepts through content analysis in archives, fieldnotes and transcriptions [62]. We identified several shared categories from data collected from fieldwork with Guarani communities and Bunong villages. We then focused on a comparison of the results based on the shared categories.

## 5. Selected Results of Ethnographic Case Studies

### 5.1. Guarani Land Titling in Northern Paraguay

While the collective land titling law was declared in 1981, over 40 years later, a third of the communities that entered the process still do not have legal land title. To take a look at the numbers, the 2012 Paraguayan Indigenous census shows that out of the 493 communities, 150 communities (30%) do not have land title and 343 have land title [59]. Yet, the number of landless communities is estimated to be much higher, as the number of Indigenous communities in Paraguay is severely undercounted [14]. The extent of each community's land claim is determined by the state, as it bases its calculation on community populations, which usually vary widely as the Guarani continue to be a mobile population, as observed during fieldwork. Collectively titled Indigenous land amounts to 963,953 hectares since the 1981 Land Law, whereas 7,851,295 ha of state-owned fiscal lands<sup>3</sup> were funneled to private individuals during the dictatorship, with 4,792,528 hectares going to Brazilians [14].

When successful, the process of collective titling often takes over a decade, and instead of following national expropriation laws, the Paraguayan state usually negotiates with large landholders or simply fails to act. Some Indigenous communities<sup>4</sup>, such as Sawhoyamaya which began titling in 1991, have won Inter-American Court (IACtHR) rulings against Paraguay requiring the state to title community lands, yet have not gained land title at the time of writing almost 30 years later [63]. In contrast, megaprojects, such as the Itaipu and Yacyreta dams, were approved with the stroke of a pen, displacing over 50 Guarani communities, while the communities have not received land title for the areas in restitution from their displacement [17,64]. Overall, national land policies expediting private and foreign investment are reflected in one of the most unequal land distributions in the world, with a land GINI coefficient of 0.92<sup>5</sup> [65], the highest in the region.

In the following case study, Tusing draws on three communities to highlight collective land titling temporalities. The first community experienced how some opportunities to title are short-lived. In the second, key individuals, such as state actors, can slow down or speed up titling timelines. Finally, the third example documents the ease of private individuals to title land, in contrast to discrimination against the Guarani, leading to a marked inequality in the titling timelines.

The Guarani experience shows that the opportunity to title collective land claims depends on key moments, which may be fleeting. During fieldwork, I documented various specific examples of these short-lived opportunities. One Guarani community went through all of the bureaucratic steps to gain land title, named their political representative, gained legal personality and underwent surveying, during which the political leader was active and participating. Yet, on the day the formal title request was to be signed, the political leader failed to appear as he was feeling ill. This one-time failure had an unexpected, long-term cost, because the government agency shelved the case. In interviews with government officials, they were unwilling to explain why they did not reschedule the titling request. In fact, the opportunity for that community's title appears to have been lost as the government agency has not moved forward with titling. Over twenty years later, the community remains without title. Thus, a brief but important moment in the long process of obtaining title was crucial, and the one-time failure of the leader to appear interrupted the already slow process of titling. Apparently Indigenous representatives cannot afford to miss one day; however, if the government officials cannot make a meeting, they can simply reschedule with no repercussions.



In interviews, Guaraní political leaders indicated that government agents are key players in speeding up or slowing down cases. In a high-profile case, President Ruben Quesnel of the Paraguayan Indigenous Institute (INDI)<sup>6</sup>, responsible for moving titling paperwork forward, sold Indigenous land to a private individual instead of granting collective title, which is illegal and unconstitutional. During his tenure, the institute was divided up into multiple sites across Asunción, and the archives moved to different properties, essentially hiding the paperwork essential to move collective titling forward. Yet, in October 2012, he sold Indigenous land out from under the community. After two Indigenous communities accused him of subterfuge, Quesnel and his team of lawyers managed multiple, year-long delays in his trials (over 17 times), beginning in 2013 and exhausting the final appeal in 2021 [66]. He was sentenced to a total of 16.5 years of prison for embezzling INDI funds and selling Indigenous land titles to private individuals. Here, the government agent was able to slow down collective titling processes both by selling off lands to a private individual and also by dragging out his trial. Despite his jailing, the communities involved have still not gained collective title over 10 years after the initial sale. On the other hand, in Paraguay's irregular land market, government officials may move quickly to illegally sell land or be bribed to ensure certain favorable outcomes in land disputes. Yet, as one leader explained, "We're broke!" (*Ore sogue*), and thus, they do not have the same recourse to pay to speed up their claims.

In another case that Tusing followed, two neighboring Guaraní communities began their titling process in the 1990s, attempting to formalize their collective land tenure, advised by a local NGO. There was no movement on their claims after they constituted legal personality (see Figure 1, step 2). In 2016, they learned that their land had been purchased out from under them by a businessman despite their collective land title claims. In addition to interviewing community members, Tusing interviewed the NGO worker who mediated the conflict between the community and the businessman. In this case, the businessman purchased land in the area to plant sugarcane for an ethanol plant and expected it to be uninhabited. But to his surprise, his lawyers advised him that he had to evict the Indigenous people who were living there. One of his lawyers had a relative who worked on Guaraní collective land titling through an NGO. The lawyer suggested consulting his relative in order to figure out how to remove the Guaraní from their land.

The NGO worker recounted that the businessman flew in on his private plane to meet him. He informed the businessman: "Your land purchase was 50% Indigenous people and 50% land," and he appealed to the businessman's Catholic faith and family values as a strategy to help the Indigenous communities, saying he imagined he would not evict the families from their land. In a two-hour conversation, the NGO worker convinced the businessman that ceding the land to be titled was the most moral route. The NGO worker also showed the businessman the two Guaraní collective title claims, gave him the photocopied maps and convinced him that swapping the land with Indigenous people for an allotment elsewhere was also the most practical route. Therefore, the businessman received land in the Chaco region through a government-arranged swap, and one Guaraní community received land title.

The community leaders had complained multiple times about how long the titling process was taking. Instead of flying in to resolve business, the Guaraní community leaders must take a 10 h bus ride one-way to present their claims to the Paraguayan Indigenous Institute in Asunción, waiting in line and often camping out in the street until they are seen. At the time of writing this article, a Guaraní leader from a different community died outside of the Paraguayan Indigenous Institute while waiting to meet with the president over his community's unresolved land claim, provoking outcry and accusations of state neglect and discrimination [67]. There is a clear inequality in how time plays a part in resolving land claims, and the issue of timing can even be a matter of life or death.

However, once the businessman made the decision to make the swap, the community expeditiously received their title. The second, neighboring land claim is still pending as the businessman preferred not to swap out the land. The businessman proceeded to

clear the forest surrounding the communities to plant sugarcane. The community leaders interviewed signaled that the sugarcane replaced the forest, which they relied on for their livelihoods. Irrespective of holding title or not, the Guarani recounted that deforestation continued apace outside of their community bounds, which has had an impact on their own land use as their once vast forest was fragmented into islands.

Even when collective land is effectively titled, as in the case of some of the Guarani communities, these are not removed from market speculation. More than a third of collectively titled communities rent out their land to Paraguayan ranchers as pasture [68]. In Paraguay, it is unconstitutional to rent Indigenous land, yet rental agreements are often brokered as a simple legal contract between an Indigenous representative and a cattle rancher before a notary public, for an average of 3 years. The ranchers' cash offers appear to be a solution to the community's increasingly challenged forest-based livelihoods.

This extra-legal renting is a form of de facto land loss. The rental contracts are renewable if both parties agree, yet ranchers often use predatory tactics, where supposed gifts to the community are then deducted from rent, and all infrastructure, such as fencing, must be paid by the community. Some ranchers stop payments while continuing to use the land. Internal community divisions are often exacerbated by renting, as some families may receive payments and keep them instead of sharing with the legal community. Finally, ranchers often refuse to remove their cattle and give back the land when contracts end [32]. Therefore, despite legal guarantees, land alienation continues, including after the collective titling process.

Within Guarani territory, ecological change happened first on paper through irregular titling, rental contracts and purchases, then through the physical process of clearing trees, burning the area, planting sugarcane and introducing a new form of agricultural production. Many leaders explained that the extensive forest was gone (*opa ore ka'aguy*), and therefore, the ecological and material conditions for forest-based livelihoods were undermined.

## 5.2. Bunong Land Titling in Northeastern Cambodia

Highly uneven temporalities of land titling are also observed in Cambodia. Within one decade, the Cambodian state granted 2 million hectares of economic land concessions for agro-industrial plantations—equivalent to 53% of Cambodia's arable land—to 227 agro-industrial companies [69]. In contrast, the total titled area granted to date to the small number of 18 successful Indigenous claimant groups is a shockingly meager 13,872 hectares ([60], author's own calculations). The average costs per title are roughly USD 60,000 [70] and have mainly been covered by donors and non-governmental organizations. Progress in the issuing of communal titles has been slow and remained well below the official target of ten titles distributed per year from 2013 onwards. The whole titling exercise for pilot communities took at least four years, but since the pilot phase, titling has taken at least six years or more [71]. In contrast, the granting of economic land concessions to large-scale land investments for rubber, sugar or oil palm plantation companies has been expedited. While it takes years to gain an Indigenous title; for instance, the approval process for three economic land concessions of nearly 30,000 hectares of forestland took less than 3 months [72]. Such dynamics help to contextualize Cambodia's Gini coefficient in the land sector of 0.69, which is by far the highest in the region [73].

In this context, Indigenous land titling is slow and stuttering. When progress appears to be made, an alternative choice can appear and divert efforts from collective to individual titling. These confusing options must be navigated in order to continue along the process of Indigenous collective title. In the following case study, then, we ask how do the Bunong experience and navigate these uneven temporalities?

In the case of Bu Sra, beginning in 2008, huge land concessions triggered feverish activity among the Bunong villages and supporting organizations in order to quickly protect their remaining Indigenous land through communal land titles. As a senior staff member of a non-profit organization explained to Leemann: "Land registration is the only measure that can help the [Indigenous] villagers to keep their land. But it is a very slow

process.” Organizations focused on speeding up the process and smoothing collaboration with reluctant political and administrative authorities. They further advised the Bunong to claim only uncontested land, as the 2009 Sub-Decree<sup>7</sup> requires all competing claims to be resolved before titling. Thus in a rather short period of time, the Bunong villagers from Bu Sra completed the first two stages of the titling procedure with non-profit support. They received formal identity recognition as seven “Indigenous communities” in 2011 and were registered as legal entities in May 2012. Nevertheless, there were still overlaps within the reduced land claim. Since 2012, the communities’ application to register a communal land title has been stuck. Furthermore, after the first round of feverish collective titling efforts, state policies, such as Directive 01<sup>8</sup>, redirected Indigenous efforts from communal title in order to instead apply for private titles.

Under the Directive 01 private titling scheme, Leemann documented that the effort to collectively title land stalled beginning in 2012. “Land measurement teams”<sup>9</sup> were sent to the communities, telling the villagers that the private title would not affect their communal land title claim, but that they could have both: a private title for some of their land close to the village and a community title to protect their vast forested territories further away from the village. This was not true. Villagers reported that they were led to believe by the team that the collective titling program had ended, which was also not true. As the Bunong villagers recounted, they were confused by the conflicting information they received. Commune authorities told villagers that the communal land title was only for those who had lost all their land to the rubber plantations and that those who still had land should take the private land title to protect it. Bunong reported that the land measurement team pressured them, saying: “If you do not take this private title now, you will be left without nothing. You will not receive a private title, nor a communal land title.” Adding to the confusion, rumors spread that the Bunong would not be able to internally organize their land according to customary law, where each family had different fields, and other families could only use their land with permission. The rumors were that any land could be used by community members without permission. Further fear-mongering rumors circulated that collective land title would be the same as the Khmer Rouge collective farms in the 1970s<sup>10</sup>.

After several months, during which the teams measured the land, many villagers took the final step to formally apply for private titles in late December 2012. This was done with a public announcement and a 30-day deadline to file a complaint. Villagers were required to sign a standard form acknowledging that they wished to leave the Indigenous community. Many did not understand the meaning of the document; many said, “we could not read the letter, we just signed with our fingerprint.” Gradually, it became clear to local leaders and concerned villagers that the private titles also meant legally giving up their recognized status as members of an Indigenous community and thus their collective land claims. With the deadline looming, they organized a series of community meetings to discuss withdrawing the requests for individual titles and returning to collective titling, where not everyone was in agreement.

Finally, six days before the deadline, community representatives went to the Provincial Land Management Department and delivered a complaint stating that the communities rejected the private titles. The representatives reported their amazement that the provincial authorities announced not only that this decision was accepted, but also that the community titling program had received funding and that the private titling program would be stopped. But the next day, when villagers went to the communal hall to revoke their private titles, they met resistance from the land measurement team, which again disseminated contradictory information, saying “You cannot do it anymore because the private title is already mapped.” Indigenous leaders then tried to convince the team to change the mapped claims from private to collective, but the team refused to do so. The leaders then called the Provincial Land Management Department, which confirmed that a change could be made, but that they had to provide documentation to cancel each and every private title. Fearing that they would miss the deadline for complaints, the leaders hurried to go through all the cases to report all the private titles that were to be declared invalid. They

managed to give the team the request letter in time, which listed all the private titles to be revoked. But the team said “This letter is wrong; you should have collected the fingerprints of every family whose private title is mentioned.”

The leaders were shocked and worried because it was only an hour before the deadline for the complaint, and it would be impossible to collect all the fingerprints within an hour. The next day, they decided to write a letter of complaint to the provincial level outlining the problems they had suffered, saying “We are tired of fighting so hard for collective land titling, waiting, confusion and internal conflicts. It is high time that collective land titles take precedence over private titles in our communities.” In the end, the Bunong managed to have the private titles revoked in 2013.

However, because collective land titling has taken so long, the question arises for Bunong villagers again and again whether it is really worthwhile to hold on to their collective land or whether opportunities that seem lucrative in the short term should be seized. Hence, since 2013, quite a few Bunong families have sold off land lots without paperwork on the speculative market. In other Indigenous communities, village chiefs have issued soft land titles (that is to say, without a legal code backing them), overlapping with communally owned land, to enable their Indigenous neighbors to secure microloans [77]. With the enormous expansion of microfinance in Cambodia, microloans are a driver for the desire to obtain individual titles that can be used as collateral ([30], see also Bateman, this issue). The microfinance industry can then prey on these soft titles, leading to land loss.

Each time there is a new concession or land project announced, a flurry of land speculation is set off in the areas claimed by the Indigenous Bunong, interfering with the collective land titling timeline. The opportunity to seize short-term gains can prove very tempting, as in the case of the Bunong, who were offered up to US\$10,000 a hectare while their collective land title was not secured. If individual families take the offer, it is easier for the concessions to move forward, as the otherwise collective resistance to their projects is fragmented by individualization. Within the area that could be claimed for collective title, these lots are lost and deforested, and the Bunong claim to the forest is successively fragmented, subverting their forest-based livelihoods.

## 6. Discussion

### 6.1. *Disjointed Timelines of Land Formalization*

As Indigenous people in Cambodia and Paraguay attempt to navigate the rush on land, they are faced with multiple, sometimes unforeseen obstacles that interrupt their process towards gaining collective land title. The legal process to achieve collective title, such as the many bureaucratic steps required, appears on paper as a steady, step-by-step linear progression. In practice, these steps fail, are blocked, happen out of order and may not be achievable, or alternative paths to secure their land may be forged. Our cases showed that the seemingly linear process of Indigenous titling is interrupted by fast-tracked, alternative options that focus on privatization. The timelines of private and collective land formalization are thus not separate; rather, they impact each other. This follows the uneven, local experience of the time–space compression under capitalism [43], where Indigenous claims are shunted into looping, slow bureaucracies, whereas land projects from concessions and private owners could quickly move forward.

The specific, bureaucratic steps required to gain Indigenous title in both countries involve state officials, functionaries, Indigenous leaders, NGOs, community and village members, all of whom must complete their assigned role in the complex, lengthy process. These steps often hinge on one person’s action at a specific moment, as the Guarani leader in the case study, who did not appear on the day that the community’s collective land title required his signature. While the Guarani in the first example had one shot at seizing the moment to title their land, the businessman in the second was able to go back and “fix” his land issue through personal and state channels, and in the process, one community gained title, while the other did not.

In Cambodia, political interference interrupted the flow of the Bunong's collective efforts to gain title by introducing a new land directive. After quickly completing the first two steps, the deceptive Directive 01 diverted their energy to individual private titles. But when the Bunong realized that this would end their collective territorial claim and its goal to protect sacred places, former settlement sites and forest reserves, they circled back to the collective titling option. This reflects the contingent, disruptive but creative avenues the Bunong have sought to claim title, which were nevertheless slowed down by confusing alternatives.

Returning to Lefebvre, we see these altered flows and uneven patterns of privatization and collective titling as a kind of arrhythmia, where "rhythms break apart, alter and bypass" [54]. The timelines of private and collective land formalization are interrelated and mediated by individuals and groups, and the cases demonstrated that Indigenous land formalization is not a step-by-step procedure, as written on paper, but rather a dynamic, interconnected process contingent on private and state land projects, which often interrupt and slow down Indigenous collective titling efforts.

### *6.2. Broader Impacts of Uneven Timelines in Collective Land Titling*

The uneven, disjointed temporalities documented in this paper have broader implications on Indigenous communities' ability to hold on to their territories, impacting their forest-based livelihoods. As mentioned, communities in the claims process must navigate a convoluted, multi-phase bureaucracy. While they attempt to formalize their collective title, they may find, like in the case of the Guarani, that a businessman has purchased their territorial claim, or like in the case of the Bunong, that yet another concession has been granted without their consent. In sum, very few collective titling claims are successful.

The disjointed timeline of land formalization has ecological implications that directly impact local peoples' forest-based livelihoods. In Cambodia, the concessions began to carry out deforestation in the Bunong territory even before the paperwork was done. In the case of the Guarani communities in the businessman's deal, they were quickly surrounded by sugar cane; the forest was not protected through the land claim. The effect of uneven land formalization, in concert with land use changes, such as rubber or sugarcane plantations and cattle ranching [21], or booming cassava production by small-scale producers [78], spurs ecological change on a large scale, as land and forest loss occurs.

As evidenced in the two ethnographic examples, Indigenous collective land titling laws do not automatically safeguard extensive territories because disjunctures in the process of gaining title slow down or even inhibit Indigenous people from obtaining and possessing land. Following Li [79], land is assembled as a resource available for some purposes to the exclusion of others. We found that, as Indigenous people attempt to assemble land to be available for collective titling, they are often at cross-purposes with other, competing land projects. Though Indigenous communities' decisions may appear erratic when they attempt to navigate this disjointed timeline, they are evidence of the tensions and obstacles they face. In sum, it is important to consider the overall impact of these shifting temporalities, where titling starts, stutters or never happens at all, but private formalization and concessions continue apace.

## **7. Concluding Remarks**

As our cases show, time is not a friend to Indigenous collective land titling, as the progress to title is neither linear nor even paced and may never happen at all. We found that the 'timeline' is, in fact, an uneven collection of decisive moments—missed opportunities, scrambles, reversals, deferrals and delays—which come together to form a disjointed process. In contrast, the parallel process of land formalization, such as private titles for wealthy businessmen or during the Directive 01 titling campaign and state concessions, is expedited. During the long march towards title, different options appear at irregular moments in time, disrupting the process and diverting communities with market-driven alternatives. These extra-legal options, such as selling lots and renting, are seemingly simple

solutions to the long wait for collective land title. The quick, short-term opportunities might appear as a rational choice when collective land titling takes decades, but these options lead to further land alienation and the loss of control, undermining collective land tenure.

Timing in land formalization is therefore discriminatory, as the ability to seize the moment or move things forward varies dramatically according to who is carrying out the formalization, as state logics facilitate private and concession claims over Indigenous collective land titling. We found that this expedited process of land formalization interferes with the intentionally intricate process of Indigenous land titling. We documented that factors contributing to uneven timing take place in the everyday interactions between the people involved in the land titling process, such as Indigenous people, NGOs, land management teams and state bureaucrats, at different levels.

In comparing the Guarani and the Bunong, we found that they have specific histories and legal frameworks, leading to different processes through which time undermines Indigenous claims and rights. However, we found that they confront similar issues in the supposedly linear timeline toward community-based collective land title. In each case, the disjointed timelines of land formalization contributed to meager, less-than-desired results. We found that timing in land formalization interrupts the process of Indigenous collective land title. Time itself is a factor in the case studies, through the politics of waiting and relationships of power, as shown by the “opportunities” that are created for some and denied for others. Timing is deployed strategically to undermine, divert and fragment Indigenous collective land titling and is interrupted by the state-supported concessions and privatization.

**Supplementary Materials:** The following supporting information can be downloaded at: <https://www.mdpi.com/article/10.3390/land12081620/s1>, Table S1. Legal frameworks and titling bureaucracy in Paraguay and Cambodia.

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## Notes

- <sup>1</sup> There is a growing body of literature regarding the politics of restitution and recognition in Latin America (i.e., [33,38]) that productively theorizes colonialism, recognition and indigeneity.
- <sup>2</sup> More detailed information about the legal frameworks and titling bureaucracy is included in Supplementary Materials Table S1.
- <sup>3</sup> These “tierras malhabidas”, or ill-gotten land, amounts to an area the size of Panama. Dictator Stroessner swapped government-owned for political favors [3].
- <sup>4</sup> Paraguay is a signatory member of the Inter-American court, where rulings are binding. There are three emblematic cases where Paraguay has lost Inter-American court rulings to collectively title Indigenous Enxet and Sanapaná lands: Yakye Axa, Sawhoyamaxa and Sanapaná [63]. The Enxet are a different Indigenous group than the Guarani, yet these cases provide evidence of Paraguay’s lack of actions on collective land titling.

- 5 The Land Gini coefficient is calculated on a scale from 0 to 1, where 1 represents perfect inequality, meaning that all land is in the hands of one owner.
- 6 This Paraguayan state agency is dependent on the Ministry of Education and Culture. Its head is appointed by the President of Paraguay, and the agency can carry out agreements with other state agencies.
- 7 The 2009 Sub-Decree on Procedures of Registration of Land of Indigenous Communities recognizes Indigenous rights to land [74] but critically limits the scope of the provisions set out in the 2001 Land Law to areas free of overlapping claims, by defining different categories into which Indigenous land must be subdivided for registration and by limiting the amount of land of the various categories [9].
- 8 Directive 01 was an initiative announced by Prime Minister Hun Sen in 2012 that aimed to distribute individual land titles in concession zones, where the state land already occupied by families would be recognized. This Directive weakened community claims [13,75,76].
- 9 The land measurement teams consisted of student volunteers, staff from the provincial Land Management Department and police. The volunteers, closely linked to the ruling Cambodian People's Party, received very limited training and were highly motivated to implement Prime Minister Hun Sen's Directive 01 (see also [75]).
- 10 The Khmer Rouge wanted to build a completely self-sufficient agrarian socialist society and victimized almost a quarter of the Cambodian population by creating labor camps. At that time, the Bunong were relocated to these deadly rural labor camps, and the trauma of forced labor, malnutrition, disease, physical abuse and executions is still present.

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