



# Losing Ground

Forced Evictions and Intimidation  
in Cambodia



The Cambodian Human Rights Action Committee (CHRAC) is a coalition of 21 NGO members. It was created in Phnom Penh in 1994 by a group of local NGOs and associations working for the promotion and the respect of human rights, democracy and rule of law in Cambodia.

September 2009.

### Frequently used acronyms

ADHOC	The Cambodian Human Rights and Development Association
CLEC	Community Legal Education Center
LAC	Legal Aid of Cambodia
LICADHO	Cambodian League for the Promotion and Defense of Human Rights

### Photos

**Front cover from left** : A boy prepares for a ceremony to mark Children's Day at Andong relocation site (see page 74). Police fire teargas during the forced eviction of Dey Krahom in January 2009 (see pages 31-36). A resident of Chrouy Sna village who walked from Battambang province to the prime minister's estate to seek his intervention in one of Cambodia's longest-running land disputes (see pages 7-12).

**Backcover** : An unidentified police officer photographs residents near Phnom Penh's Boeng Kak Lake during a discussion about rumors they faced eviction, on February 10, 2008.

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# The Lake

Foreword by Amnesty International

The day before we released our report *Rights Razed: Forced Evictions in Cambodia* in February 2008, I met with residents of a community on Boeng Kak Lake in Phnom Penh to discuss news that the lake would be turned into a landfill and as many as 4,200 families relocated to the outskirts of the city to make way for “development.”

Police and commune officials tried to stop our gathering on February 10, 2008 incorrectly arguing we needed formal permission. After a brief stand-off, they allowed us to proceed, but one policeman hovered around us, photographing everyone present and tape recording our discussion. But instead of recording people’s concerns so that they could be used by policy-makers and government officials, the tape recorder turned into a tool of intimidation.

This is a very minor incident. As shown in this report, harassment of local activists in Cambodia, including defenders of the right to housing, is widespread. Cambodia’s rich and powerful are increasingly abusing the criminal justice system to silence communities standing up against land concessions or business deals affecting the land they live on or cultivate.

Many poor and marginalized communities are living in fear of the institutions created to protect them, in

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particular the police and the courts. As forced evictions increase, public space for discussing them is shrinking.

*Rights Razed* noted that around 150,000 Cambodians were at risk of eviction. This conservative estimate has since been widely quoted in the international media. For the most part, however, the individual experiences of those affected go unreported.

This book is about the people behind those numbers. *Losing Ground: Forced Evictions and Intimidation in Cambodia* shows how people living in poverty are routinely excluded



**Left:** An unidentified police officer attempts to prevent a gathering of residents and housing rights activists at Phnom Penh’s Boeng Kak Lake on February 10, 2008, the day before Amnesty International released a report warning that about 150,000 Cambodians were at risk of eviction.

**Right:** “One policeman hovered around us, photographing all present and tape recording our discussion. But instead of recording people’s concerns so that they could be used by policymakers and government officials, the tape recorder turned into a tool of intimidation,” recalls Amnesty International researcher Brittis Edman.

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“There is an urgent need for officials to publicly condemn attacks against housing rights defenders, and make sure there will be no further arrests of individuals for engaging in the peaceful exercise of their right to freedom of opinion, belief, expression and association.”

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from decisions affecting them. So-called “development” often happens to their detriment and at their expense, rather than in consultation with them.

From Battambang to Sihanoukville, from Koh Kong to Kratie, thousands of families have lost – or are at risk of losing – their homes and livelihoods. Hundreds live huddled under plastic tarpaulins; disease and illness in evicted communities is rampant. Others live in fear of the courts, local officials, and police.

In the following pages, a number of people give voice

to their own, personal experiences. In a demonstration of courage and determination, they insisted upon using their real names, knowing they may face retribution for doing so. They also show how budding grassroots activism by ordinary Cambodians – rice farmers, street vendors, teachers and taxi drivers – brings people and communities together to call for respect of their human rights.

*Losing Ground: Forced Evictions and Intimidation in Cambodia* gives an indication of what is lost when a home is destroyed or livelihood disrupted: not just the buildings, but everything a home can be – security, family, health, work and community.

The cases demonstrate that disregard for the affected communities too often leads to making a bad situation worse, leaving the poor and marginalized with less than they had and with little recourse to justice.

Amnesty International is calling for an end to forced evictions and is asking others to join our call. We are also calling on the Royal Government of Cambodia to introduce a moratorium on mass evictions until the legal framework and policies to protect the population against forced evictions are in place.

We request that the Cambodian government ensure the safety of housing rights defenders – including the courageous people who have come forward with their experiences in this book – so they are able to act freely, without intimidation, harassment or violence in the peaceful exercise of their right to freedom of opinion, belief, expression and association.

Brittis Edman  
Southeast Asia Researcher,  
Amnesty International





# Sharing Ground?

The Cambodian Human Rights Action Committee

The immense strides Cambodia has made in many sectors over the past 30 years is sometimes overlooked by the media, donor and diplomatic communities. As Cambodian human rights organizations, we are well aware of the deep complexity and historical roots of the problems our nation still faces.

We know that genuine solutions are simple to plan, but difficult to accomplish on the ground. As an NGO coalition we can offer to be a bridge to support genuine and productive dialogue between communities and policy-makers.

The following pages present a painful look into the lives of people affected by forced evictions and intimidation, mainly the rural poor. The human rights abuses described range from loss of livelihood and health problems to violence and imprisonment.

Still, this book is not intended to attack our government or detract from our accomplishments as a nation. It is a collection of voices from people rarely heard and as such we see it as a step towards more inclusive and equitable development.

These voices belong to Cambodians who have been or are facing eviction. Most have insisted that their names and photographs be used, believing that openness will bring justice and appropriate solutions. Such trust is inspiring. We believe it is the springboard for the next stage of Cambodia's recovery from decades of civil strife, much of which was prolonged or exacerbated by foreign powers.

Cambodia's Constitution enshrines the right to freedom of expression, a right that Cambodians need to be able to exercise freely, without fear of reprisals. Fear, a hurdle to genuine development, is receding. Freedom of expression and citizen participation make it more possible that constructive partnership can be developed between citizens and their government.

We recognise the achievements of the government and believe mutually respectful dialogue will ensure that we, as a nation, continue to move forward.

After listening carefully to those affected by the loss of land and livelihoods, we are making four requests to address their plight: 1) all those who (in the following pages) demonstrate their trust in justice should be assured that they are safe to do so; 2) our Land Law should be enforced more rigorously; 3) courts, authorities and the military should serve to protect the people and be held accountable for failures to do so; and 4) Cambodian citizens should be encouraged to participate more fully in the development of our country and their enhanced participation should enhance the benefits they receive.

People's participation is, we believe, necessary for the next stage of re-building Cambodia.

We believe our government, like Cambodian citizens, is searching for ways to reach the next stage and that the starting point is finding shared ground through mutually respectful dialogue.



Homes are sinking into Boeng Kak Lake as it is being filled with sand to prepare for one Cambodia's most controversial development projects.

# The Long March

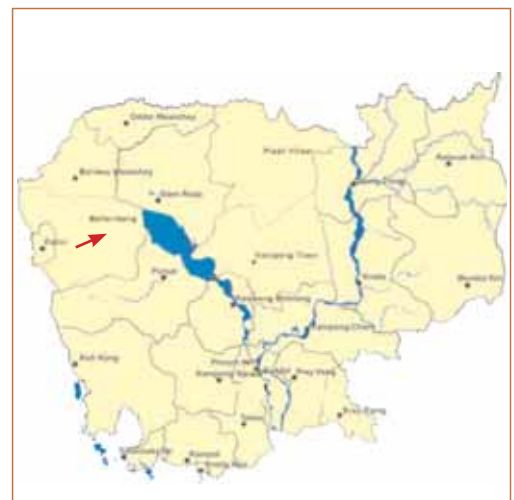
## Battambang



Residents of Ovor Preng community, Chrouy Sna village pray and set court documents afire to demonstrate their frustration with their 12-year legal battle to retain land they began clearing, demining and farming in 1990-1992. Residents say harassment by provincial police has increased since they walked to Phnom Penh in 2008 to seek help from Prime Minister Hun Sen.

### The Case: Chrouy Sna village, Bavel district

- Land dispute between 38 families and three well-connected businessmen based in the provincial capital.
- 12-year court battle with one businessman who claims to own 125 hectares of the farmers' land.
- Five-year dispute at Cadastral Commission with two other businessmen, who claim 70 hectares
- Residents have been jailed, apparent assassination attempt of community leader on April 16, 2009. (Assailant shot the wrong person.)
- Residents joined farmers from nearby villages to walk to Phnom Penh in 2008 to seek assistance from Prime Minister Hun Sen. Several were assaulted and told to go home.
- Commune and district officials support village residents and have affirmed that the residents have been farming the land since 1990-1992, but lawyers from Legal Aid of Cambodia allege that both the provincial court and Cadastral Commission are biased against them.





## “Maybe We Will Walk Again”

“We didn’t have enough money to get the bus to Phnom Penh. We had to walk. It was our last hope. We had to see Hun Sen or we would lose our land,” explains Mrs. Chim Sarom, 45.

She, along with her husband and their four boys, aged 11 to 17, were among more than 200 members of farming families from four villages in Battambang who walked more than 300 kilometers along Highway 5 to Phnom Penh in May 2008 to ask Prime Minister Hun Sen to solve their land disputes before it was time to harvest the rice they had sown. Many were in debt to money lenders for the purchase of their seeds, Mrs. Sarom said. “Every day we walked. The closer we got, the more hope we felt,” she said.

Another villager told his nine children they were going to Phnom Penh to visit the Royal Palace. By the time they reached the entrance to Hun Sen’s estate he felt “100 percent sure” the prime minister would help them, he said.

The march gained national attention. One participant said it was encouraging to listen to the hourly updates on Radio Free Asia and Voice of America. Contrary to claims that the farmers had been incited to march by a provincial representative of a Cambodian Human Rights Group, Mrs.

Sarom described the decision as a “community idea” agreed upon during telephone conversations three or four days before the walk began. Farmers from her village had met the others during a provincial forum and kept in contact via cell phone. “We talked about going to court again, but we had

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“The children were crying all the time. They were hungry and thirsty. Sometimes we could carry them, other times they had to walk.”

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done that so many times and it hadn’t worked. We agreed it was hopeless,” she said.

They gathered at a temple on Highway 5 east of the provincial capital on May 24 and started walking at about 9am that day. “I thought the government might try to stop us because there were so many of us. I was surprised so many people showed up from the other villages,” Mrs. Sarom said. Almost all the 141 residents in her village either walked or were carried by their parents. “We had no one to leave the children with,” she said.

“We didn’t know how long it would take, so we ran out of



**Left:** Residents of Chrouy Sna village gather in a show of unity two weeks after an apparent assassination attempt, on April 16, 2009, of a community leader.

**Right:** Residents say they will walk to Phnom Penh again to try to save the land they have been farming since 1990.



food and water,” Mr. Choeun said. “The children were crying all the time. They were hungry and thirsty. Sometimes we could carry them, other times they had to walk,” Mrs. Sarom said. “Along the way, strangers would come to us and give us food and water,” she added.

Each day they started at 7am and stopped at 6pm at a pagoda, after asking district police for permission. Police - often as many as 12 officers - were sent to watch them.

Attempts to stop them began after they entered Pursat

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“Some of us had worn out our sandals. Our feet were blistered and bleeding; even the ends of our trousers were torn and ragged”

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province: when their march had become national news. Two policemen told them to turn around and go home. “We said ‘no’ and kept walking,” Mrs. Sarom said.

Next, the deputy governor of Battambang arrived and told them that if they returned he would solve the problem.

“We spoke for about 15 minutes. He said he had never heard about our problem”, Mrs. Sarom said. “We didn’t believe him. We reminded him that we had protested in front of the provincial court. ‘Why didn’t you help us then?’ we asked. He did not answer this question, so we kept walking.”



At a pagoda near the border between Pursat and Kampong Chhnang provinces, a Ministry of Interior official arrived to meet them, accompanied by reporters and cameramen from state-affiliated television stations. He invited five leaders, including Mrs. Sarom, to return to Battambang to find a solution. “We took the bus back to Battambang and talked with the officials. We were assisted by two lawyers from Legal Aid Cambodia (LAC), one from the province and one from Phnom Penh. [The ministry official] told us to make a new complaint to the court, but we had already done that many times. After 15 minutes we called the group and told them to keep walking. Then, we got a bus and rejoined them,” she said.

They arrived on June 2 in Phnom Penh and gathered at an NGO’s headquarters to seek assistance in delivering their letter to Prime Minister Hun Sen. “Some of us had worn out our sandals. Our feet were blistered and bleeding; even the ends of our trousers were torn and ragged,” Mr. Mony recalled.

They arrived at the entrance to the road leading to the prime minister’s estate at about 7pm. “There were more than 200 of us. There were about 30 police officers. We delivered our complaint then slept on the other side of the road,” Mrs. Sarom said.

The next morning they were surrounded by members of the Prime Minister’s bodyguard unit. “They were very aggressive”, one of the villagers said. One of them hit six people on the head. They also tried to grab one boy and take him away, but women rushed in and pulled him back. The people that were hit on their heads were two women, one

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“We didn’t know if Hun Sen ever received our letter, so we mailed it to his office.”

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over 40 and the other over 30, and four men, one in his early 20s and the others in their 30s.

After the police attacked the villagers, they were told to go home. “We were given a letter from the government saying an official would visit us at our village in June”, Mrs. Sarom said. “They also gave us \$100 for bus fare. We crowded onto one bus. We sat in our seats and in the aisle. Most of us were silent all the way back. We didn’t talk about the walk.”

“We didn’t know if Hun Sen ever received our letter, so we mailed it to his office. No government official ever came to our village. If we have to, maybe we will walk again.”

## New Year Bullet

They never found the bullet, but a finger-wide groove remains in the wooden stilt less than six inches from where the head of Soeng Mony, the man believed to have been its intended target, had been lying when the shot was fired – just minutes after midnight on Khmer New Year, April 2009. The man it passed through before it grazed the stilt, his brother-in-law Bun Samphous, 30, remained in the emergency ward of the provincial hospital for almost two weeks.

Mr. Samphous said he thought he had stepped on a booby trap when the bullet struck him because the pain came from the ground up. He had left his hut to find out why the dogs were barking at about 10 minutes after midnight on April 16, but was shining his flashlight in the wrong direction – towards the narrow dirt road that runs through Ovor Preng – when he was shot from behind by an assailant armed with an AK47.

The casing from the bullet was found on the ground about eight meters from the hut where Mr. Mony and his brother-in-law had been sleeping. Mr. Mony woke with a jolt when he heard what he thought was an explosion, he said. He found his brother-in-law lying on the ground screaming. “I was too alarmed for my brother to think the shooter might still be around. I never thought of that. All I thought was ‘We have to get him to a hospital’,” he said. Four residents carried Mr. Samphous two-and-a-half kilometers to a house where there was a motorized cart they could use to transport him to the district health center about 16 kilometers away. There, his wounds were cleaned and bandaged and he was transferred to the provincial hospital. It was about 4am when he arrived at the emergency ward.

### Timing

The shooting was the first (excluding warning shots) in a 12-year conflict over the high-yield farmland in a remote corner of Bavel district that gained national attention in 2008 when the residents of the village walked over 300 kilometers to Phnom Penh to seek direct intervention from

Prime Minister Hun Sen. Their eight-day walk followed a 10-year battle at the provincial court that lawyers representing them say typifies what happens when poor farmers clash with wealthy, well-connected individuals over land.

“Authorities allow the rich and powerful to bend the rules while ordinary Cambodians suffer,” a report by Legal Aid of Cambodia (LAC) reads.

The shooting occurred seven days after residents of the village received their latest notice from the provincial court ordering them not to sow rice on about 70 of 161 hectares of disputed land. In 2005, the 70 hectares were claimed by Mon Mika, whose brothers include the province’s chief of traffic police and a one-star general in charge of the anti-drug trafficking division at the Ministry of Interior. The court order also gave Mr Mika the right to use the land while the case over who owns it winds its way through the Cadastral Commission. Just days after issuance of the court order, however, the farmers challenged it with the assistance of six lawyers from LAC, and began sowing rice on the land they have farmed since, in some cases, 1990.

The 38 families who comprise the village cleared and demined the land themselves. They succeeded in fending off one former police officer who tried to seize it in 1997. They have also managed to prevent Ieng Oeun, a well-connected businessman based in Battambang city, from taking 125 hectares of the land, for 10 years.

Residents say they feel more threatened by Mr. Mika. He arrived in April 2005 with 20 to 30 armed men, a bulldozer and a letter from the commune chief saying he owned 50 hectares of the land, according to LAC. Mr. Mika took the 70 hectares from 23 families and used armed guards to prevent them from farming it, the NGO said.

Early this year a camp was established next to the village, where armed men keep an eye on the residents and intimidate them by firing shots into the air at night, residents say. Police have also started blocking the farmers from praying at pagodas and shrines in Battambang city this year, they say.



*Mr. Soeng Mony shows where the shooter was standing, about eight meters from his hut in Ovor Preng.*

An investigator with ADHOC in Battambang sums up the farmers' situation as an impossible choice: "If they want the violence to end they have to stop farming, but if they stop farming they cannot survive."

## Who owns the land?

"We began clearing the land when it was still under control of the Khmer Rouge in 1990," Mr. Mony said. "We demined it ourselves."

His neighbor Mrs. Chim Sarom, 45, explained: "My family members are former soldiers so we know how to remove landmines." She counts how many she and her husband removed in terms of the three trucks needed to haul them away. Mr. Mony said it took 13 years to clear his land of mines.

In 1994 and 1995 the area was a battlefield between the remnants of the Khmer Rouge and government forces. Once the fighting stopped, the 38 families moved next to their farmland and established their village. Although it still lacks wells, a school or clinic, it is developing: the farmers say their yields are increasing following the introduction of rice intensification techniques and they are investing in farming equipment. They are quite proud to point out that one young man from their village is attending university in Phnom Penh. He is studying law.

The farmers have what are often called "land receipts" from commune and district officials. These receipts acknowledge that the officials have received letters from the residents informing them of the date the residents began cultivating and/or living on the land and how much land they possess. The receipts can be used at the Cadastral Commission to obtain land titles, but are not official titles, according to LAC. The residents also have confirmation letters from commune and district officials verifying that they have farmed the land since 1990-92.

Mr. Oeun holds an array of land titles, 22 in total, that he argues give him ownership of 110 of the 164 hectares. These titles, however, are contentious, according to LAC lawyers who point out that most are dated from 1994 when the land was a battlefield. This suggests that the titles were granted before the land was formally demarcated, which would make them invalid, the lawyers say. Moreover, they have argued in court that some of Mr. Oeun's titles appear to have been tampered with and altered; that he has multiple titles for single plots; and, none of them match the map. The Battambang court also ruled in 1999 that Mr. Oeun's land titles did not cover the land used by the farmers of Ovor Preng.

According to LAC, Mr. Mika's claim of ownership is based on a letter from a commune official saying he owns 70 hectares of land adjacent to Mr. Oeun's land. His dispute with

the residents is before the Cadastral Commission, though he has used the courts to file criminal trespassing charges against the farmers (they were dropped when challenged) and, according to residents, has hired armed guards to keep them off the land.

## Night patrols

Since the 2008 Khmer New Year shooting, the residents are taking precautions. "Everyone is afraid of getting shot," said Mr. Pon Ranya, one of five men in the village residents identify as likely targets of assassination. Besides him and Mr. Mony, the others are: Thann Thang, Nee So Khoum and Tith Bun Choeun. "Those are the five in most danger," agreed ADHOC's investigator.

Residents now patrol their village till dawn in groups of four or five. The patrols include women and men and their members alternate nightly.

Residents say they are aware that the assailant knows their habits quite well. He knows who sleeps where and when. The five men they believe are targets of assassination are watched and sometimes followed by the armed men living at the edge of their village, they say.

Still, they refuse to budge. Mr. Mony has grown a beard so that he will be clearly recognizable to anyone who wants to kill him. He says he feels responsible that his brother-in-law was shot. "If they want to kill me I don't want them to shoot the wrong person again," he said.



*Mrs. Chen Sara, 45, was among the original residents of the village who demined their farm land.*



## Rule of law?

- ➔ 1990-92: Families from four villages in Bavel district clear and begin demining Khmer Rouge controlled land.
- ➔ 1994-95: The area becomes a frontline battlefield between the Khmer Rouge and government forces. Residents say 41 members of farming families are taken by the Khmer Rouge and never seen again.
- ➔ 1996: Government forces take control of the area and the farmers establish Ovor Preng village near their fields.
- ➔ 1997: A former police officer bulldozes land cultivated by residents (as well as land from other villages), but desists after intervention from local authorities.
- ➔ 1999: Ieng Oeun bulldozes land and files complaints at the Battambang provincial court claiming possession of 15 hectares belonging to two parties in Ovor Preng village. On October 19 Judge Pech Chhoeut hears both cases and rules (judgments 235 and 236) that although Mr. Oeun is the rightful owner of 110 hectares, his land is not located on fields used by people of Ovor Preng.
- ➔ 2000-2004: Residents continue to farm the land, but during the harvest of 2004, armed men detain 14 farmers on behalf of Ieng Oeun. Battambang police release six but charge eight others with theft of rice. The six people were illegally detained without a hearing for seven months and 10 days until a lawyer from Legal Aid of Cambodia (LAC) secured their release.
- ➔ Jan 4, 2005: Village representative Chem Keo files a complaint at the Battambang court accusing Mr. Oeun of hiring workers to harvest village residents' rice. The court charges Mr. Oeun with robbery, but does not arrest him because he is ill.
- ➔ Jan 12, 2005: Mr. Keo files a complaint with the Battambang court to reinstate its October 19, 1999 decision, arguing that the court had misused this judgment to allow Mr. Oeun to claim farmland belonging to village residents. The complaint also notes that the land had been re-mapped without informing the residents, and legal procedures violated.
- ➔ April 2005: Along with 20-30 armed men, Mon Mika seizes 70 hectares from 23 families. They file a complaint with the Cadastral Commission. On March 3, the Battambang court prosecutor accuses residents of trespassing. LAC challenges the criminal charges and they are dismissed. Armed guards prevent farmers from accessing the land.
- ➔ July 29, 2005: Mr. Keo files a complaint over Mr. Mika's land seizure. The court fails to respond.
- ➔ April 24, 2006: Residents file a complaint to the National

Land Resolution Authority. On August 15 it sends a letter to the Ministry of Justice calling on it to settle the dispute. The ministry fails to respond.

- ➔ May 8, 2006: Residents appeal to the Supreme court to challenge a 2005 decision by the Appeal Court in favor of Mr. Oeun. The court decides in the residents' favor.
- ➔ May 31, 2006: Mr. Keo is arrested and detained for 10 months after being accused of trespassing. On May 22, 2007 he is sentenced but on June 5, 2007 LAC lawyers successfully argue that the criminal charges be suspended because legal ownership of the land has yet to be determined. The prosecutor appeals and Mr. Keo remains in detention. Village residents travel to Phnom Penh to complain to the Ministry of Justice, which subsequently orders Mr. Keo's release.
- ➔ March 14, 2007: Residents send a complaint to the Ministry of Interior about Mr. Mika's seizure of land, but receive no reply.
- ➔ June 19, 2007: Residents submit a second letter to the Ministry of Justice, but receive no reply.
- ➔ Feb 12, 2008: Residents submit a letter to the Minister of Justice asking that the judgments of the Battambang court (235 and 236) on October 19, 1999 be enforced. The minister sends a letter to the Battambang prosecutor asking for an explanation of why they were not. He does not receive a reply to his letter.
- ➔ May 24, 2008: Residents begin their walk to Phnom Penh to seek assistance from Prime Minister Hun Sen.

*(Source: Legal Aid of Cambodia)*





# Koh Kong



*Police and a commune chief (left) attend a March 2009 meeting between Sre Ambel district residents and their NGO lawyer to review their cases involving the seizure of their forest lands for a sugar cane plantation in Koh Kong province. The commune chief brought two police officers and a clerk with him, telling the lawyer he could not meet with village residents without written permission.*

## The Case: Sre Ambel

- The concession: Economic Land Concession (ELC) for agro-industry.\*
- Date, size: Two concessions for 9,700 and 9,400 hectares granted in 2006 by the Ministry of Agriculture, Forestry and Fisheries
- Company: Koh Kong Sugar Industry Co. and Koh Kong Plantation Co. run by a Cambodian senator and foreign partners from Thailand and Taiwan
- Development plan: Sugar cane plantation and sugar processing factory
- Area: Koh Kong Province, Sre Ambel district, on land north of Road 48 from Sre Ambel to the Andoung ferry crossing.
- Communities affected: About 400 families in villages of Sre Ambel district who lost about 2,000 hectares of farmland to the ELC.

\* See *Economic Land Concessions in Cambodia: A human rights perspective*. June 2007. UN Cambodia Office of the High Commissioner for Human Rights.



# Fighting Back with Hand-painted Signs

From his wooden stilt house along newly built Road 48, Mr. Kong Song can gaze across the lush green valley and see the plume of gray smoke rising from the new sugar cane factory built by his province's biggest politician and businessman.

All around the factory lies the nearly 2,000 hectares of farmland and orchard that used to belong to him and his neighbors and is now being cultivated for sugar cane.

"We are afraid they might grab more land," said Mr. Song, a soft spoken man who has lived along the road since 1979. "We need someone to help us very soon."

Although no one had official titles to the land, under Cambodia's Land Law, Kong Song and his neighbors have legal possession rights. (See appendix on the land law.) Despite this, about 400 families who moved there in the years after the Khmer Rouge era ended 30 years ago lost their land in March 2006 when it was quietly transferred as two national Economic Land Concessions to a senator and tycoon. The residents claim they knew nothing about it until bulldozers began clearing their land.

The first agro-industrial effort in this undeveloped area of southwest Cambodia has been accompanied by illegal land

grabbing, livestock kidnapping, an apparent ax murder, and three years of harassment that turned a decade of hard won peace in the villages to uncertainty and fear. It has pushed once thriving village families to the edge of poverty.

## Value of the land

With the construction of bridges to the province over the last few years, the ferries that hampered development have been grounded and forest and pasture once worth very little has risen in value. Although many of the families whose land was taken settled with the company for a few hundred dollars, others said the land is worth 10 times that. The 248 families remaining want fair compensation so they can buy other land to replant and graze their livestock.

Cambodian and international rights groups have condemned the evictions.\* They said the company only offered US\$50 per hectare when the fair market value was \$500 to \$1,000 per hectare. Most families had three to seven hectares taken from them.

The 247 families have taken their protest up the government



\* Amnesty International, Human Rights Watch, Global Witness, FORUM-ASIA, the Asian Human Rights Commission and the International Federation for Human Rights.

hierarchy from village chief to commune chief to the district governor to provincial governor and finally to the National Assembly, with little result. In March 2007 about 150 men, women and children began walking to Phnom Penh. NGOs helped arrange transportation after one day, and the villagers subsequently delivered a complaint at the entrance to Prime Minister Hun Sen's estate asking for his assistance.

Since then more and more farmers have sold their livestock to buy food. They lost grazing land, rice paddy and fruit groves – a combination that provided food and a living.

### Kidnapping cows and buffalos

“My mother and father were born here. This is my home,” said Mrs. Cheav Ean, 63, an outspoken woman who sits comfortably on the ground and is eager to tell her story. “They took my 11 hectares. Before they cleared my land I grew watermelon. It takes 75 days to grow and I could earn \$1,000. It was enough. I had food, money, happiness and freedom. I had more than 30 cows and buffalos. I sold almost all. I have two cows left. Two cows were shot by the company in 2007.”

Harassment worsened in early 2009. In March the commune chief tacked a notice on the wall of the local gathering spot that said people whose cows or buffalos stray

onto company land must pay 50,000 riel (\$12.50) for the first offense, 100,000 riel for the second, and 150,000 riel for the third. The rules made official a practice already underway since the early days of the land concession: company guards had been seizing livestock and holding them until the owner could buy them back. “When my buffalo roamed over there I had to pay 70,000 riel (\$17.50) the first time to get it back and the second time I had to pay 80,000. I had to borrow from friends, but I don’t know what I can do. I may have to sell my buffalo,” said Mrs. Yeang Khar, 39. Her children now tend the buffalo daily.

### The cost of economic development

The commune chief, whose office posted the buffalo warning, defended the notices. He said he is stuck “right in the middle” of the conflict. “I don’t know what to do. The government gave the land to the private company.” When he tells his superiors at the district level about the villages’ problems, “They say wait, just wait,” he explained.

A Koh Kong Deputy Governor is proud of the sugar cane factory and plantation and regards it as a key economic development project along with the casino and a planned hydroelectric dam. The deputy governor doesn’t believe all the village residents have legitimate claims to the land.

**Left:** *All along Highway 48 in Sre Ambel district rice sacks hang from roadside fences as village residents attempt to publicize their evictions from their land.*

**Right:** *The first sugar plantation in Koh Kong province is opening the dry season of 2009 in Sre Ambel District. Hundreds of families lost their farmland to make way for the factory and plantation.*





Moreover, the provincial government gives priority to economic development: “The choice is between 100 village people who lose their land or 1,000 people who get jobs.”

“The province is looking into the cases but the government needs the development here. The people cannot ask for too much. They have to compromise. Their rights are limited,” the deputy governor said. “It should be 20, not 100 families. I’m sure there can be a compromise for the ones with the true story,” the deputy governor said, adding, “and for those who vote for the right political party.” The official explained that the involvement of the senator and his companies has put the conflict “beyond the capacity of the province to decide” and suggested that, “the prime minister has to decide.”

The senator has in the past apologized for company guards shooting the people’s livestock and has said that although he cannot return the land, he has set up a committee to deal with the problems.

Koh Kong’s chief judge said “land cases” are the court’s biggest problem. But after leafing through his case notebook for several minutes, he told an interviewer that he had no record of cases for Sre Ambel residents. “There’s no file. The problem has been solved,” he said.

Asked whether the senator's company has the ability to manipulate the court, he said, “No that’s impossible.” He said villagers always jump on any chance to complain when their land is taken. “You start out with five families living in a place, and then there are suddenly 30 or 40 or 50 families.”

### The court cases

The Economic Land Concession is most likely illegal, should be overturned and the village residents either given their land back or compensated for it, according to lawyers for the Community Legal Education Center (CLEC) in Phnom Penh.

A CLEC attorney represents them on two complaints in provincial court: one on behalf of villagers whose buffalo were slain or kidnapped by company officials, and the other to overturn the land concession.

The lawyer said the ELC violated Cambodian Land Law provisions limiting economic land concessions to 10,000 hectares. The senator got around that by setting up two companies, which each received a concession. The shares in the concessions have since changed but are in the names of two companies. One is 49 percent owned by the senator and 51 percent owned by a Thai businessman. The other is owned by the senator, Khon Kaen Sugar Industry Plc of Thailand and Ve Wong Corp. of Taiwan.

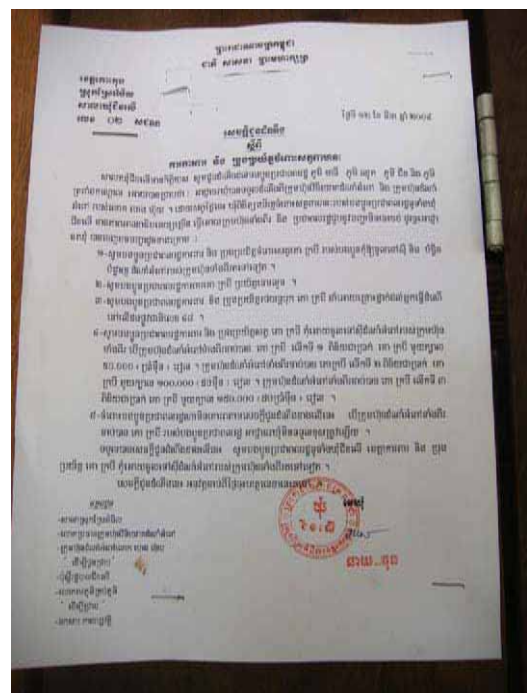
“The people cannot ask for too much. They have to compromise. Their rights are limited ... I’m sure there can be a compromise for the ones with the true story, and for those who vote for the right political party.”

A Koh Kong deputy governor

According to CLEC the land concession violated villagers’ land rights. During the Khmer Rouge era all land titles were destroyed and the village residents have not been issued legal titles since then. However, they have lived on their land for more than five years before 2001, giving them a right to possess the land under Cambodian law. Possession rights are a strong legal right, which can be bought, sold and used as collateral for bank loans. The residents have family records showing they have occupied the property for years, in some cases since 1979. Some of the residents said they were born on the land and so were their parents or grandparents.

### Apparent homicide

There have been other problems. In 2006 the farmers spotted bulldozers clearing their land. They protested and one farm wife, 38-year-old Mrs. Baet Nim, was shot in the foot. In December that year, farmer An In, an outspoken





resident who had taken photos of the land clearing activities, was murdered by three chops of an ax to the back of the neck.

An In was “an activist,” explained his older brother An Leoun. “He took photos of the people’s land when the bulldozers came.”

Mr. Leoun said he submitted a complaint about the murder to the court, but nothing came of it.

The commune chief, when asked about the murder, mentioned a range of possible motives. He said it was possible the farmer was killed by an “enemy” or that he could have fallen victim to “magic” or “sickness.”

After three years, events are taking a toll on the families.

“Our people’s lives are miserable now. We have very little food from day to day. It is very hard for us to get vegetables to eat. If I go to my land to find fruit I am not allowed in. [Guards] tell me if I do it they will accuse me of trying to burn their sugar cane,” said one resident who lives on a dirt road back from the highway in Chouk Village.

Rin Souphan, 41, who lives in Chikor Village, said he used to earn \$1,000 a year and could live off his land where he grew cashew nuts and jackfruit. He could send his children to school. “The living was enough.” Now every morning he and his wife mix coconut, water and flour to make a tray of small cakes they sell for a few hundred riel each, earning \$1.25 if people buy all of them.

“It is difficult now and we are scared,” he said.



## Koh Kong’s Tycoon

According to media reports the Cambodian senator’s companies have the following holdings or licenses in Koh Kong province:

Sand mining license to dredge sand, which is exported to Singapore.

Casino hotel on the border of Koh Kong and Thailand.

Koh Kong Special Economic Zone, which is reportedly about to get its first factory, an assembly plant for South Korean automobile maker Hyundai.

His foreign partners in the sugar cane factory and plantation are Thai company Koh Kaen Sugar Industry Public Co. Ltd, and Taiwanese partner Ve Wong Corp.

He is well known in ruling party circles and is a contributor to causes. For example, on March 16 when the head of the Cambodian Red Cross made a red carpet visit to its Koh Kong office TV reports showed the senator giving her a \$30,000 donation.

**Opposite page:** A notice from the commune council warning farmers that livestock that stray on to “company land” will be seized and fines will have to be paid to retrieve them.

**Left:** Kong Song, a village spokesman in Sre Ambel District, says “we need someone to help us very soon.”

## Killing Livestock & Livelihoods

Like many Cambodians with aspirations of upward mobility, Teng Kav once dreamed of buying a car for his family. But that was before he began a slow descent into poverty after losing his farmland to the new sugar plantation.

"I used to grow watermelon, cashew nuts, palm tree, mango, bamboo and sweet tamarind on my land," said Mr. Kav, who lives with his wife and children in a wooden house painted blue with a flower box out front.

"My whole family worked on the land, my wife and six children. I grew rice to eat and my family could earn a minimum of \$1,000 a year. We had a field for our buffalo and cow to graze. I had more than 20 buffalo and cow. Now I have only seven or eight left."

He explained that some have been shot, and he had to sell others to buy food, and the prices the livestock fetched were much lower than they should have been. He said his buffalo were so thin he got only 500,000 riel (\$125) for a buffalo that used to be worth 1.5 million riel (\$375). The rest are dying of hunger and will have to be sold, he said.

"In 2006 they shot my first cow. By the time I found it, it already smelled bad. They shot two cows and burned my cottage on December 8, 2006. The shooting worsened in January. When [company employees]

were clearing our land the cow and buffalo wanted to go where they always ate and drank. When the guards saw them they shot our cows."

"Now if we go to collect bamboo they stop us and ask for money from us. If they catch our oxcart they demand 60,000 riel (\$15). They don't allow us to cut the thatch for our roof. We need firewood for cooking. Normally, we go to the forest, but now the company catches us. We need a lot of help. We can tie the cow, but the buffalo are strong, so now my children have to stay home from school to look after them.

"Before the company arrived I worked a lot with my wife. We had money to buy pens and other things so the children could go to school. I thought in the future my family could buy a car and as I got older my children could harvest the fruit from the orchard and sell it in the market and make

a living. I had enough of everything: rice, land, buffalo and cows. I could support my family without worry.

"I lived here since I married my wife in 1982. I went into the forest and cut the trees to build my house. Now I have a feeling in my heart that my children will not have proper accommodations for life. Other people here have the same problem."



# Coastal Eviction

## Preah Sihanouk



Former residents of Burnt Bridge village have been living in a ditch behind a popular tourist beach in Preah Sihanouk province since being violently evicted from their land more than two years ago. Health workers have documented a severe decline in the health of the former residents, especially children, of what had been a self-sustaining village. They were promised new land before the national election in July 2008, but after the election the pledge was "forgotten," they say.

### The Case: Spean Ches village, Mittapheap district\*

- Violent eviction of more than 100 families on the morning of April 20, 2007 by a mixed group of about 150 soldiers, military police and municipal police.
- Eviction notice signed by then governor without an appropriate court decision.
- Homes demolished or torched, crops and fruit trees destroyed, numerous residents, two police officers and one military police officer injured.
- Thirteen residents, including a 16-year-old boy, arrested and sent to pre-trial detention that afternoon.
- Two years later residents are still awaiting compensation or new land.
- Their health has severely declined. Many remain severely traumatized, have no reliable source of income and are becoming increasingly desperate. They live in unhygienic conditions in makeshift shacks in a ditch near the land they began clearing in 1987.
- The land they were evicted from remains vacant.

\*Village name translates as Burnt Bridge.





## Burning Bridges in Preah Sihanouk

The effects of a forced eviction may be incalculable, but former resident of Burnt Bridge village, Mrs. Seoun Sarun sums them up in three sentences: “We are still in shock. We still feel sickened. We can’t sleep.”

In the two years since their violent eviction, 107 families<sup>1</sup> have been crammed into a row of makeshift shacks (some of which are not even high enough to stand in) in a ditch along a dirt road behind Otres beach. The once self-sustaining and closely-knit village has become reliant on donations from aid groups and missionaries, while the health of its residents has severely deteriorated.

There has been an increased incidence of infectious disease, skin rashes, abscesses, diarrhea, respiratory illnesses, intestinal worms as well as malnourished children, according to health monitoring conducted by the Sihanoukville-based NGO M’Lop Tapang. “The children used to be healthy and alert. Now, they’re listless and lethargic. When they get sick it takes a long time to recover,” Hannah McLean, a nurse with the NGO, explained.

Her bond with the residents of the village was intense, and she recalls being deeply shaken – as other aid workers in Sihanoukville were – by the eviction. “I didn’t believe it. I had to see it for myself. I was devastated [when she arrived

at the scene],” she recalled. “What you have to understand is that this used to be the happiest village to visit. We didn’t come across a lot of the social problems that are prevalent in some other villages, like gambling, alcoholism and domestic abuse. It was a very closely knit village. The children would come running to us when [their mobile library] arrived.”

“We did not start a nutrition program until after the eviction, because there was no need for one until that time,” she added.<sup>2</sup> “Our success [in assisting children at risk of exploitation] is being undermined by the government,” another aid worker said.

### Bible study

Since the eviction, which included the destruction of the village primary school, the children have started attending bible-study classes offered by a Korean missionary group.

Eleven of the older children have been relocated to a Christian school in Phnom Penh, according to the group run by Reverend Moses Han. The parents are reluctant to criticize the missionaries’ efforts to convert them and their children, saying that bible studies are not compulsory but encouraged. The missionary group calls their schools “bible



<sup>1</sup> The number of families had declined to 80 as of April 2009; 27 families are now living with relatives.

<sup>2</sup> M’Lop Tapang’s “Otres Nutrition Program” began in September 2007 after the NGO observed that the health of young children from the evicted village was continuing to deteriorate. It began providing nutritional supplements to all children under five years old.



study schools.” The parents are also quick to point out that the missionaries provide rice and noodles. “Almost everyone else has forgotten us,” one resident said, adding: “We need education for our children; they help.” Another noted that they had not received legal assistance in more than a year.

Some residents admit to being troubled that their children may lose their Buddhist heritage. When pressed, Mrs. Sarun replied forlornly: “We have no choice.” She, along with a small group of residents, have made six attempts so far to meet the provincial governor to request land to relocate their village on, since his appointment following Cambodia’s national election in July 2008. On each of their visits to City Hall the residents have requested land on which they can rebuild their village. They say they have gotten no further than the administration department, and that they are being ignored.

“No one [in the government] wants to talk about this anymore,” Mrs. Sarun said. “They always say they are going to have a meeting to discuss this, but they never give us a date.” Not a single official from the municipal government has visited them, residents say. However, prior to the national election in July 2008 they had been promised new land by an official of the Cambodia People’s Party, but after the party’s landslide victory this pledge was “forgotten,” residents say. They say they plan to move back to the 16 hectare plot they were evicted from if they don’t get new land soon. “We’ve told City Hall that if we don’t get compensation [new land]

we will move back to our land,” Mrs. Sarun said.

This has provoked a threat. “A member of the Commune Council warned us that if we try to do that the same thing will happen to us again,” she said. “Now, we’re asking for just half of our land,” she continued, adding that they would take the section furthest back from the road because they believe it is less valuable.

## Tear gas and AK47s

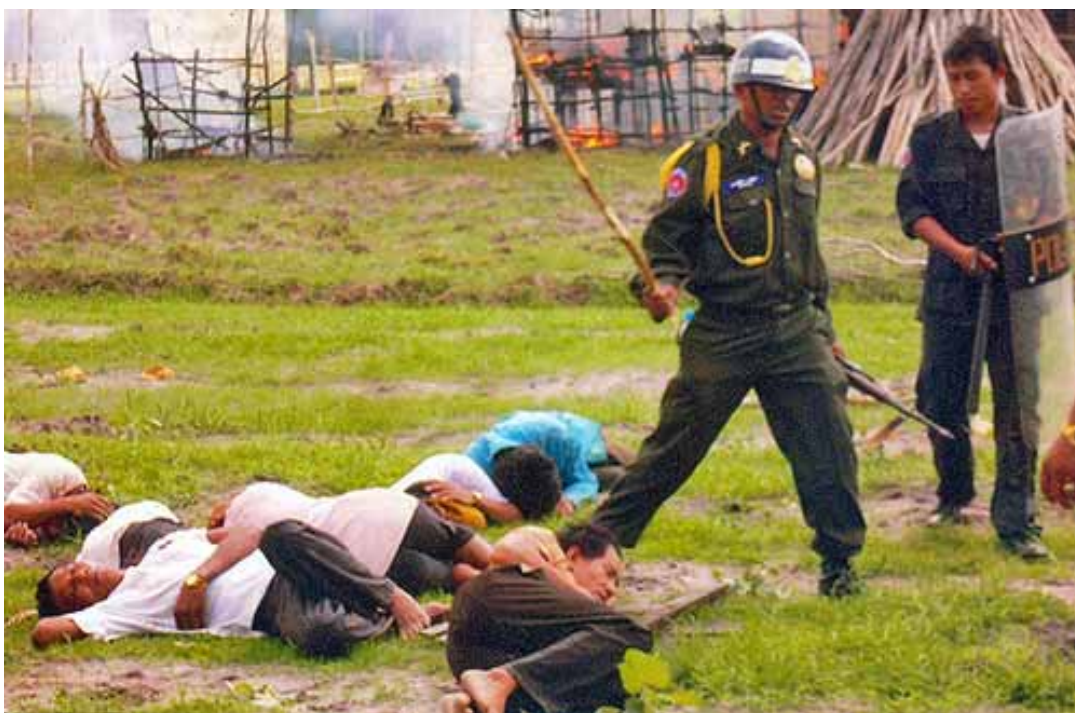
At about 7am on April 20, 2007, more than 100 heavily armed military, municipal and civil police blocked access to the village and ordered the residents to leave immediately. They refused. Over the next two hours the number of armed police swelled to more than 300, residents say. They were armed with AK47s, truncheons, electric batons, tear gas, and water cannons that they used to flush the residents out of their homes.

Police began by firing warning shots into the ground and air. Terrified children ran towards the beach, the parents say. Some residents fought back with stones, sticks and knives, but were swiftly subdued.

“When a gun is pointed at your face it is hard to fight back,” said Mr. Sang Pean, 49, who said he had been shot above the knees in both legs during a previous, failed attempt to evict the residents on November 25, 2006. There were far fewer armed officers that day and the residents fended them off.

**Left:** In April 2007, residents are forced to lie on the ground at gunpoint as their homes are torched. They were prevented from moving personal belongings, including mats and blankets, from their homes.

**Right:** Some of the residents were knocked unconscious after being struck with truncheons and electric batons. Residents say police continued to hit them after they had been forced to lie on the ground.



“We fought like animals,” Mr. Pean said.

On April 20, 2007, two municipal police officers and one military police officer were injured along with 18 residents (13 men and five women), including a 77-year-old man who had to be hospitalized after being struck on the forehead with an electric baton, according to reports from human rights groups. The village was quickly razed: homes were torched and bulldozed, gardens destroyed and fruit trees uprooted.

Residents say most of their belongings were looted or destroyed, including fishing nets, 16 motorcycles and two generators. They retrieved the motorcycles but had to pay \$30 for each one, but the generators were not recovered, they said.

Police arrested 13 males, including a 16-year-old boy. All were imprisoned that afternoon. The men who had not been arrested fled and went into hiding for fear of arrest.

“The women were sobbing. Children were crying for their fathers. They were in an intense state of shock,” the nurse recalled. “But after a few hours the women started gathering scraps of wood and plastic and assembling temporary shelters. I was struck by their resilience. I don’t know where they found it.”

A network of NGOs in the area provided tarpaulins and household utensils as well as an emergency supply of food, water, mats and blankets, and the women set up temporary

shelters along a shoulder-high wall about 200 meters from their land. (They were subsequently told by the owner of the property to move their shelters away from the wall, which pushed them into the ditch.)

Ten days after the eviction, a construction crew began erecting a concrete wall around their land and spray painted a “for sale” message along with a phone number on it.

The phone number has since been painted over. Residents believe this was done to hide the identity of the “seller”, following the controversy over their eviction, which drew condemnation from national and international human rights groups.

The cadastral office identified the wife of an advisor to a deputy prime minister as the “owner” of the land.<sup>3</sup>

### Lack of titles

The residents say they had no official land titles because they could not afford the fees, but under Cambodia’s Land Law the fact that they lived on the land uncontested for five years prior to its enactment in 2001 means they have a strong case for legal ownership. The village, named after a nearby bridge that was accidentally set afire when the area was controlled by the Khmer Rouge, was established in the mid 1980s by 17 families, residents said.



**Left:** Mrs. Seoun Sarun was among the original residents who cleared the land in the mid 1980s. She has made six attempts to meet the province’s governor since his appointment in September 2008 to seek compensation, but has not gotten past the administration department. **Below:** The severely unhygienic conditions the families are living in have caused a dramatic increase in illness.



<sup>3</sup> Source: Licadho



“We were very poor. We moved here and cleared the land. We had access to safe water and were close to the sea so we could fish,” Mrs. Sarun explained. The village had been registered with the Commune Council (Commune 4 of Mittapheap district), but the number of residents, and the year they moved to the village, is disputed. This dispute arose after coastal land prices began soaring in 2005.

At this time, the islands off the coast were leased to foreign and domestic companies to develop upscale resorts, while beach front property was earmarked for five-star hotels.

One development plan for the municipality erased the village from the map. It shows that the area along and behind Otres beach has been set aside for upscale developments, including hotels and rows of villas. According to this plan, the town will expand eastward and a road will run behind Otres beach connecting the town center to the airport (scheduled to open later this year) and an adjacent duty free zone and a Special Economic Zone. Real estate agents and residents say the development plan was never widely circulated, except among those who could afford to participate in the land buying spree.

Allegations that many plots were purchased by buying pre-dated land titles from corrupt officials are rife. Plots were often quickly flipped as prices doubled and tripled, realtors say. Suspicions over the authenticity of land titles has become widespread; advertisements for sales of coastal property now often include the phrase “includes strong title.” Moreover, many renters of beachside restaurants and guesthouses along the resort’s main beach, Ocheuteal, say they are reluctant to sign long-term leases because they are uncertain about their place in the resort’s long-term future. This uncertainty has also made them reluctant to speak on the record: most of those interviewed said they like to keep a “low profile.”

## Eviction boom

During the resort’s eviction boom (2005-2008), the Asian Human Rights Commission made numerous urgent appeals for an investigation into the then-governor’s role in forced evictions and allegations that he was profiting from them. In an interview, the former governor brushed aside these allegations, saying “every time an NGO writes a report it makes money.”<sup>4</sup> He expressed no sympathy for those who had been evicted, describing them as servants trying to claim ownership of the homes they had worked in: “It’s like having a servant who stays at your house for five years and he says, ‘I’ve lived here for five years so now the house is mine’.”

During the same interview he also unveiled his plan for the area’s development, saying the resort would eclipse Bali and Phuket within a decade.

The rise to the peak of the property bubble (2004-2008) coincided with increasingly violent forced evictions, as well as tougher criminal charges against residents who resisted, records from rights groups show. Moreover, the then governor bypassed courts to order evictions, rights groups say. The eviction of Burnt Bridge village was carried out without an appropriate court order.

Since the bursting of the bubble in 2008, the resort’s five-star development plan appears to be on hold. Construction has slowed or stopped at many sites as the number of foreign tourists has declined. Although it is walled off in parcels, the land behind Otres beach remains vacant except for grazing cattle. Molding concrete walls around the plots are spray painted with “For sale” signs, some of which include the words “Urgent Sale.”

At the resort’s main beach, tourists and venue owners are complaining about a rise in petty thefts. Gangs of young children roam the beach stealing iPods, mobile phones and wallets from tourists, they say. Bars are selling beer at 25 cents a glass and cocktails by the bucket, while the proliferation of hostess bars and karaoke joints continues unabated and motorcycle taxi drivers pester male tourists with offers of drugs and young prostitutes.

Although the previous governor is no longer in office, his five-star vision for the coastal resort appears to be in danger of following the residents of Burnt Bridge village into the ditch.



<sup>4</sup> “Battle Ground,” *South China Morning Post*, Nov. 22, 2007



## Beaten then Jailed

Sixteen-year-old Bo Ravy was crawling to the road, he was about five meters from it, when three military police began booting him in the ribs. He remembers being kicked at least once by each of them: the rest is a blur. This happened after he had been knocked to the ground outside his home – where he had been struck repeatedly on his head, left shoulder and back with truncheons – while removing family belongings, he recalls.

The police remained silent while they took turns kicking him. “They didn’t shout or speak or even make a sound,” Ravy said. None of his ribs were broken, but he sustained severe bruising and was in intense pain for more than a week. This made sleeping on the concrete floor of the prison cell he was locked into later that day “almost impossible.” “It was so crowded I had to sleep on my side, but it hurt too much, and I couldn’t find a comfortable position [to sleep in],” he explained.<sup>1</sup>

At the police station, shackles were added to the handcuffs that had been placed around his wrists at the eviction site (his hands had been cuffed behind his back). He was slapped across the face and head repeatedly by the officer who interrogated him. “I can’t remember how many times he hit me, but when he started he would hit just once then stop, then he started hitting me more often and harder, sometimes three or five times before he paused,” Ravy recalled. After 30 minutes, he was instructed to thumbprint a “confession.” (Ravy can neither read nor write and says the “confession” was not read to him before he thumb-printed it.)

Almost two years after his assault and subsequent imprisonment, he remains confused about the official charges that led to his arrest, but is quick to explain what he believes the reason was: “It was because I was helping my parents remove our belongings from our home.”

Ravy was the youngest of the 12 male residents arrested that day. He weighed less than 40kgs and was just 160cm in height. The 12 were charged with assault and destruction of property.<sup>2</sup> After being beaten while their homes were being torched, they were trucked to a police station at about 11am, then transferred to court by noon in one group. The judge made a swift decision. By 3pm they were all in prison.

Ravy was the youngest of the 35 prisoners in his cell. “The first thing I did was start looking for a way out. I knew it was impossible, but I couldn’t stop my eyes from searching,” he said. He checked the bars to see if any were loose and the window: to see if there might be some place he could squeeze out. At the

same time, he said, he was frantically wondering whether anyone outside the prison was trying to get him released. “I didn’t even know if my parents knew where I was,” he said. “I couldn’t breathe. I felt like I was going to die.”

It was four days before a lawyer was allowed to visit him and the 11 others imprisoned. The day before, his mother, Mrs. Chuen Sarat, began the first of her weekly visits to Chournot Takwarn prison. She brought him food and was allowed to visit him for 30 minutes each time. She said she was required to pay a 1,000 riel (25 cents) bribe to prison staff for each visit.

“I could only afford to visit him once a week,” she explained. The round trip on a motorbike-taxi cost 10,000 riel (\$2.50) and in the aftermath of the eviction the former residents of the village were left with nothing (their belongings had been destroyed or stolen, they said) and the women were scrambling to set up temporary shelter in the ditch along the east side of the a dirt road that leads to Otres beach. (Most of the men who had not been arrested had fled the area in fear that they would be arrested.)

Mrs. Sarat recalls the 30 minute visits as being compressed with extreme and conflicting emotions. “Of course, I was relieved to see him, but it was agonizing. He was in jail. He is my child. How do you think I felt? I could see he was terrified. I felt so ashamed that I could not get him out. I was ashamed to look him in the eye. I wanted to comfort him, but I didn’t know if LICADHO could get him released.”

After one month he was freed. (The other 12 men were imprisoned for as long as four months, residents said.) Even during his processing out of the prison he was intensely wary, suspecting that at any moment the guards might change their mind and return him to his cell, he said.

It was not until he passed through the final gate that he began to believe that he was really free. He recalled feeling a sudden burst of relief and elation.

This feeling of freedom, however, has not been permanent. Ravy is haunted by the experience and sometimes stands as though he is still in shackles. When recalling his time in prison and the events that preceded it his expression becomes tense, his eyes dart around, and his posture tightens.

An unexpected or sudden sight of a police officer or soldier can trigger panic. “It’s like seeing a ghost,” he explains. His heart races, he loses his breath, his muscles clench, and he starts trembling.



<sup>1</sup> None of those imprisoned received medical assistance for two weeks, according to village residents and LICADHO, which provided legal assistance to the imprisoned evictees.

<sup>2</sup> The 12 were charged with “wrongful damage to property” (Article 52, UNTAC Law) over allegations that they destroyed police equipment used during the eviction, as well as battery with injury (Article 41 UNTAC Law). A 13th male resident, who had escaped the eviction site, was charged in absentia.

# Vanishing Forest

## Pursat and Kampong Chhnang



*The proliferation of smaller concessions around the massive Pheapimex land concession is sparking new disputes. La Peang village residents, like Mrs. Un Sophy, are concerned about the possible loss of their land and livelihoods.*

### The Case: Pheapimex

- The concession: Land concession for agro-industry.
- Date and size: more than 300,000 hectares granted in two 70 year contracts in 2000.
- Company: Pheapimex Co. Ltd.
- Development plan: Plant fast growing acacia and eucalyptus trees for pulp and build a modern paper mill.
- Area affected: The plantation concession in Kampong Chhnang and Pursat includes all the available forest land in the area and is bordered by the Aural Wildlife Sanctuary to the east and by the Tonle Sap to the west. Both areas are protected. It includes four districts in Kampong Chhnang (Saamaki Meanchey, Teuk Poh, Rolea Pha-ea and Boribo) and three in Pursat (Kravanh, Sampov Meas and Krakor).
- Communities affected: Hundreds of villages in about 50 communes where families rely on the forest for gathering non-timber products and grazing cattle.



# Massive concession looms over two provinces

Oum Huot woke with a start from his side of the mosque compound when he heard the burst of sound “like a truck tire blowing out.” He was sleeping with about 800 other residents from the Pursat-Kampong Chhnang border area following a protest against Pheapimex.

The company had begun clearing land in the area to start planting acacia trees, and the wiry Pursat farmer, 61 at the time, had joined the others to protest. The group was allowed to spend the night in the Kbal Damrey village mosque in Ansa Chambak Commune in Pursat Province.

“One of the district officials told us it was okay to stay here. They said they would protect us,” said Mr. Huot.

“I was asleep. I didn’t see anything, but I heard the screaming. It sounded like a truck tire blowing out. I smelled the explosive, and I knew it was a bomb.”

The grenade attack in November 2004 sent almost 10 people to the hospital with injuries and marked a low point in the nearly decade-long land dispute between thousands of residents living in dispersed villages in Pursat and Kampong Chhnang provinces and Pheapimex, the formidable logging company. The grenade thrower has not been found.

Pheapimex holds the license to two land concessions totaling more than 300,000 hectares of forest straddling the border of the two provinces. The economic land concessions are the biggest in Cambodia. They were granted to Pheapimex to convert the forest to an acacia and eucalyptus plantation and build a paper mill. The company received the concessions from the Ministry of Agriculture Forestry and Fisheries in 2000, before the enactment of the 2001 Cambodian Land Law. Combined they are 30 times larger than the maximum allowed by the Land Law. Human rights groups and village residents have asked that the concessions be overturned.

So far the company has not agreed to re-negotiate and reduce the size of its concession, in accordance with the sub-decrees that followed the Land Law.\*

Although, since the grenade attack, Pheapimex has not done very much on the acacia plantation, since 2000 areas of forest have been cleared bit by bit and residents of the villages say many people are suffering from food shortages because they can no longer gather sufficient fruits, nuts and wildlife from the deforested area.

### Pheapimex Time Line

- ➔ 1997: Land concession first proposed. Pursat Province Department of Agriculture Forestry and Fisheries describes “the majority of the concession area as “damaged woodland.”
- ➔ Jan 8 2000: Cambodian Ministry of Agriculture, Forestry and Fisheries (MAFF) grants 70-year agricultural concession contracts totaling more than 300,000 hectares of “spare forest” in Pursat and Kampong Chhnang to Pheapimex Fuchan Cambodia Co., Ltd. The contracts allow for agro-industrial development.
- ➔ Dec 25, 2000: Public ceremony attended by Hun Sen to sign agreement between Pheapimex and the China Corp. of State Farms Group calling for China Corp. to invest \$70 million in an eucalyptus tree plantation on entire concession area. They will also build a paper factory using eucalyptus as raw materials.
- ➔ March 2001: Village representatives in Ansa Chambak commune where the concession work is to start meet with provincial officers from MAFF and the Ministry of Environment to object to Pheapimex clear-cutting the local forest. They propose a community run tree-planting effort. The village representatives say the opposition among the villages was uniform.
- ➔ Nov 2004: The company began clearing ground in Thlong Popok commune on the border of Veal Sbov village, Taing Krasaing commune, Toek Phos district, Kompong Chhnang province in a forest area claimed by the local people for a community forest. Local people prevent company attempts to expand operations into the neighboring Boribo district.
- ➔ Nov 12, 2004: Farmers from both provinces protest company activities. In the early hours of 13 November, a grenade is thrown at village residents sleeping in the compound of the local mosque, injuring eight.

\* NGO Forum on Cambodia. Briefing Document. November 2008



“All the people here are rice farmers but they also depend on the forest to get fruit, potatoes, mushrooms, traditional medicines,” explained Kuch Veng, a 45-year-old farmer from Kralagn village, Kbal Trach commune in Krakor district of Pursat province.

Mr. Veng was in the compound when the grenade went off. He said 10 minutes before the explosion he saw a black car drive past the mosque and two men get out. After the explosion, he saw one man run towards the police offices near the mosque. “After that I slept in the forest for a week,” he said.

Mr. Veng said the forest in his district has always been abundant with fruits, large trees, and wildlife and tubers, but for the last three years woodcutters have been cutting the trees, leaving nothing but scrubland. As a result, wildlife is disappearing.

Mr. Veng said families used to be able to earn at least 10,000 riel per day (about \$2.50) but “now we cannot even earn 2,000.”

“There were many kinds of fruit. There were big trees and lots of animals. Now we’ve lost 80 percent of our forest.”

Mr. Veng and other residents of two provinces said although they know their forest is disappearing, they don’t know for sure who is responsible.

In Boribo district of Kampong Chhnang a village

representative named one company and in Pursat, a resident of Kla Kroupeu village, Anlong Thout commune, Krakor district, named another concession holder (Ratana Visal Company) that has fenced off large swaths of the forest land and put in a dam to divert the residents’ water supply to irrigate its own land. Following pressure from the community, the dam was removed.

The men said the company officials never speak to them, unless they want to harass them, and then they send over the police.

In some areas, these unidentified officials have spread the word that if you don’t sell your land, it will be taken anyway, said Mr. Kim Seng, 50, of Andoung Roveang village, Agnagn ROUNG commune in Boribo district, Kampong Chhnang province. He said about 100 families have sold out because of the threats.

“They’re cutting and clearing,” he said. “They’ve cut all the big trees. “We do not know exactly what company.”

## The land concession

The land was leased in two separate deals by the MAFF in 2000 to Pheapimex Fuchan Cambodia Co Ltd. Later that year Pheapimex formed a joint venture with China Corp. of State Farms Group to plant the fast growing acacia and

## Pheapimex Time Line

- Nov 13, 2004: The chief of Krakor district and a representative of the provincial Governor of Pursat arrived with a letter from the Governor asking farmers to go home to tend the rice fields.
- Nov 2004: Protest grows to 1,000 farmers as protesters arrive from Battambang and Banteay Meanchey. Armed police block the roads to prevent more from coming. Demonstrations continue for a few more weeks, but end with harassment from police.
- Jan 18, 2005: 300 residents of villages in Kampong Chhnang province gathered at Kraing Skea to protest after the company brought in 300 workers to build a second camp. The company withdrew the workers. A few days later, 30 villagers traveled to Toek Phos district office to meet with the district authorities to demand the company withdraw.
- Jan 31, 2005: About 50 villagers from Ansar Chambok attempted to stop the activities of the company but were dispersed while en route to the site by police.
- March 11-15, 2005: Confrontations between local people in Kraing Skea commune and company and forestry administration officials took place when the officials went to demarcate the boundaries of the concession. Local people ask for set up of a forestry community.
- Mar 23, 2005: Company stopped activities in Toek Phos district. The Chinese technicians dismantled their settlement.
- Aug 2008: Local residents submitted complaint to MAFF, Council Minister requesting the Pheapimex concession be cancelled and to establish the forestry community.

Sources: UNHCHRC and University of Pennsylvania Law Journal

eucalyptus trees and build a huge, modern paper mill. By 2007 Pheapimex had a new partner, Booyong Co. Ltd. of Korea. That cooperation lasted less than a year.

An August 22, 2008 letter signed by a Council of Ministers official Prak Sokhon confirmed the Booyong partnership was finished and said Pheapimex “will cooperate with a new partner in order to processing the investment on concession area.”

So far none of Pheapimex’s official plans announced when the concession was granted have materialized.

For three years after signing the concession, Pheapimex did little until November 2004 when it began clearing ground for nurseries in Kampong Chhnang province (in Krasaing commune, Toek Phos district, and Onsar Chombok commune, Krakor district).

Then came the grenade attack in Pursat.

Inflamed by the attack, the demonstrations and negotiations with police and provincial authorities continued without a resolution until January 18, when Pheapimex tried to start a third work camp, this time in Kraing Skea in Kampong Chhnang. Farmers protested again and the company withdrew the workers, pulling out of both provinces.

### ‘Community Forests’

Some residents believe that a partial solution to the land dispute could be reached by working with the Forest Administration to set aside as many Community Forests as possible within the concession.

The Forestry Administration has been holding talks with some village leaders to push this agenda.

Others strongly disagree. They say that the Forestry Administration only wants to grant relatively small Community Forests – of about five hectares per family – and that because the land concession is probably illegal, it should be overturned.

They also say that if they accept Community Forests, officials will say they have no right to object to land clearing in other areas.

In August 2008, some of the villages and communes in the area thumb-printed a letter to the Ministry of Agriculture, Forestry and Fisheries to cancel the land concession and designate parts of it as Community Forest.

There has been no action on the petition.



## Who is Pheapimex?

The director of Pheapimex Group is an Oknha<sup>1</sup> and senator in the ruling Cambodian People's Party. The company shares offices with Pheapimex Fu Chan Cambodia Co. Inc., at 17 Wat Langkar Street in Phnom Penh. The senator is also a director of Shukaku Inc., which is currently filling Boeung Kak Lake in Phnom Penh. Shukaku was granted a 99-year concession to develop 133 hectares around the lake, where an estimated 4,225 families face eviction.<sup>2</sup>

Due to weak disclosure regulations on shareholders in Cambodia, it is unclear who else is involved in Pheapimex and the extent of its ties to senior members of the government. The senator's wife reportedly helps run Pheapimex. She also is a member of the Cambodian Red Cross run by the wife of the Prime Minister.

Reports note that Pheapimex first came to prominence as a logging concessionaire in the 1990s, but in recent years diversified into other activities including hydro electric dams and mining.

<sup>1</sup> "Oknha" is a title given to "any generous person" who contributes \$100,000 to the state, either in cash or materials.

<sup>2</sup> Economic Land Concessions in Cambodia: A Human Rights Perspective, UN Cambodia Office of the High Commissioner for Human Rights November 2004. available at: [http://cambodia.ohchr.org/report\\_subject.aspx](http://cambodia.ohchr.org/report_subject.aspx)

Further information: UN Special Representative of the Secretary General for Human Rights in Cambodia, Land concessions for economic purposes in Cambodia: a human rights perspective, November 2004, available at: [http://cambodia.ohchr.org/report\\_subject.aspx](http://cambodia.ohchr.org/report_subject.aspx)

The Pulp Invasion: *The international pulp and paper industry in the Mekong Region*. World Rainforest Movement bulletin No 58, May, 2002.

**Far Left:** Oum Huot was in the mosque during the 2004 grenade attack. He hopes to get a community forest for his village.

**Left:** Kim Seng in Boribo district of Kampong Chhnang: "They've cut all the big trees."

**Right:** Kuch Veng: "All the people are rice farmers but they also depend on the forest."





## Thumbprints to Prison



*Village chief Touch Ly was arrested on April 28, 2009 after being called to a meeting at the Ministry of Interior. She was charged with falsifying information after assisting residents of her village certify a petition in a land dispute with a company owned by the wife of a minister.*

On the edges of the massive nine-year-old Pheapimex concession, smaller companies have nibbled away from time to time at local residents' land. One old dispute blew up again just after Khmer New Year 2009, resulting in the arrest of a woman from La Peang village in Kampong Chhnang who was sent to the Prey Sar prison in Phnom Penh after helping her neighbors thumb-print a letter attesting to the loss of their land.

The arrest of La Peang village chief Touch Ly, 48, came when she was called from her province to Phnom Penh for a meeting at the Ministry of Interior on April 28, 2009. She had helped certify a letter in a land dispute with KDC International Company, which claims about 600 hectares of land in the area.

KDC is owned by the wife of a government minister. She is also a member of the Cambodian Red Cross, run by the wife of the prime minister.

Mrs. Ly was arrested at the Ministry of Interior, taken to Phnom Penh Municipal Court, charged with falsifying information, and put in prison, according to human rights investigators.

Human rights groups condemned the arrest, which they

said follows a pattern of intimidation and misuse of the courts that is increasingly common in land cases.

Human rights investigators said they believed that the municipal court had no jurisdiction to arrest Mrs. Ly, and that investigators went to the village to check the names of the people on the petition and found that they were correct. One NGO planned to provide the woman with an attorney to contest the court's jurisdiction, an investigator with that group said.

According to media reports, the dispute has its roots in the late 1990s when the village chief in Ta Ches village, on behalf of a businessman, went around his village and offered to buy people's land.

Some families sold; others didn't. The cadastral office later issued ownership titles to KDC that overlapped with people's land, LICADHO said.

Mrs. Ly, the chief of nearby La Peang, was initially fearful of getting involved in the petition drive, although many families in her village were contesting KDC's claim to own the land. In January 2009, however, she agreed to help with the petition. She was initially called to a Ministry of Interior's Serious Crime Department meeting on February 21, 2009.

When she emerged from the closed-door meeting she made an apparent about face and authorized an agreement saying she would stop representing the families and recognize that all the disputed land belonged to KDC. Not only that, she agreed to give up her own land to the company. She was arrested about two months later.

Mrs. Ly is at least the third person arrested and jailed in this dispute. Two others arrested in November 2007 are Sa Sor, 55, and Oun Tum, 60.

Mr. Tum was arrested for trespassing and jailed. He was released a year-and-a-half later, in May 2009.

Mr. Sor is still serving a 10-year sentence for trespassing and attempted murder of a KDC laborer.

Their lawyer from the Cambodian Defenders Project has said the hearings took place without the presence of either the accused or their lawyer.

# Shock at Dawn

## Phnom Penh



Families living in the Dey Kraham community of Phnom Penh pleaded with police in the early hours of January 24, 2009 to let them retrieve their possessions before their homes were leveled by bulldozers. Within a few hours the 29-year-old community was demolished. Photo by Peter Harris

### The Case: Dey Kraham

- Social Land Concession extinguishing possession rights
- Date, size: July 2003 concession for residential development is 3.7 hectares of the total 4.7 hectares of land at Dey Kraham.
- Company: Property developer 7NG Construction Co. Ltd.
- Development plan: Initially, mixed-use development that sets aside part of the land for housing for low-income residents.
- Area: The Dey Kraham community between Sothearos Blvd and the National Assembly in Phnom Penh.
- People affected: 800 to 1,465 families living in Dey Kraham in 2005, including about 400 who were forcibly evicted in January 2009.



## Dreams dashed, residents betrayed

Chan Vichet watched in disbelief from his rooftop hideout as the bulldozers tore into the only home he had ever known since the Thai refugee camps.

His wife and two young sons scurried into their metal roof home as dozens of municipal and military police carrying shields fired tear gas. Unable to help for fear of being beaten or arrested as a community activist, Mr. Vichet watched the company laborers carrying hammers and fire extinguishers smash apart the homes, strewing pieces and belongings over the red soil from which the community derived its name.

By 10 am, Dey Kraham – a diverse inner-city community of artists, vendors, motorcycle taxi drivers and construction workers, where he had bought a plot of land and built his own house in 1993 – was leveled, leaving his family and hundreds of others homeless.

“I saw the rubber bullets and the shields and the sticks. My sons were crying,” said Mr. Vichet, a 31-year-old community social worker. “I never thought this forced eviction would happen. I never believed that they would send in the armed forces to destroy community property. But at the end it happened differently. When I saw the eviction it really was worse than Pol Pot. During the Khmer Rouge people were

evacuated from Phnom Penh, but they did not destroy the houses and give all the land to an individual.”

The pre-dawn eviction on January 24, 2009, of the families of Dey Kraham ended a high-profile conflict that many believed was close to a positive ending for the remaining residents of the once thriving community.

“It was a huge failure and a terrible story. It’s sad because here they had a community that did everything they could do,” said a human rights worker. “The Prime Minister granted them a Social Land Concession. They had a three year advocacy campaign, they filed every complaint they could file, had incredible community solidarity, and at the end of the day, it couldn’t be worse. It was a disaster.”

Although fewer than 10 families voluntarily left a few days before the eviction with settlements of \$20,000 from 7NG company, most got no money. Many were given one-story flats with no amenities at the company’s relocation site in a rice field more than 20 kilometers from the city center. The site has no school; access to water is a serious problem.

What happened at Dey Kraham involved hope and betrayal, mismanaged negotiations and violence – something that became commonplace with the newly soaring economy



**Left:** Police in riot gear moved in on Dey Kraham in the early dawn of January 24, 2009, surprising the residents.

**Right:** Armed police fired tear gas at the homeowners.

*Photos by Peter Harris.*



and rising land prices of the past five years. The plots in Dey Kraham that residents once paid \$50 or \$200 for were worth thousands of dollars per square meter in the 2007-2008 booming Phnom Penh real estate market. Many Dey Kraham residents held documents that gave them strong claim to ownership of the land they lived on.

In 2003, Dey Kraham's land was classified by the Council of Ministers as a Social Land Concession, a novel idea that disregarded the residents' existing possession rights and that officials claimed would protect the community by letting them live within a planned mixed-use development to be built on their land by a development company. But the plan changed incrementally and became more contentious following the arrival of 7NG, residents and rights groups said. Land prices were rising, and the village chiefs and community representatives at Dey Kraham betrayed their neighbors by signing a contract with the company swapping the Dey Kraham land for land on the outskirts of the city. Residents say that the leaders took bribes from the company.

Mr. Vichet said the families at Dey Kraham were well aware that the lots of land they purchased 10 or 15 years earlier had become very valuable, and if they were not going to be living there, they wanted to sell them for enough to buy elsewhere. But families didn't agree how much their property was worth; some wanted \$20,000 or \$30,000;

others thought they deserved \$40,000 or \$50,000, he said.

Mr. Vichet, who represented the community in its negotiations, said they were betrayed by the municipality, which had promised until the middle of January 2009 that negotiations were still open. On January 13, 7NG made an announcement it would pay \$20,000 per house, immediately. Eight families went straight over to the company's office that day, sold their homes and collected the offer. Mr. Vichet said 10 families went later that day, but were unable to collect. He said he went the next day with many other families, but by then the company had withdrawn the offer. At that point he asked the municipality to continue negotiations with the other families, and they offered three days. "The people believed them," he said.

Although an eviction notice had been issued, it was a long time ago, and the families were hopeful.

## The eviction

One resident who rushed over to the company's office on the second day recalls being told, "too late now."

Widowed during the Khmer Rouge time, she raised three children at Dey Kraham by selling candies and cookies from a basket she carried on her head, and lived in the house she built on the land she bought 20 years ago for a piece of gold she had then worth about \$50.



"That was a lot of money at that time," she said. She bought a plot in 1987 that was seven by 21 meters, built a wooden house, and earned her living as a vendor.

"When the bulldozers arrived", she said "we were not just surprised, we were scared and hopeless. We couldn't do anything or they would beat us."

"After the eviction about 80 families went to the relocation site. The choice was that or nothing. So we accepted painfully. They called us rubbish and said we wouldn't leave unless we were evicted," she said.

Another former resident who worked as a manicurist and had a child enrolled in a local art group, described her eviction: "I was home with my two daughters. When we saw the armed forces we were so scared, I just got a few kitchen things, a blanket and clothes we put it in front of the house hoping they would not destroy them."

Former residents say they were shocked by the violence. "I think the government and the company did what they did because they have the power to do it," one father said.

"We owned a coffee shop at our house and I am a moto driver. I made enough to support my family and send my children to school."

He said because he was active in the negotiations with the company he was not given a flat at the relocation site. "We used to own our house, but now we rent, so we do not have enough money for the children to go to school."

### Lessons learned

"What people should not do is let them break down their solidarity," Mr. Vichet said. "The influential people in Dey Krahom didn't cooperate. The company paid them off."

"I am not so angry at the company. What I am really angry at is the legal system, the government and the municipality, including the local authorities like the police."

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"The Prime Minister granted them a Social Land Concession. They had a three year advocacy campaign, they filed every complaint they could file, had incredible community solidarity, and at the end of the day, it couldn't be worse. It was a disaster."

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**Left:** Chan Vichet tried up to the end to negotiate with the Municipality of Phnom Penh. "I never believed that they would send in the armed forces to destroy community property."

**Below:** Homeless families evicted from Dey Krahom now live in this new tent city outside the gates of Damnak Trayeung relocation site.

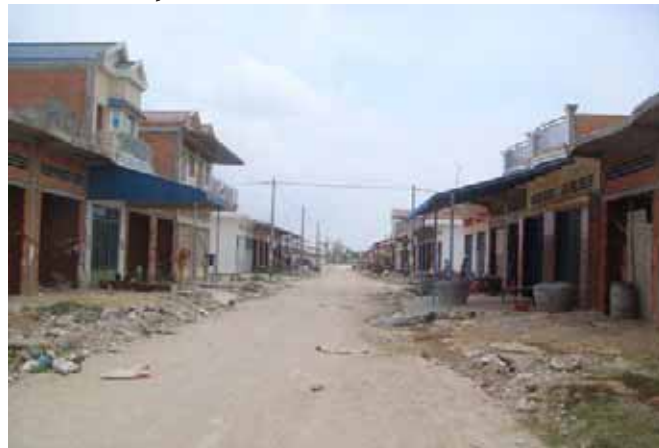


## More evictions

Dey Krahom is not the only area that was offered a Social Land Concession by the Municipality of Phnom Penh. A downtown community near the Olympic Stadium known as Borei Keila was also offered a social land concession but those relocated to Toul Sambo in June and July 2009 have yet to receive any on-site housing such as that promised to residents of Borei Keila. Those residents currently face forced eviction.

In their case a private developer called Phanimex was granted their land in return for an agreement to build apartments at the site for them, and in exchange the company would get a portion of the community for commercial development. That did not happen.

*Dozens of rows of flats like these are under construction at Damnak Trayeung for a new wave of people evicted from communities of Phnom Penh expected in 2009.*



## Eviction Time Line

- ➔ July 2003: Council of Ministers approves the creation of “social land concessions for the poor communities” in four locations in Phnom Penh, including Dey Krahom community, comprising 1,465 people.\* The concession “for residential development” is on 3.7 hectares of the total of 4.7 hectares of land at Dey Krahom.
- ➔ Sept 2004: A survey of Dey Krahom found that Dey Krahom is 3.6 hectares in total – 1.1 hectares less than envisaged in the concession. Various land sharing deals are discussed.
- ➔ Jan 2005: A contract is signed between 36 community representatives and 7NG company giving all 3.6 hectares to 7NG in return for new housing for residents in Damnak Trayeung village, Choam Chao commune, Dangkor district.
- ➔ Jan, Feb 2005: Residents challenge the legitimacy of the contract, fire the pre-contract community representatives and appoint new representatives. The new ones face harassment as they collect residents' thumb prints on a petition to the Municipality to ask for the annulment of the contract.
- ➔ May 2005: Legal Aid of Cambodia files its first request for intervention, noting the contract with 7NG was signed secretly and that the Municipality had not yet responded to the residents' repeated requests for intervention.
- ➔ Aug 5 2006: A lottery is held to allocate apartments at Damnak Trayeung to 344 families from Dey Krahom. Some families refuse to participate.
- ➔ Sept 2006: Four post-contract representatives file suit accusing 36 pre-contract representatives of “violation of trust” and “corruption”. The prosecutor rejects the suit without explanation. The case is appealed.
- ➔ Aug 2007: The Municipal Court issues summonses to 49 Dey Krahom families to appear in court for refusing to participate in the lottery. Families petition the prime minister asking for land titles for about 1.9 hectares of Dey Krahom and for permission to design and construct their own residential project.
- ➔ Sept 2007: 7NG advisor Srey Sothea is quoted in a newspaper article as saying the company has removed 87 percent of residents and wants the rest removed.
- ➔ Sept-Dec 2007: One community resident was arrested and several faced charges laid by 7NG.
- ➔ 2008: Negotiations between the city, the company and the residents, and harassment against the residents, continue. Some families accept flats at the relocation site or move out.
- ➔ Jan 2009: Company makes a one-day offer of \$20,000 to families if they agree to leave. The first eight families to arrive at the company office get the money. Many other families arrive later but are refused. Police and company workers demolish Dey Krahom.

*For more detailed chronology see “Dey Krahom Land Case Explained,” LICADHO and LICADHO Canada at [www.licadho-cambodia.org](http://www.licadho-cambodia.org)*

\* Residents dispute this figure. They claim there were about 800 families living in Dey Krahom and the number was inflated to justify relocation.



## Nothing Left

Mrs. Dary\* has experienced a lot since her husband died from a whack on the head with a hoe during the Khmer Rouge era 30 years ago. But she made her way from her home province to Phnom Penh and with a “small piece of gold” she had saved, she

bought a seven by 21 meter plot in Dey Kraham, built a two-room wooden house with a metal roof, and made her living as a vendor. She raised three children. “I could make enough money to support my family that way,” she said.

But she never expected to be forcibly evicted from the home she owned and trucked to a relocation site about 20km from Phnom Penh in the relocation site known as Damnak Trayeung village.

“Now my life is very difficult. I have nothing to do at the relocation site. There is no water,” she said.

She lives in a one-room garage with a rolling shutter located an hour's drive from central Phnom Penh in a sea of low brick rows of flats and dirt roads.

The complex was built by TNG to house residents evicted from their homes in the capital.

Thousands more flats are under construction for an anticipated new flood of evictees from Boeng Kak Lake. Although many of the residents in the barren rows of flats are from Dey Kraham, some of the Boeng Kak Lake families have already arrived.

In the three or so years since the site was established, the village has sprouted some of the normal services you'd expect. There is a covered market where vendors sell food, clothing and other necessities, and it has a couple of small open air restaurants under its roof.

Several residents who were eating lunch at these restaurants said the site itself – which has clean air and space – would not be that bad except for a few major issues: no water, no jobs, no school and spotty electricity.

“It will be worse when more come,” said one man. “They can get by without electricity, but not without water.”

He estimated that about a third of the flats have water, but efforts to dig more wells have come up dry and most

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The entry road to the site is lined with former Dey Kraham residents – some unable to prove property ownership – living on mats beneath tarpaulins. They are hanging on to a fading hope that they may get new homes.

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to the city with her son. He needs to get there early enough to drive people to work. She carries a deck of cards and tells fortunes. For herself, she predicts she will go deep into debt and either lose the motorbike or have a lien put on her flat.

One of her new neighbors, Suong Vey, 58, wearing a checked krama in the hot sun, pulled out a few stained chairs for visitors, and explained how he and his wife left Dey Kraham in return for a flat at the relocation site two years ago rather than risk eviction with their four young children.

The family gets by earning 8,000 to 20,000 riel per day (\$2 to \$5) by running a tiny one-pot soup restaurant and selling a few sundries from their flat.

“The living conditions are getting worse because we don't have any jobs. We can't make what we made in Phnom Penh. We do sell some food.”

His teenage daughters no longer go to school.

With a roof over their heads and a meager income, they appear luckier than some.

The entry road to the site is lined with former Dey Kraham residents – some unable to prove property ownership – living on mats beneath tarpaulins.

They are hanging on to a fading hope that they may get new homes. According to their lawyers, about 23 families from Dey Kraham who wanted houses at the relocation site prepared a complaint to city hall in hopes of getting houses.

Other families gave up and decided to rent rooms in Phnom Penh or stay with relatives because they thought the site would be too far from any possibility of work.

The lawyer said the lead activists from Dey Kraham were not offered homes, because “if they were too activist, the company does not want them.”

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\* Name changed to protect the identity of the individual profiled.

# Rubber Plantation

## Kratie



*Village residents were surprised in July 2008 when they found their farmland in Snoul district was being cleared for a rubber plantation they knew nothing about. They protested and company workers dismantled the site. The case is now at the provincial criminal court.*

### The Case: Snoul district

- Type and purpose of concession: Economic Land Concession for agro-business.
- Development plan: Rubber plantation company by CIV Development Company.
- Date and size: The 769 hectare concession was signed by Kratie's governor on May 27, 2008.
- Area affected: Four villages in two communes of Snoul district, Kratie province.
- People affected: About 250 families in four ethnic Stieng villages – Meancheay, Krobai Cholroung, Kbal Lumpov and Dey Kraham – that have indigenous rights to the land.



### Living in Fear

Life's never been easy in this hardscrabble corner of Kratie province near Vietnam, but until last year Saren Keth and his wife had about everything an indigenous farming family would expect: a wood home, fruit trees, a river nearby and lots of communal land to ensure a future for their five children and their village.

Now he lives in fear of arrest or murder over a land dispute that is becoming increasingly frightening to him and his family.

Everything changed in his village in the 2008 rainy season when Mr. Keth and his neighbors found a big surprise in one of their fields: large yellow excavators clearing their cassava.

Without their knowledge, 769 hectares of their forest and farmland had been leased in May 2008 by the provincial governor to an agro-industrial company planning a rubber plantation. The governor signed away their livelihoods and their future in an Economic Land Concession without informing the 270 families in four villages with legal rights to the land.

Mr. Keth, 48, sat cross-legged on the wood bed beneath the home he and his wife built two decades ago and explained the community strategy. He became the leader because he had received training in Cambodia's Land Law while working as a community forestry activist. When the residents saw the

bulldozers he moved quickly to plan a strategy to regain control of their lands and called a meeting of four Stieng villages. He believed that if they stuck together they could fight the concession and win. He said one of the provincial officials offered him money to stop his activities. "The powerful people will try to break our solidarity one by one. Our struggle is for the benefit of the people, not money."

#### Divide and conquer

Bung Bho, 68, survived the Khmer Rouge, but said there had never been such a big problem in Meanchey village: "If they take the land, it's like taking the cooking pot away so we are united to ask for our land back. We will struggle until we win. I will die soon, but what will happen to the children?"

But after 10 months of meetings with village leaders, commune leaders, district officials and provincial leaders, several civil protests and letters to the national government, the residents of the villages have stalled the land clearing, but gained no ground in the battle to reclaim their fields. Worse still, Mr. Keth and three other men from another village face a criminal complaint of robbery and destruction of property charges filed against them by the company at the provincial court. The company also appears to be pursuing a



**Left:** Saren Keth took on the lead role of organizing four indigenous villages in Snoul district to fight to get their 776 hectares of farm land returned to them.

**Right:** Rath Kowet, one of five people originally accused of criminal charges following the joint village protest. He says he has no idea why he was summoned to court. Friends and neighbors said his name was picked at random.



strategy to divide and conquer by refusing to negotiate with all four villages at once. This is a common strategy employed by private interests and local authorities in land disputes, according to lawyers for the Community Legal Education Center (CLEC).

Because of his lead role in the protests, Mr. Keth no longer sleeps at home: he is afraid he could be arrested or killed. “I worry that there will be a moto accident or that a burglar will come to the house at night.” Such “accidents” have happened before to activists in Cambodia.

“I am making myself sick and anxious. I think and I think of how to solve this problem,” he said. “I shouldn’t have to be doing this all myself. It is the village chief and the commune leaders who should fight for us.”

Village and commune officials around the country complain that they often don’t, or can’t, get involved because they are beholden to the political party.

The company made the two biggest of the four villages an offer in March 2009 to return about 300 hectares, but the residents received nothing in writing and doubt the sincerity of the offer. Although the CLEC represents them on the criminal charges, there is no one to advise them in negotiations. Lawyers say that unless the land issue is resolved the criminal charges likely will hang over the men for years.

“It’s a real concern. These criminal charges in civil land disputes are becoming common. It’s a new way of

intimidating and threatening village residents,” said Yeng Virak, CLEC executive director.

The four men’s lives are on hold. They live in fear of arrest. And no one is sure how long the four villages can withstand the pressure from the company and court.

Besides Mr Keth, there are three other accused, being Van Vy, 36, Rath Kowet, 23 and Chheun Chan, 32.

Mr. Kowet said he used to travel freely around the district taking odd jobs but is now afraid to leave for fear of the police and the legal system – the very system that is meant to uphold protections for people. He spends his days hanging out in his tiny village watching others play volleyball. He is engaged to marry, but is unsure of the future. He lives with his parents and is unclear when that might change. “I am worried because I haven’t made any mistakes. I just went with other villagers to stop the bulldozers and then they accused us,” said Mr. Kowet.

## Rubber boom

Rubber trees thrive in the red soil of northeast Cambodia and in recent years plantations owned by foreign and local investors have cropped up all along the main highway leading north from Kampong Cham to Laos.

The Kratie Governor signed several Economic Land Concessions in 2008, after the national government authorized provincial authorities to sign relatively small land concessions under 1,000 hectares. This right has since been removed, and provincial governors no longer have the authority to issue concessions.

The Governor leased 769 hectares of indigenous lands in four villages to CIV Development Company on May 27, 2008. The ELC did not comply with either the 2001 Land Law or later sub-decrees that protect indigenous lands and was illegal on multiple grounds, said CLEC lawyers.

They said the ELC violates the provisions of the Land Law that protect indigenous lands by barring their conversion to private land. It also violates provisions of the 2005 Sub-Decree on ELCs that are supposed to protect indigenous people’s rights to their ancestral lands by including them in the consultation process and conducting social and environmental impact assessments before a concession is granted.

The company’s impact assessments consisted of consulting only with officials, not the residents, according to the village people and their lawyers.

The lawyers said the criminal charges of robbery and



destruction of property against the three men were fabricated, but will no doubt remain on the books, hanging over the men as a threat until the land dispute goes away, which could take years.

The UN Office of the High Commissioner for Human Rights and Amnesty International are tracking the case, and Cambodian human rights NGOs have sent monitors several times since July 2008 to monitor events.

A deputy secretary of the Kratie provincial cabinet defended the land concession, saying the government would like the indigenous people to give up their land, integrate economically and work for the new rubber plantation.

“We want them to work with the companies in their areas. But the villagers have a habit of not wanting to be laborers. So the workers for the companies usually come from elsewhere,” the official explained.

The Snoul villagers don’t believe they would be offered jobs, but regardless they want to keep the land that they are legally entitled to. “According to the experience from other places they promise [jobs] at the beginning, then they give

work to others, including the Vietnamese,” said Red Earth village Chief Yochtha.

Heang Foukhay of the CIV company said in an interview he wants to settle the dispute and although he would rather buy the land from the villagers, he would agree to let them keep a certain amount of their “old fruit trees.” He blamed the problems on Kratie provincial officials for understating the number of families living on the land. The contract said only 48 families lived there, when 250 families live there.

He said he also represents a Korean investor (Grow West Group) that received a much larger concession from the Ministry of Agriculture, Forestry and Fisheries: 9,996 hectares for a rubber plantation across the highway from this one. He said he wants this case resolved so he can move ahead with the larger project, which he said may also lead to disputes.

The village residents staged their first protest in October 2008, three months after first finding bulldozers on their land in July. Before this, they followed all the conventional channels of requesting meetings: first with their village chief,



then commune, district, provincial and national officials, before holding their first civil protest at the site. Five monitors from human rights NGOs (ADHOC, LICADHO and Sor Sor Troung) were present. The charges from the company were filed a few days after Mr. Keth spoke at a news conference in Phnom Penh about the loss of their land.

## Criminal charges

Although there was no indication that villagers touched the company's property, on October 18 five men were initially summoned.

One was a ghost name, someone who did not exist; another was a man who neighbors said was home with his wife who was giving birth the day of the protest, and the others were: Mr. Vy, accused because he agreed to write a list of the people attending the protest; Mr. Saren, because he was known to be the leader, and Mr. Rath, who his neighbors think was chosen at random.

The robbery charge stemmed from the company's claim that the villagers stole 10 million Cambodian riel (\$2,500) stuffed in a bag hung from the roof of one of the tents.

About 200 villagers made the hour long trip to the court with Mr. Vy, Mr. Saren and Mr. Rath, but the court shut the doors when they arrived and cancelled the hearing, and provincial officials refused to meet them.

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“Criminal charges in civil land disputes are becoming common. It's a new way of intimidating and threatening the village residents.”

Yeng Virak, CLEC executive director.

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The court prosecutor said he couldn't meet with hundreds of people. “They can come to court with their lawyers,” he said. But a representative from ADHOC said the risk of arrest is very high if villagers go alone without the support of others in the community. “It has been the case when they call villagers to explain [charges] they put them in custody.”

The prosecutor denied the charges were brought to intimidate the residents, but said the robbery charge sounded peculiar to him because no one would keep “this much money in a small bag.” He indicated the charges could be lessened or dropped.

However, he no longer handles the case; it has moved up the legal chain to the investigating judge, who can reactivate it at any time.

*Company work sites in Snoul district where a rubber plantation developer received an Economic Land Concession from the provincial governor in 2008 without the knowledge of residents.*





## Unwritten Rules

Van Vy squatted on the wood floor of the open air community center in this mud caked village called Dey Kraham, or “Red Earth,” and pointed to the bamboo drum hanging from the rafters. His neighbors will bang the drum if police come at night to arrest him for interfering in plans for the new rubber plantation on the village’s land.

The 36-year-old farmer – who married a Stieng tribe woman to become an “indigenous spouse,” as he calls himself – is a target in one of Cambodia’s dozens of land cases in which authorities are now using criminal charges to pressure village residents to give up when their land is earmarked for agro-investment.

Although he faces being jailed for joining a peaceful village protest in October 2008, he and the villagers hope their solidarity will see them get their land back.

“If they try to arrest him they will have to arrest all of us,” said one of his neighbors. The 595 residents of the village are outraged over his predicament.

“Because the other villagers didn’t know how to read or write, they asked Mr. Vy to write down their names on the list of protestors,” said Aek Lay, 65. “Nobody appointed him a leader [of the protest]. They just asked him to write down the names.”

Village chief Yoch Tha said he can’t attend protests himself because it would get him in trouble with provincial authorities. But his wife participates. “The people will help him [Mr. Vy] because the land belongs to all of us,” he said.

Deep in the bush on a rutted dirt road far off the main highway, the village is six kilometers from Vietnam, which is investing heavily in rubber in Cambodia. Mr. Vy

moved to the district to work on a rubber plantation and came to the village when he married his wife, an ethnic minority Stieng woman two years younger than him. They have three daughters. “We are poor. Some of the villagers don’t have any land. That’s why we have to protect what is ours,” he said. “The authorities don’t understand about the indigenous people who don’t have education and opportunities and just live in the forest.”

The indigenous people don’t want to work for a rubber plantation, he said.

Mr. Vy wants to increase his crops to include potatoes, but almost half his village’s land, which is indigenous communal property, has been cleared. “The World Bank has \$20 million to give Cambodia to reduce poverty, but the government is making poverty worse than before. I would like the donors to have a look at the rural areas to see the money is making them poorer and poorer. Before we were owners of land; now we will become slaves to it,” he said.

His father-in-law, Yoich Soot, 67, said the village is solidly behind his son-in-law. “We have very good

solidarity since our ancestors’ time. This is our tradition as a minority group. The people who live here are the same as when we grew up.”

Even though the residents’ land has not been titled yet, Cambodia’s Land Law has provisions to protect the rights of indigenous people to manage their traditional lands free from outside interference before registration. However these management rights are not respected by authorities and companies, thus making indigenous lands susceptible to unlawful land grabbing, explain lawyers at the Community Legal Education Center.



*Van Vy and his family at their home in Snoul district.*

# Crackdown

## Siem Reap



*Injured farmers were tied to poles after being shot and beaten on March 22, 2009 in a violent crackdown.*

### The Case: Chi Kraeng commune, Chi Kraeng district

- Five-year dispute over 475 hectares which escalated in December 2008, with the arrest and jailing of three community leaders and one journalist who had been helping them write complaints to the national government.
- Four farmers shot, 43 detained in violent crackdown on rice fields in adjacent commune on March 22, 2009. Chi Kraeng farmers say they cleared and have been farming the land since the late 1980s and that it was taken from them following improved irrigation that increased rice yields and value of the land in 2004-2005.
- Farmers fled to Phnom Penh on foot after the shootings and sought direct intervention from Prime Minister Hun Sen.
- They reported increased harassment and intimidation by municipal police the longer they remained in the capital.



### Dash for Safety

They began arriving in Phnom Penh on March 26, 2009 huddling inside the gate of the Cambodian Human Rights and Development Association at about 2pm to seek advice and help writing a complaint to deliver in person to Prime Minister Hun Sen.

Initially there were 43, but over the next week the number rose to about 100. The first to arrive had spent the previous four days fleeing Siem Reap on foot in small groups, hiding from police and soldiers by sleeping in forests for three nights till they arrived in the adjacent province of Kampong Thom.

“We dared not go near villages because we were afraid of being arrested or shot,” one resident said. He and 10 others had fled to a rice field adjacent to Chi Kraeng commune, where about 100 armed police began opening fire on about 80 farmers at about 9.30am on March 22, by following a brook and hiding inside the bushes along its banks. Four farmers were shot during the crackdown and 43 were detained, according to human rights groups.

During their escape from Siem Reap, residents said they received constant phone calls from provincial police

who promised they would not harm them if they turned themselves in. “We didn’t believe them because they had been shooting at us,” one resident said.

### Alleged land grab

The shooting followed a five-year dispute over 475 hectares of dry-season rice fields on the edge of the Tonle Sap Lake that soared in value following the installation, in 2004-2005, of a water gate from a reservoir built during the Khmer Rouge regime. Ownership of the water gate (which provides water to 92 hectares of land) was granted to local businessmen who, according to investigations by ADHOC, Legal Aid of Cambodia and other NGOs, have close ties to district and provincial officials.

The Chi Kraeng farmers say they had been repairing the water gate before the businessmen were granted ownership of it. The businessmen subsequently sold sections of the suddenly valuable rice fields to farmers and officials from outside the area, including well-connected businesspeople in Siem Reap town, according to investigators.





The sales to the Siem Reap town businesspeople occurred about two weeks prior to the shootings, investigators say.

The Chi Kraeng farmers, who comprise 175 families, cleared the land in the late 1980s, have been farming it since then, and say it has been stolen from them. Since March 22 the land has been under guard by armed soldiers and police, and residents of their villages say they have faced daily harassment from police.

## Visiting the Prime Minister

After crossing the border into Kompong Thom the farmers regrouped, pooled their money, and travelled by minivan-taxis (6,000 riel, or \$1.50 per person) to ADHOC's Phnom Penh office. After thumb printing the complaint they tried to deliver it in person to Prime Minister Hun Sen at his estate about 30 minutes from the city's center, in Kandal province. They arrived at the entrance of the lane leading to the estate at about 5pm on March 26.

One of human rights investigators accompanying them noted: "This is the best time to arrive". He explained that people are more likely to get help when they arrive late in the day, hungry and with no money.

"How can we live without our land? If I lose my land I cannot live," said Mr. Ban Yi outside Hun Sen's compound.

The 50-year-old farmer said his two hectares yield six tons of rice. (Yields on the land are 50 percent higher than the national average of 2 tons per hectare and because the rice is a dry season crop it can be sold when prices are rising, farmers say.)

As is common in rural Cambodia, farmers are often heavily in debt by the time their rice is ready to harvest, mainly from borrowing to buy seeds and fertilizer. If they cannot harvest they are often driven to moneylenders who charge crippling interest rates.

Their heavy debts and their inability to repay them helped fuel the Chi Kraeng farmers' desperation for immediate intervention from the prime minister, they said. "Hun Sen does not know about this dispute, but by coming here he will find out. He will solve our problem. I know people come here to tell Hun Sen about their problems and he solves them. He will solve ours," Mr. Yi said.

Another human rights investigator said it was the farmers' decision to petition the prime minister for personal and immediate intervention. "Hun Sen is like god to the people. They believe that if he knew what was happening he would solve their problems," he explained. "They get their information from state TV, which always shows Hun Sen solving problems. They never hear about all the problems he doesn't solve," he added.

*These photos of two farmers hospitalized after the crackdown have been widely circulated throughout Chi Kraeng commune. Police tried to prevent taking of the photos and later tried to confiscate them.*

**Left:** Mr. Loun Mein, 29, was shot in both legs.

**Right:** Mr. Duey Khom, 33, was shot in the right buttock and beaten on the left side of his head.



At the entrance to the prime minister's estate, assistance - or at least the appearance of it - was swift. A guard made a call and within 15 minutes an official arrived to meet the farmers who were sitting huddled, nervous and bewildered on the ground before him.

He politely accepted their petition, wished them good luck, and graciously arranged transportation to a nearby pagoda (Som Roun Pagoda) where, he told them, they would be able to sleep and find food while members of the cabinet sought a resolution to their problem. He also assured them that they would be protected overnight by members of the prime minister's bodyguard unit (Hun Sen's estate is said to be surrounded by barracks housing about 1,000 bodyguards) and said he would meet them later in the evening to discuss their case. The farmers were elated.

"I believe our case is now 95 percent resolved," said Mr. Yi.

However, a vendor operating a nearby stall was less buoyant about the quick response, describing it as routine. "After [the groups] arrive here an advisor comes to meet them quickly and tells them to move to another place and promises they will send someone to solve their problem," the vendor explained. "Sometimes there are as many as three groups a day," the vendor added. "They come from all over the country, all 24 provinces."

The ritual-like visits to the prime minister's estate of farmers facing the loss of their land (as well as low-income urban residents facing eviction) started rising in 2006,

accelerated in 2007 and 2008 and have shown no sign of declining this year, the vendor said.

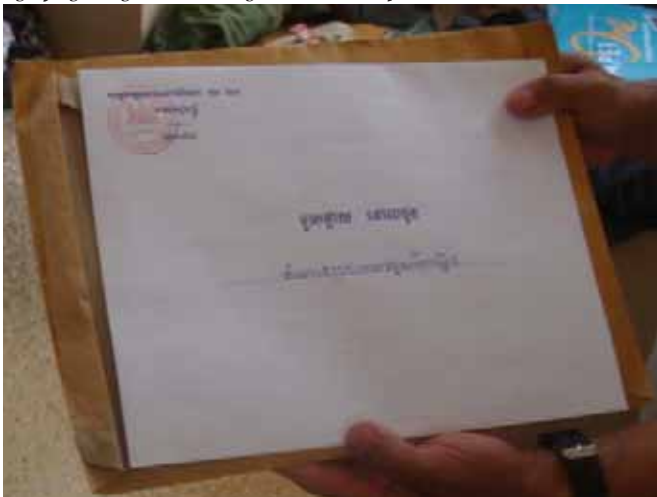
### Pagoda eviction

The farmers' elation began diminishing when the abbot told them they might only be able to stay one night, there was no food for them, and neither the official who met them at the gate nor the guards he promised arrived that night. They were crestfallen following the first visit the following morning by a member of the Cabinet. "He did not ask about our troubles or difficulties, he just told us to go home," one of the community members, Mr. Thong Sareth said. "We told him we will not return to Siem Reap unless they give us a letter from Hun Sen guaranteeing our safety and that we will not be shot."

Monks at Som Roun Pagoda said on average two or three groups seeking the prime minister's intervention in a land dispute arrive every month, that they come from every province and generally stay one or two nights while they await a resolution. A novice monk said the longest he had seen a group stay at the pagoda was one week. "If the authorities tell them to go, they have to leave, but monks would never [willingly] tell them to leave," he said.

By mid afternoon a low-ranking Cabinet member arrived at the pagoda about 15 minutes after his bodyguard did. He assured the farmers they would be safe if they returned to

*Chi Kreang resident, Mr. Thong Sareth, receives a letter from a member of Hun Sen's Cabinet that purportedly guarantees the safety of the farmers who fled Siem Reap.*



Siem Reap, that “the case was suspended,” and there would be no more arrests. “Go home,” he told them after handing them a letter that he assured them guaranteed their safety.

However, he also admonished the farmers, as they sat on the ground in a semicircle around him, telling them that they had claimed on their complaint to the prime minister that 175 families were affected, but when officials visited them they discovered that fewer than 40 people were present.

“There have been many similar cases in the past and you did not show up when the government was providing the people with a chance to discuss them,” he told them. “You

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“We don’t want an investigation after we’ve been killed. We want the government, NGOs and reporters to keep an eye on us and intervene.”

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#### Chi Kreang farmer

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had your chance and you didn’t show up,” he reiterated, without mentioning the time, place and venue the farmers had failed to attend to seek a resolution. “If you need help go to an NGO,” he told them before wishing them luck and success in their case.

He spoke to them like they were children, one observer noted. Still, Mr. Sareth said he felt “warm” when he received the letter. Although the envelope was unsealed, he would not even open it to read its content because, he explained, the official had told him to deliver it directly to Siem Reap authorities.

Soon after they had been told to leave the pagoda, they began receiving phone calls warning that provincial police were threatening their families. These reports of threats were confirmed over the next few days by the steady stream of residents from their villages seeking safety in Phnom Penh. Moreover, the legal advice they were urged to obtain from NGOs suggested the official letter was not as helpful as they had been led to believe.

The farmers sought more assistance from NGOs and took part in a press conference at LICADHO’s office on March 30, in which they expressed fear for their safety. “We don’t want an investigation after we’ve been killed. We want the government, NGOs and reporters to keep an eye on us and intervene,” Mr. Sareth told the handful of reporters who showed up.<sup>3</sup>

The next day they visited the Land Dispute Resolution

office and on April 1 they marched from Independence Monument to the National Assembly to call for the release of the nine jailed farmers, permission to harvest, and the arrest of the police officer and soldier who had fired on them. However, one week after their visit to the prime minister’s estate, a Member of Parliament with the ruling Cambodia People’s Party, denied the government knew about the case. The MP told *The Cambodia Daily* that the government had only received the complaint that morning.

By then the farmers who had fled Siem Reap were finding it increasingly difficult to find refuge in Phnom Penh. They had been driven from Hun Sen Park, where they had tried to sleep, on March 29 by municipal police and were beginning to feel the capital was becoming an increasingly dangerous city in which to seek assistance.

“We don’t want to stay in the city because police and military are chasing us around,” one farmer said. The 55-year-old farmer said, however, that they had no other option because of the severity of their situation. Without their land they could not survive, he said.

The farmers sought refuge at Ounalum Pagoda on March 30 but by April 10 they were ordered to leave it. “The order came from the government,” a monk who had been helping them said.

Venerable monk Sovath Loun, actually from Chi Kreang, but who relocated himself to Ounalum Pagoda after the crackdown, said he was ordered to stop assisting the farmers and instruct them to return to Siem Reap. By mid afternoon all but four had left.

Some were afraid to return to Siem Reap and remained in hiding.

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“After [the groups] arrive here an advisor comes to meet them quickly and tells them to move to another place and promises they will send someone to solve their problem. Sometimes there are as many as three groups a day. They come from all over the country, all 24 provinces.”

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**Vendor near entrance to  
Prime Minister Hun Sen’s estate**

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<sup>3</sup> Editors at some Cambodian newspapers say they are overwhelmed with reports on land disputes and lack the staff to investigate all of them.



## “What law did I break?”

A monk who compiled videos and photographs of a violent crackdown on farmers’ attempting to harvest rice on disputed land in Siem Reap province, as well as the aftermath, faced intense pressure from district police to turn over his VCDs.

Venerable monk Sovath Loun (whose older brother and nephew were shot during the March 22 crackdown: the former in the left knee and shoulder and the latter in both thighs) said that at one point during his negotiations with district police they warned him that if he did not turn over his videos and photographs the military might storm his pagoda in Chi Kraeng district, Siem Reap, to seize them.

The videos and photographs, including many of gaping wounds and doctors trying to treat them, as well as bleeding farmers beaten unconscious and tied together in rows, were first shown to about 20 monks, nuns and laypersons at Sleng Pagoda in Chi Kraeng district on March 29, 2009. The videos blend footage of the crackdown taken by one farmer (who had hidden a video-equipped cell-phone under his hat) with the monk’s cell-phone video footage from the hospital, a Khmer-language radio report that had been broadcast on Voice of America, as well as his own text and photos.

The first of several police officers to visit the pagoda arrived on March 30, the monk said. The officer had been instructed by the district chief of police to find out how many VCDs had been made and to take them, Sovath Loun said.

“I asked the officer ‘what law did I break?’” he recalled. He broke the silence that ensued by enquiring further, “Do you want to borrow it or do you want to take it?”

“This is my property. I have not edited it. It is real, not fake. If you want to borrow it you can, but if you want to take it you can’t,” he added. The officer opted to relay the choice to his superiors, the monk said. Over the next few days several officers and district officials visited him at the pagoda and the district hospital. They told him to stop taking photos of the injured farmers, turn over his VCD and, during the second visit to the pagoda, asked him to sign a letter pledging not to disseminate the images, the monk said. He replied by saying they could have the VCD if they signed a letter promising to resolve the land dispute and bring those who shot the four farmers to justice.

“If you don’t give us the VCD you might have to deal with the military,” Sovath Loun quoted an officer as warning him. “The military might attack the pagoda to seize it,” the officer told

him. “What law did I break?” the monk asked again.

The next day the district governor arrived at the pagoda and sent a layman to ask the monk to turn over the VCD, Sovath Loun said. He gave one to him, but by this time he had distributed about 100 copies throughout surrounding villages and had widely transmitted the videos and images via cell phone, while the one from the farmer was uploaded onto the Internet by human rights organizations based in Phnom Penh.

The next day he left his pagoda and went to Phnom Penh. “My heart was too heavy to remain in Siem Reap. I came here to try to regain my peace of mind,” he explained at Ounalum Pagoda. Sovath Loun said he has been struggling to regain his peace of mind at the pagoda, especially after he was instructed to order the about 100 farmers from his district who sought refuge with

him to leave the temple and return to Siem Reap on April 10.

The order came from an official who identified himself as a representative of the government and the Supreme Patriarch, he said. The official arrived at the pagoda in a silver Lexus at about 7am on April 10, told the monk to stop providing food and shelter to the Chi Kreang farmers and tell them to return to Siem Reap that day, Sovath Loun said.

The official told him the farmers were damaging the image of the government, the reputation of the Supreme Patriarch and the order of the Pagoda, Sovath Loun said.

During the 30 minute conversation that ensued, he tried to explain to the official that his claim that the farmers were “disturbing the pagoda” was false. “I kept telling him that no monks had complained while the farmers stayed at the pagoda,” he said.

“Instead, I told him we were giving them food and blessings. We felt great sorrow for them.”

The official could not be swayed and after he drove off in his silver Lexus the monk had to tell the panicked farmers to leave the pagoda.

By mid afternoon all but four had left to return to Siem Reap in crowded minivan-taxis that cost 10,000 riel (\$2.50) per person. Monks paid for those who could not afford tickets, Sovath Loun said.

“There is no truth in [state-run] media,” Sovath Loun said, explaining his motivation for compiling and disseminating videos. “Soldiers and police have guns for protecting people not shooting them,” Sovath Loun said calmly, before beginning his evening meditation. Two days later he left the pagoda to paint murals on the inner walls of another pagoda in the countryside.



# Enter the New Year

Between Khmer New Year (mid-April) and mid July 2009, there was a spate of land disputes, evictions and eviction notices, as well as arrests and acts of intimidation related to them. Barely a day goes by without Cambodia's English-language press reporting on a land dispute. These reports echo data from NGOs monitoring land disputes, which show that despite rapidly declining property prices and mounting international criticism, forced evictions are increasing in Cambodia.

## Back to Basics

Thirty-seven families were forced to move from a building near the Lycee Francais Rene Descartes School for an expansion of the French language institution in the first week of May. Officials say most of the families accepted compensation, but about 10 had not accepted by May 6 and were asking for assistance from the French Embassy in getting proper compensation. They faced an eviction deadline of mid-May. The families later accepted compensation offers that were reportedly valued at between \$5,000 and \$10,000 per family, depending on how long they had lived in the building. Some families had requested much more. Families also were offered 8 by 4 meter plots of land.

### Forced eviction

Location: Daun Penh District, Phnom Penh  
People affected: About 37 families  
Company: Lycee Francais Rene Descartes School

## Lives at Risk

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“I wonder if they want us to move there so that we die more quickly.”

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In June and July 2009, the Phnom Penh municipality relocated some 40 families from the Borei Keila community near the city's Olympic Stadium, to make way for a new Ministry of Tourism building. The

### Social Land Concession

Location: Near Olympic Stadium in Phnom Penh  
People affected: 47 families  
The 2003 concession was intended to be a land-sharing arrangement between Phanimex, a private developer, the Ministry of Education, Youth and Sport, and residents. The agreement gave the developer 2.6 hectares of the land for commercial development, in exchange for constructing new housing for more than 1,700 residents on two hectares. The remaining 10 hectares were to be returned to the Ministry of Education, Youth and Sport.

Further information: Amnesty International: “Borei Keila - Lives at risk” ([www.amnesty.org](http://www.amnesty.org))

families, most of whom have at least one member living with HIV/AIDS, were sent to Tuol Sambo, a remote relocation site in Dangkor district 20 km from the city that lacks medical services, drinking water, and employment opportunities.

The Tuol Sambo resettlement site fails to meet the minimum requirements for emergency refugee camps, according to Doctors Without Borders. The site lacks drinking water and adequate sanitation facilities. Residents are crowded together in oppressively hot metal sheds, where it is difficult to properly store the antiretroviral drugs those living with AIDS need to survive.

“I wonder if they want us to move there so that we die more quickly,” said Seang Vy, 32, who is blind from opportunistic disease as a result of HIV.

The housing at the resettlement site in Dangkor district is distinct from other homes in the semi-rural area because it is made of green metal sheets. The enclave is already being referred to as “the AIDS village” by residents living in the area. The families say they face discrimination and stigmatization and are struggling to make ends meet since losing their jobs in Phnom Penh.

Just two months after their eviction, residents at Tuol Sambo reported that their health was deteriorating and many were losing weight from lack of food, inability to properly store their medication and obtain regular medical care, and stress caused by loss of their former livelihoods.

### Final Notice

On April 20, 2009, the Phnom Penh Municipality distributed a final eviction notification to a community of about 80 families known as Group 78 who live on the riverfront in central Phnom Penh adjacent the site where the new Australian Embassy is being constructed. The notice gave them 15 days to move or face destruction of their homes. It was the sixth eviction notice issued to the community since 2006, none of which have been based on a court order, as required by Cambodian law, according to Amnesty International.

On May 19, the municipal court dismissed their request for an injunction blocking their eviction. CLEC lawyers were not allowed to present evidence such as land possessory documents at the hearing. They are appealing. Deputy Municipal Governor Mann Chhoeun has said he will not evict residents until the municipal court issues a verdict.

The families started moving into the area in 1983. Since then the value of the land has soared to over \$15 million, according to an independent land appraisal in March 2009. The remaining 64 families are currently being offered a total of \$8,000 each. The municipality has provided different reasons for evicting the community, ranging from beautification of the city to claims that the families are illegal squatters. The latest notice says the land is privately owned by Suor Srun Enterprises (no evidence has been given). The families have applied for formal land titles several times, but their applications have been rejected without reason, even though they have official documentation proving strong ownership claims under the Land Law.

In 2007 more than 20 families left Group 78 for Andong, another resettlement site, after threats and harassment from local authorities. However, they found they could not make a living at the resettlement site, and returned to the city as squatters, living in tents or under tarpaulins around the area.

#### Group 78

Private development

Location: Central Phnom Penh, near riverfront, adjacent site for new Australian Embassy

People affected: About 80 families

Company: Unclear (The eviction notice from the municipality accuses the residents of illegally occupying land belonging to Suor Srun Enterprises, but the Phnom Penh Post quoted an assistant to the company's owner, Suor Phengm, as saying the company had given the land to the municipality. Sour Phengm is an Ohkna and had, along with Prime Minister Hun Sen's eldest daughter, held a controlling stake in the now defunct First Cambodia Airlines Ltd.)

### World Heritage Site

Residents of two villages near the Preah Vihear temple near the Thai-Cambodia border are being evicted as part of a preservation plan for the temple. Landmines are being cleared from 4,000 hectares of land to build a new village for them 20 km away. They have been offered plots of land measuring 50 by 100 meters, construction materials and \$500 each. About 50 residents came to Phnom Penh to protest in front of Prime Minister Hun Sen's house on May 4, 2009, saying local authorities were trying to grab their land, which is increasing in value as tourism grows in Cambodia. They were told to go home. They brought with them a complaint carrying 209 thumbprints. A Council of Ministers spokesman defended the evictions, saying the area is now a UNESCO World Heritage site.

#### Involuntary relocation

Location: Preah Vihear province

People affected: 60 families from Kor Muy and Prasat villages



## Not Poor Enough

Kratie authorities removed the dwellings of 130 families living on land earmarked as a social concession for poor people. The authorities are removing all homes in the 4,000 hectare area in Chang Krang and Sambok communes and are relocating the residents. District governor Suon Nhak said 100 of the families had already agreed to move to 20 by 40 meter plots about 1.5 km away.

Social Land Concession  
Location: Kratie province  
People affected: 130 families  
in Chang Krang and Sambok  
communes  
Government, German  
development agency GTZ

Families say they were given 10 to 15 days to vacate, though authorities and GTZ (German development agency) say they were warned well in advance that the land had been set aside for poor families. The social land concession is a pilot project intended to lift poor, landless people out of poverty. It is being implemented by the government with a World Bank loan and assistance from GTZ. The families being relocated were not poor enough to qualify for the program, authorities and GTZ have been quoted as saying in media reports. Some families have complained that their request for more time to move was ignored and that their homes and crops were destroyed.

## Arrests in Kampot

Six men were summoned for questioning in May 2009 by the Kampot provincial court in a land dispute with the So Nguon agro-development firm. The men want some of their 9,800 hectares of land granted to the company returned to them. Provincial prosecutor Top Chhun Heng confirmed an investigation is underway. The land dispute dates back to 2005 when the company was granted an ELC. So Nguon, director of the company, says the men arrested were former employees of his who he fired for selling land belonging to the firm.

Type of case: Economic Land  
Concession for eucalyptus  
plantation  
Location: Kampot  
People affected: Farmers  
Company: So Nguon company

## Off the Rails

The 18 families in Community B adjacent to the Phnom Penh train station faced eviction on May 11, 2009, according to a directive signed on April 29 by the District Governor Seng Ratanak. Residents were offered compensation of 10 million riel (about \$2,500) each and homes at a relocation site in Dangkao district by a development company. However, the community, along with Dey Kraham, Train Station Community A and Borei Keila had been chosen by the Phnom Penh Municipality as sample sites for a land sharing project, according to a November 2008 report submitted by the Cambodian government to the UN Committee on Economic Social and Cultural Rights. "These [land sharing] projects help the communities to build houses on their legally owned land," the report to the UN committee said.

Train Station Communities A  
and B  
Social Land Concession  
Location: Phnom Penh near  
train station  
People affected: 18 families

# Muddy Rivers

## Hydropower on the rise

The troubling thing is the fish, said Chaoch Antaa, who lives along the Sesan River in northeastern province of Stung Treng. They are harder to catch.

“We are seeing many fish species decline and the fish spawn has also declined,” explains Mrs. Dan, a petite 45-year-old woman who acts as a village representative for Ban Mei village, Kampoun Commune in Sesan district of Stung Treng.

“This river is our life. The people here are dependent on the river, the fish, the trees. It’s the same for all the communities who live along the Sesan and Sekong.”

In varying degrees, residents along the Sesan and Srepok rivers say their clear blue rivers have turned turbid and brown. Some communities experienced sudden unexpected surges in the water levels of as much as a meter high. As villagers watched their pigs and poultry carried away in the floods, and their rice paddy and vegetable fields flooded, many have moved away. Until recently, they didn’t know that the changes in their river were the result of the large Yali Falls hydropower dam built upstream in Vietnam.\*

“I was surprised,” said Sim Dan, 45, a fisherman who lives

along the Sekong River. He said residents in his village of Yang Sum, in Tmor Keo commune of Siem Pang district in Stung Treng have worried about the increasing muddiness of the water and declining fish stocks for a decade, but they didn’t know the reasons.

Damage to the river they depend on is likely to increase as construction of another dam upstream nears completion, experts say.

“It was good quality water, and now the water has become brown. We didn’t know until now about the dams,” he said at an NGO Forum workshop in Phnom Penh in 2008 to disseminate information about the impact of dam building on the “Three S rivers.”

### Three rivers converge

The Three S rivers are the Sesan River, the Srepok River and the Sekong River. The Sekong is the largest tributary of the Mekong, and the Sesan and the Srepok flow into it in Stung Treng province. In Strung Treng town the Sekong finally converges with the Mekong.



**Left:** The Kamchay Hydropower dam in Kampot province is expected to be completed in 2010. Its reservoir will flood protected forest home to endangered species.

**Right:** Riverbank erosion along the Sesan River in Andong Meas district, Rattanakiri. About one-fifth of the people living along the river in four of the province’s four districts had fled for higher ground, a study found.

\* Declining water quality and fish stocks in the Sekong River that residents have noticed over the past decade are also the result of mining projects and deforestation.

The Sekong has its origins in the highlands of Vietnam, then flows south through Laos and into Stung Treng where it reaches the Sesan and Srepok. The rivers support the livelihoods of tens of thousands of people in Vietnam, Laos and Cambodia, including many indigenous groups that live along the banks.

Several new dams are under construction or planned upstream along the rivers in Laos and Vietnam, and the impacts are disrupting villages in Ratanakkiri and Stung Treng provinces.

“We are facing a lot of projects and we have to be considering the combined impact across the [Sekong River] Basin,” Richard Friend of World Fish said.

“It’s not about dollars; It’s a way of life. It’s about food,” according to Canadian human geography researcher Ian Baird, explaining that many of these river villages are a few days walk from a market, and if there is no fish, residents must walk to the market to buy goods. “Their lives depend upon the river.”

## Surges on the Sesan

A 2006-07 study in Ratanakkiri found that 772 families comprising 3,545 people from 17 villages and eight communes located along the river’s four districts have

abandoned their homes along the Sesan River to move to higher land. Most of the families are indigenous people. The group that left represented about a fifth of the river population of 4,071 families in 56 villages and 14 communes of the four districts living along the Sesan River in Ratanakiri province.

The study, *Abandoned Villages along the Sesan River in Ratanakkiri Province* reported that the people were moving away because flooding was destroying their rice paddy and vegetable gardens and because sudden surges in water levels were frightening. The fish catch was declining due to the changes in the river, and people complained about food shortages.

The surges are caused by releases from new dams upstream in Vietnam.

On February 8, 2009, three villages in Ratanakkiri province’s Vuen Sai and Andong Meas districts reported a one-meter rise in the level of the river, which became “unusually turbid,” according to the Sesan, Srepok and Sekong Rivers Protection Network (3SPN). Spokesman Kim Sangha said the surge was caused by tests at the new Sesan 4 dam in Vietnam.

Thun Bunhean, from Deilo village in Lumpat district in Ratanakkiri, said once the water flowed so fast that “my villagers and I could not have enough time to prevent our cows, pigs, chickens and ducks from being carried away by the water... and now we have nothing to eat.”

## Flooding on the Srepok

Representatives in Stung Treng province have also been experiencing unnatural flooding. The News Mekong service ([www.newsmekong.org](http://www.newsmekong.org)) reported that flooding comes two or three times a year along the Srepok River.

Chao Chantha, 46, said that the floods have been occurring since 2004 and in her village in Banmei, many families have moved out. She said some families have stayed even though their fields are flooded two or three times per year.

## Cambodia’s Dam Plans

As Cambodia struggles to find new sources of electricity, it has launched its own hydropower projects on rivers all around the country, and the experiences of the people in Stung Treng may be a forerunner of what is to come in other areas of Cambodia.

Chinese companies and state banking entities are financing much of this hydropower investment, a result of Cambodia’s





gradual strengthening of its relationship with China. A large dam is being built in Kampot by Chinese company Sinohydro Corp. partially with Chinese aid to Cambodia. International Rivers, which has studied that project extensively, says the Kamchay hydropower project's reservoir will flood 2,000 hectares of Bokor National Park.

Another project known as Stung Atay is also under construction in the Cardamon Mountains in Pursat and is expected to flood a substantial area of protected forest. Memorandums of understanding have been signed for three other dams in Koh Kong.

The Ministry of Industry Mines and Energy (MIME), which sets government policy for hydropower, also has preliminary

plans to build a hydropower dam on the Mekong in Sambor in Kratie province within 10 years. A memorandum of understanding has been signed with a Chinese company.

Ith Praing, Secretary of State for MIME, has said such a dam would be a "historic achievement as the first big dam in Cambodia." The government also has an apparent memorandum of understanding with Electricity of Vietnam to develop feasibility plans for two dams on the Sesan.

The Ministry of Environment is responsible for ensuring that environmental impact assessments for the projects are carried out. But in part due to a lack of proper sub-decrees regarding public participation, it is difficult for the ministry to carry out proper assessments.

### Who benefits?

The Cambodian government is betting that a rapid boost of hydropower will fuel economic growth and expand electricity to rural areas. It also sees an opportunity to sell large quantities of electricity to neighboring countries. As a result, massive hydropower dams are being rapidly promoted: five are at various stages of construction and 13 more are in the planning and review stage.

To attract investment, the government has been offering guaranteed power revenues risk-free to Chinese companies willing to finance, build, and then sell output to the state utility, Electricite du Cambodge. However, the livelihood of people living near and downstream of the dams is under threat, and they have yet to be guaranteed compensation for losses. Moreover, they may not even have access to the electricity these dams will produce. These already marginalized communities could be driven further into poverty.

Who are the beneficiaries of these dams? Will the economic benefits of these projects outweigh the damage done to communities who depend on healthy rivers for their livelihood and food security? It remains unclear who will actually benefit from these projects and where the revenues from the dams will flow.

The government has stated that it is committed to reducing poverty through economic development, so the rush into hydropower should be openly debated. Less environmentally destructive ways to meet the energy needs of the country, such as decentralized and renewable energy technologies, are abundant yet they are rarely discussed in public. Cambodia has the opportunity to display leadership and openness to innovation by adopting a more sophisticated, clean and appropriately-scaled power sector, which many experts agree would also ensure the benefits of development are shared. The alternative could be irreparable environmental and social damage that could eventually undermine the government's efforts to attract investment.

*Source: NGO Forum*



*Increased blue-green algae and other forms of dam-related pollution are resulting in increasing skin diseases among those who bathe in the Sesan River, while buffalo and other livestock are dying after drinking from the river.*

# On the border

## Soldiers seizing land

The renewed border conflict between Thailand and Cambodia has led to the military seizure of hundreds of farms from residents along the border, leaving them and local authorities powerless to act on their own behalf, according to appeals for intervention sent to human rights groups and Prime Minister Hun Sen.

The appeals are coming from residents all along the border in Oddar Meanchey and Banteay Meanchey, according to ADHOC and LICADHO.

“We are running out of food,” reads a May 13, 2009 appeal for help from seven families in Pong Tik village whose land was confiscated in August 2008 to build a base.

An appeal to Prime Minister Hun Sen on March 3, 2009 from 75 families in Tnaol Keng village notes that “soldiers are threatening to confiscate our buffalo and farming equipment if we try to farm our land.”

The land was taken to build a military base in January 2009, the appeal says. Their corn, bean, sesame and cashew fields were destroyed and their field huts demolished, the farmers say.

Another appeal from Sambour Meas village, where 41 families say the military seized 134.5 hectares of their

farmland, is signed by the village, commune and district chiefs and accompanied by the thumbprints of the heads of the 41 households. “Please help us,” they ask.

“Every village along the border in Oddar Meanchey is losing land to the military,” the director of a local aid organization said. He was speaking on condition of anonymity for fear his organization might be forced out of the villages where it provides much needed aid, if he criticizes the military.

There are disturbing signs that the military is reasserting its control over the border and engaging in crimes such as illegal logging, according to an investigator with an international organization monitoring the situation. The organization declined to be named.

In the early 1990s, the investigator explained, land disputes in border provinces occurred between civilians and senior military officers. In the mid 1990s, after senior officers had sold their land, most land disputes became those between civilians.

Since the buildup of troops along the border, following clashes with Thai troops over the disputed land around Preah Vihear temple last year, there has been a surge in land disputes between soldiers and civilians, the investigator said.

### Military Might

Land disputes between the military and civilians tend to occur in remote areas, according to a report by ADHOC, which noted a threefold increase in disputes between the military and civilians in 2008.

Of the 396 land disputes reported to ADHOC that year, 125 involved the military. In 2007 only 40 cases involved the military, the report notes.

Disputes between civilians and military are particularly violent. The report cites incidents of gunshots, torching of homes, bulldozing of crops, assault and torture, and threats of reprisal if civilians attempt to protest, file complaints with human rights organizations or talk to reporters.

The report notes one case in Siem Reap in which a deputy commander seized 20 hectares without seeking approval from district, provincial or national authorities, then had four representatives of Srah Khauv village (Tbeng commune, Banteay Srey district, Siem Reap province) arrested on September 16.

The deputy commander seized the land on September 10, 2008 with four soldiers who drove farmers away by shooting at them, the report said. The deputy commander filed a complaint against the community representatives two days later at the provincial court and they were arrested and jailed on September 16.

*Source: ADHOC*

### Fear

When the base under construction next to Pong Tik village is complete it will house 400 soldiers, according to officers at the site. This will outnumber the residents of the village, which comprises about 370 people. Already more than 100 soldiers have moved into the site, residents say. The influx of Cambodian troops and the military base under construction next to their village are as equally frightening as the Thai troops amassing on the other side of the border, residents said, echoing complaints from other border villages in the province compiled by ADHOC.

Farmers in the village have had land seized for the new base, which, according to officers at the site, will contain 16 barracks when completed. They declined to say when the base would be completed or allow photographs to be taken, but a tour of one section of the site indicated that the base would be permanent. Roads have been constructed, wells installed and concrete foundations for five barracks had been laid in one section of the site, which, according to officers, covers 120 hectares in total.

Construction of the base started in January, but land for the site was taken in August 2008, shortly after the border dispute over the temple flared up, according to the complaint filed to ADHOC. The military allowed the farmers to harvest in December 2008, but would not allow them to plant rice in the 2009 planting season, farmers said. Village, commune and district officials have appealed on their behalf, but military commanders have ignored them, farmers said.

### Illegal logging

Soldiers are cutting trees in protected forests to build their base and for sale, according to village residents, environmentalists and government forestry officials at the headquarters for the protected forest of Banteay Chhmer, which extends into Ampil commune, Oddar Meanchey province. Residents of Pong Tik village say “mid-sized” trucks containing logs leave at night and head towards Thailand.

They also allege that soldiers are extorting money from residents caught transporting illegally cut logs (a common practice). The soldiers extort \$50-\$60 per shipment, residents said.

Government forestry officials deny that the military is selling logs to Thailand. The logs are being sold within Cambodia because they are too small to sell in Thailand, they said. They described the illegal logging as being motivated by the need for timber to build bases as well as for sale. “It’s about 50-50,” one said.

They are turning a blind eye to illegal logging by the military because they believe the border conflict with Thailand supersedes their work. “The soldiers are protecting the country, we are just protecting trees,” one official said. They strongly denied reports from Battambang-based environmentalists that forestry patrols had been shot at by armed soldiers caught felling trees, but also said they lack the resources to effectively patrol forests. Often they cannot afford to buy gasoline for their motorbikes and spend most of their time in their office, they said.

### General Directions

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“The use of armed soldiers in land conflicts is an illegal misuse of power and increases the risk of violence, quite possibly with deadly consequences, against villagers.”

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Without adequate consultation or compensation, military units are seizing farmland along the Thai border to construct bases. Tanks from Royal Cambodian Armed Forces Small Battalion Tank Unit #65 occupied land in Banteay Meanchey province in November 2008.

Troops seized 98 hectares of farmland used by 133 families in three villages for a new headquarters. Besides seizing the land, troops destroyed crops and shot at residents who came near the land. It also said that provincial authorities had expressed concerns that the dispute could not be resolved because it involved powerful national military officials. “The use of armed soldiers in land conflicts is an illegal misuse of power and increases the risk of violence, quite possibly with deadly consequences, against villagers,” the rights group warned.

*More information at [www.licadho-cambodia.org/articles/20090402/92/index.html](http://www.licadho-cambodia.org/articles/20090402/92/index.html)*



# Community Complaints

A series of land dispute complaints was submitted to provincial and national government authorities in June and October 2008. A third round of 32 complaints from 19 provinces was submitted in August 2009. Although these complaints do not reflect the total number of people affected by Economic Land Concessions, forced evictions and land grabbing in Cambodia, they illustrate rising levels of concern in communities where farmland has been leased, in many cases without residents' knowledge, through ELCs to be converted to plantations, mines or tourism resorts.

The body of independent reports about ELCs is vast and almost uniformly negative. The World Bank, the United Nations Development Programme and the United Nations Office of the High Commissioner for Human Rights have raised concerns about the legality of many ELCs, have questioned their value as instruments for economic development and highlighted links to human rights abuses.

These community complaints were filed directly by affected individuals and communities. They demonstrate a rising awareness among rural Cambodians about the legal issues surrounding ELCs as well as their rights under Cambodian and international law. The complaints also reflect a rising level of frustration with attempts to solve disputes arising from ELCs and other land disputes at the local level. The complaints come from six different provinces but have a similar theme: marginalized communities are being driven into poverty by ELCs and alleged land grabs, and their attempts to seek solutions are met with intimidation, coercion and court action and sometimes violence. What follows is a brief description of some of the 2008 complaints. The full complaints can be accessed (in Khmer and English) at the UN Office for the High Commissioner on Human Rights in Phnom Penh.

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“A key question is who benefits from economic land concessions, and the grant of Cambodia’s land and natural resources. Information available on the Ministry of Agriculture, Forestry and Fisheries website shows that a large number of economic land concessions have been granted in favour of foreign business interests and prominent Cambodian political and business figures, including senators and Oknhas.<sup>1</sup> Yet the benefits for rural communities are not apparent, nor is the contribution to state revenues.”<sup>2</sup>

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*Hundreds of residents of indigenous villages who say they are losing land and livelihoods as a result of the Wushishan concession attempt to protest in the provincial capital in Monduliri in 2005. Their effort to save their land continues, but they say they face increased harassment from authorities.*

<sup>1</sup> “Oknha” is a title given to “any generous person” who contributes \$100,000 to the state, either in cash or materials.

<sup>2</sup> Economic land concessions in Cambodia: A human rights perspective, UN Cambodia Office of the High Commissioner for Human Rights, June 2007, page 2.

Where:	Koulen district, Preah Vihear province
Nature of Complaint:	Encroachment of farmland and forest
Concession size:	40,000 hectares
Concession holder:	Kapa Ltd. (a Korean company)
Affected villages:	14 villages in five communes
Complaint to:	Ministry of Agriculture, Forestry and Fisheries Technical Secretariat for Economic Land Concessions *

\* Copies to: Prime Minister Hun Sen, Office of the Council of Ministers, Ministry of Environment, National Authority for Land Dispute Resolution, Ministry of Land Management Urban Planning and Construction, Governor of Preah Vihear, Provincial Department of Agriculture, Forestry and Fisheries, Provincial Environmental Department.

Residents of 14 villages formally requested that the ELC granted to Kapa Ltd. be cancelled on grounds that it is illegal and is damaging their livelihoods.

They said that the company began demarcating the concession on August 15, 2008 and that the concession included land and forests they have been using since January 7, 1979 to grow rice, graze cattle, and collect non-timber forest products: bamboo, fruits, vines, rattan and resin. The concession hinders their plan to create community forests, which would allow them to protect and manage the forest and provide sanctuary for endangered wildlife.

The residents say they depend on the concession area for their livelihood. They rely on non-timber forest products for building houses, herbal remedies and making furniture. They also sell some products, such as resin, rattan and fruit. They say the concession also encroaches on their “spirit forest” and are concerned this will be bulldozed.

The concession is destroying shelter for endangered wildlife, destroying grazing land for livestock, and the resulting deforestation is turning soil arid, the complaint says.

The complaint says the land was not registered as State Private Land and breaches Article 58 of the Land Law. (See Appendix 1) It says the concession covers roadways, streams and ponds used by residents and neither the company nor government authorities conducted public consultations before granting the concession, in violation of Article 5 of the Land Law.

It says no environmental impact assessment (EIA) was conducted prior to granting the concession, in violation of Article 6 of the Law on Environmental Protection and Natural Resources.

The residents requested that the concession be cancelled, the land returned to their communities and that they be allowed to create community forests and develop sustainable

management plans for them. They want authorities to recognize their right to land possession as indigenous people, under Part 2 of the Land Law and the International Covenant on Civil and Political Rights. They request that in the future consultations with communities are conducted prior to granting a concession.

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The residents requested that the concession be cancelled, the land returned to their communities and that they be allowed to create community forests and develop sustainable management plans for the forests.

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*Clear cutting the forest in Preah Vihear province.*



Where:	Oyadao district, Rattanakiri province
Nature of Complaint:	Alleged Land Grabbing
Company:	Progressive Farmers Association, owned Mrs. Keat Kolney
Affected villages:	Seven villages (Borkham, Kate2, Kong Thom, Kong Yu, Lumchor, Paté and Pril) in Pate Commune
Complaint to:	Ministry of Agriculture, Forestry, and Fisheries Technical Secretariat for Economic Land Concession Ministry of Land Management, Construction, and Urbanization Land and Forestry Resolution Authority *

\* Copies to: Prime Minister Hun Sen, Council of Ministers Rattanakiri provincial governor, Provincial Department of Agriculture, Forestry and Fisheries, Provincial Department of Environment

In 2004 residents of seven ethnic Jarai villages formally complained that their land was taken illegally by a company owned by Mrs. Keat Kolney, the wife of Mr. Chhan Sophann, under secretary of state at the Ministry of Land Management and Construction. They said they have lived in the area since 1979 and rely on the forest for their livelihood. They collect non-timber products, hunt wildlife, and farm using shifting farming techniques.

They are unable to verify whether the company submitted a formal proposal to the government to use the land for a rubber plantation and said the company has encroached on their land since 2004 when it began clearing forest for the plantation. The complaint says the company has no legal authority to do this as, under the Land Law, the land is owned collectively by the indigenous communities who have the right to use the land and natural resources. The complaint says the company continues to cut down trees and threaten community residents.

It says the communities developed their own plans for managing the land according to their traditions. These include plans for village expansion, wildlife sanctuaries, demarcating spirit forests, ensuring that their identity which is intertwined with the forest is not lost, and for official registration of the land.

They request the government review encroachment on their land, halt all activities which breach their land rights, recognize their land rights, ensure the environment is protected and that they can harvest non-timber products. They call for those who have breached the law to be punished accordingly and request that they be authorized to protect, manage and use mountains and lakes that are state property according to their traditional practices.

The communities have developed their own plans for managing the land ...these include plans for village expansion, wildlife sanctuaries, demarcating spirit forests, ensuring that their identity (which is intertwined with the forest) is not lost, and for official registration of the land.

*Clearing community land in Pate commune continues despite appeals to the provincial court for a halt to clearing while the land dispute is settled, residents say.*





Where:	O’Raing district, Mondulkiri province
Nature of Complaint:	Encroachment of farmland and communal forest
Concession size:	10,000 hectares
Concession holder:	Wuzhishan L.S. Group Co. Lt. (Directors: Mr. Liu Wei, Mr. Sy Kong Triv and Mr. Lau Meng Khin)
Affected villages:	Six villages (Pou Antreng, Pou Roles, Pou Chhop, Pou Tru, Pou Yam and Pou Raing) in two communes (Dakdam and Sen Monorom)
Complaint to:	Ministry of Agriculture, Forestry and Fisheries and Technical Secretariat for Economic Land Concessions *

\* Copies to: Prime Minister Hun Sen, Office of the Council of Ministers, Mondulkiri Provincial Governor, provincial Departments of Agriculture, Forestry and Fisheries, Provincial Environmental Department.

The complaint says that for three years the company has encroached upon land belonging to the six villages. Wuzhishan L.S. Group has bulldozed and desecrated ancestral spirit forests, undermined livelihoods, and persecuted residents, it says. Residents say they have lost forest they rely on to gather non-timber products and are concerned that their children will have no forest left.

They note that they have lived in the villages since January 7, 1979, when the Khmer Rouge was overthrown, and that their livelihoods depend upon shifting agricultural practices that are customary for Phnong indigenous people. They shift cultivation fields every three years and make offerings to forest spirits before clearing land.

They describe how their decisions on where to cultivate

are based on dreams: “If we have a good dream, it means we can clear the forest, if we have a bad dream we cannot clear that forest. If we insist on clearing the forest, it will irritate the souls of our ancestors.” The complaint pleads for respect for their spirit forests: “We have places of worship on Tragnol hill and plenty of spirit forests that are the heritage of our ancestors. We dare not touch these spirit forests for fear of bad luck [from] our ancestors on our people and livestock.”

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The complaint accuses the company of destroying community forests, desecrating spirit forests, torching homes, assaulting community members and having others arrested.

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*A burial urn is unearthed by land clearing in Rattanakkiri. Indigenous communities have accused companies of desecrating their spirit forests and burial grounds.*



Residents say they let their livestock graze freely on community land and that they rely on the forests for products such as resin and vegetables. They comprise 599 families (2,777 people). At the end of 2004 they created a community forest with the aim of protecting the area, preserving their spirit forests and burial grounds and saving the forests for the next generation.

They say that since 2004 the company has grabbed almost all their land without consulting with the communities. Early that year, the company conducted land and geographical studies without notifying them. Since January 10, 2005, the company cleared up to 60,000 hectares of their land, six times more than the concession allows, the complaint says. The company began working prior to being granted the concession on December 30, 2005, it says.

The complaint accuses the company of destroying community forests, desecrating spirit forests, torching

homes, assaulting community members and having others arrested. They accuse the company of destroying their peace, violating their property, stealing livestock, destroying orchards and gardens. “We never worried about the loss of animals and had no troubles with letting the cattle graze freely, but now, if we do not watch closely, our cattle will be taken away or killed,” the complaint says.

The complaint says the company violated the Land Law and Sub-Decree on Economic Land Concessions in five ways: 1) the concession occupies land belonging to indigenous people, not land registered as Sate Private Land (Article 58 of the Land Law); 2) the company exceeded its concession

by clearing 60,000 hectares of land; 3) the company started clearing the land before signing the concession contract; 4) no consultations were held with affected communities; and 5) company employees have attacked residents and shot or stolen livestock. Moreover, no environmental impact assessment was conducted prior to the granting of the concession, the complaint says.

The residents ask for the concession to be cancelled, that the company stop clearing forests and planting pine trees and acacia, compensate them for damages and recognize their rights as landowners. “This land belongs to our communities and is the heritage of our ancestors,” the complaint says.

Where:	O’Chum district, Rattanakiri province
Nature of Complaint:	Alleged illegal land grabbing
Land allegedly grabbed:	25 hectares
Alleged land grabbers:	Group led by a military officer
Affected villages:	Two villages (Koulen Choeng Torng Krapoung and Torng Kramal)
Complaint to:	Ministry of Agriculture, Forestry and Fisheries Ministry of Land Management, Construction and Urbanization Land and Forestry Resolution Authority *

\* Copies to: Prime Minister Hun Sen, Council of Ministers, Rattanakiri provincial governor, Provincial Department of Agriculture, Forestry, and Fisheries, Provincial Department of Environment.

The complaint says ethnic Kreung residents of the affected villages tried to contact Prime Minister Hun Sen for direct assistance through various channels, including travelling to Phnom Penh to attempt to meet him and sending emails. They have had no response to date. The complaint says that an unknown company has been clearing their land for a rubber plantation and the company is led by a high ranking military official in the province’s Banlung district. They are unclear whether the company is registered or is merely a group of high-ranking individuals who are allegedly acting in disregard of the law.

The complaint says the activities are possibly being carried out by a group of private individuals who have not even requested permission to clear forest. They say the destruction of communal forest has been occurring over several years and that they have been threatened by the military officer they believe is responsible for the forest clearing. They allege that the officer has colluded with local officials to occupy and destroy their forest. Attempts to seek assistance from

local authorities have been futile, the complaint said. They say they have been unable to find any documents giving the company permission to clear the forest.

They say they settled in the area in 1989 and have relied on traditional shifting agricultural techniques as well as collecting non-timber forest products for their livelihood. Previously, their cattle grazed freely on the land and sections that have been cleared were spirit forests. They say they have also lost land used for cultivation.

The complaint calls on the government to investigate the case, punish those who have allegedly violated laws, recognize their rights to private and communal ownership of the land, and help them protect the environment. They also call on the government to ensure that their sacred sites are not desecrated as these are integral to their community and future generations. The complaint expresses concern that the next generation will be disconnected from its heritage, as well as impoverished, should the alleged land grabbing continue.

Nature of Complaint:	Encroachment of farmland and forest
Where:	Andong Meas district, Rattanakiri province
Concession size:	6,866 hectares
Concession holder:	Oryong Construction Company (Director Mr. Lim Songchhul)
Affected villages:	Three ethnic Kachork villages (Kork, Talao and Tanong) and other communities in two communes (Talao and Andong Meas)
Complaint to:	Ministry of Agriculture, Forestry and Fisheries and Technical Secretariat for Economic Land Concessions Ministry of Land Management, Construction and Urbanization Land and Forestry Resolution Committee *

\* Copies to: Prime Minister Hun Sen, Council of Ministers, Rattanakiri Governor, Provincial Department of Agriculture, Forestry and Fisheries, Provincial Department of Environment.

The villages and communities affected identify themselves as predominantly indigenous people who established their villages following the fall of the Khmer Rouge in 1979. They live along the Sesan River and Vireak Chey National Park, where they rely on non-timber forest products, fishing, hunting and shifting their traditional shifting cultivation techniques.

The concession extends beyond their district, but 1,000 hectares of it is in their district. The company received approval to begin clearing 100 hectares on April 20, 2006, the complaint says. This included dense forest and farmland. No environmental or social impact assessment was conducted and no consultations were held with local residents.

The complaint accuses the company of damaging fish breeding areas in lakes and streams, encroaching on farmland, grazing areas and forests residents relied on for collecting non-timber products as well as wood for construction of homes. Spirit forests vital to their culture

have been desecrated, the complaint says. The encroachment has interfered with their traditional shifting agriculture techniques by taking fields used for cultivation as well as areas reserved for future cultivation, residents say. Both collective and private ownership of indigenous land has been violated.

It also accuses the company of expelling people from their homes, fields and areas reserved for future homes. Widespread environmental degradation has occurred. At the same time, the concession has prevented the communities from implementing land-use plans, community forest development projects, and tourism projects that would highlight their unique culture and arts.

The complaint stresses that the concession encroaches on communal land belonging to the indigenous residents of the villages and calls for an investigation of the concession and punishment of those company employees who allegedly violated laws.



Executives from Oryong Construction Ltd. visit the concession site in Andong Meas via helicopter, accompanied by armed military personnel. Residents accuse the company of encroaching on their land and desecrated their spirit forests.



Where:	Toek Phos district Kampong Chhnang province, Krakor district Pursat province
Nature of Complaint:	Encroachment of farmland and forest
Concession size:	More than 300,000 hectares
Concession holder:	Pheapimex
Affected villages:	Veal Sbov village, Tainkrasang commune, Kampong Chhnang, Kbal village, Ansa Chambork commune, Pursat
Complaint to:	Ministry of Agriculture, Forestry and Fisheries Technical Secretariat for Economic Land Concessions *

\* Copies to: Prime Minister Hun Sen, Office of the Council of Ministers, governors of both provinces, departments of environment in both provinces, departments of agriculture, forestry and fisheries in both provinces.

The complaint calls for the cancellation of the concession as well as the investment agreement between Pheapimex and another company for an acacia plantation that would cover 315,028 hectares in the two provinces.

The complaint states that hundreds of company workers cleared forests around the two villages in 2004 and 2005. Residents say they have been living in the area since 1979 and have relied on the forests for their livelihood. They collect non-timber products, fruit, resin, cassava, traditional herbal medicines, and hunt and fish in the area. They also use land for cultivation and grazing for cattle.

The complaint also states that the concession has undermined their efforts to preserve forests and initiate plans for community-led planning of natural resource use. Their plans included expansion of villages for the next

generation, wildlife sanctuaries and establishing community forests.

Residents say the concession has taken a heavy toll on their livelihoods, including the loss of farming and grazing land, the destruction of forest and desecration of sacred sites within the forest.

They also stress that the concession is having damaging environmental effects and is a threat to the sustainability of the forest as well as its biodiversity, and that it has violated their rights.

The complaint, which was thumb printed by 1,559 heads of households, requests that the concession area be returned to the community and that they be permitted to manage the land and forest in a sustainable manner to safeguard it for future generations.

Where:	Kampot district, Kampot province
Nature of Complaint:	Encroachment of fishing areas
Concession size:	1,000 hectares
Concession holder:	Kampot Special Economic Company
Affected villages:	Three (Roluos, Keb Thmey and Toteung Thngay) in Boung Touk commune
Complaint to:	Prime Minister Hun Sen*

\* Copies to: Office of the Council of Ministers, Kampot governor, Kampot Department of Environment, Kampot Department of Agriculture, Forestry and Fisheries and the Kampot Cadastral Commission.

The residents of the three villages request that the government stop the company from pumping sand into the sea for land reclamation, that the Special Economic area and port concession be cancelled, and that the fishing areas be returned to the communities.

The complaint notes that the fishing villages were established in 1979, and residents have made a living by fishing as well as farming.

Their initiative for land-use protection and sea boundary

planning to protect mangroves, coral and sea grass has been undermined by the concession, the complaint says.

If the sand pumping continues mangroves and coral reefs will be destroyed and fishing families will lose their source of income.

“Our lives are entirely reliant on fishing and farming,” the residents say, noting that they are already poor.

The complaint was thumb printed by the heads of 393 households.

Where:	Memoth district, Kampong Cham province.
Nature of Complaint:	Encroachment of farmland and forest, land grabbing
Concession size:	More than 10,000 hectares
Concession holder:	Bigimexco Sothy Aphivath Co Ltd
Affected villages:	Three (Kohthmor, Changkorm 1, and Changkorm Kandal) in Tonlung commune
Complaint to:	Ministry of Agriculture, Forestry and Fisheries Technical Secretariat for Economic Land Concessions *

\* Copies to: Prime Minister Hun Sen, Office of the Council of Ministers, provincial governor, provincial Department of Environment, provincial Departments of Agriculture, Forestry and Fisheries.

The complaint says 535 ethnic Stieng families in three villages are threatened by the concession and that the company has been clearing farmland and forest since 2006. It says the company has taken 10,603 hectares: 3,000 belonging to Koh Thmor village, 4,271 belonging to Changkorm1 village and 3,332 belonging to Changkorm Kandal village. The complaint was accompanied by four photographs of land clearing and the thumbprints of 535 household heads.

The loss of community forest and land has deprived households of sources of income, such as non-timber forest products and land reserved for future generations. It adds their plan to register the area as indigenous community land has been obstructed. Mango groves, grazing land, spirit forests and farm fields have been destroyed. The complaint says the land is integral to their identity as ethnic Stieng people.

The residents also include a message to the premier conveying their hope that he, his children and grandchildren find “happiness, longevity, health, wisdom and prosperity forever.”

The complaint calls for the cancellation of the concession, return of the land to communities and recognition that they own it. They request that they be allowed manage and safeguard the area and that government officials consult with them before granting any concession in their vicinity. They state that they will reject any economic land concession granted without consent of their communities.

The complaint includes a direct appeal to Prime Minister Hun Sen for his assistance in resolving the conflict and ensuring justice

for the affected communities, and informs him that the concession is driving them into poverty.

The residents also include a message to the premier conveying their hope that he, his children and grandchildren find “happiness, longevity, health, wisdom and prosperity forever”.



Residents of Memoth district allege the employees of Bigimexco Sothy Aphivath is clearing their land and setting spirit forests afire. More than 2,000 people face the loss of their land and livelihoods as a result of the concession, according to a complaint filed last year.

# Cambodia's Land Law

The current Land Law was adopted on August 31, 2001. Many have described it as relatively progressive, and say that Cambodia's land crisis largely results from a failure to properly implement the law. The Land Law covers 55 pages and comprises 268 articles. Below is a very brief summary of key sections that are most relevant to the land crisis.

## “Legal possession” and “Ownership”

Land ownership was dissolved and land records destroyed during the Khmer Rouge reign from 1975 to 1979. The 2001 Land Law recognizes this by stating that all “ownership” prior to 1979 is no longer recognized. Since 1979 there has been a gradual reinstatement of rights to land and ownership.

Cambodia officially made the change from a socialist economy to a free market economy in the late 1980s. Ownership and possession were first formally introduced in a 1989 Council of Ministers Instruction (*sechkday nainom*). It states that residential land can be owned, but that agricultural land can only be “possessed.” Families could legally possess up to five hectares of farmland, which was different from ownership in that it had to be constantly cultivated or would revert to the State. Any agricultural plots larger than five hectares had to be granted as concession land (concessions are time-bound leases to use land, rather than ownership or possession).<sup>1</sup>

The 1992 Land Law was a further attempt to step away from the centrally planned socialist state and to formalize the means of acquiring ownership of land. The 1992 law explains that possession of five years, and meeting five conditions, can be transferred into full legal ownership.<sup>2</sup>

This law was replaced by the 2001 Land Law, which confirmed that legal possession meeting the “5 and 5 rule” mentioned above can be transferred to full legal ownership. The law explicitly states that the reason for recognizing legal possession is “reconstituting ownership over immovable property in Cambodia after the period of crisis from 1975 to 1979,” meaning possession is a step towards ownership.<sup>3</sup> However, the law also capped possession, and states that it is no longer possible to commence legal possession after the law was passed.<sup>4</sup>

The law also established a central land register, where all ownership is to be recorded, and to this end established the

two mechanisms for formally registering ownership and receiving title.

## Initiation of possession

The 2001 Land Law capped possession by putting an end to any new possession. Any land that occupants had not commenced possession of before August 31, 2001 was to be considered State land. Anyone claiming legal possession had to prove that their possession of the property began before the law was passed: therefore any possession that started after August 31 2001 is illegal.<sup>5</sup>

Under the 2001 Land Law, possession does not just mean physical possession, i.e. residency; it also covers land used, for example for farming. All possession, however, must be legal. Article 38 of the 2001 Land Law states that five conditions must be met in order for possession to be legal. Possession must be:

- unambiguous,
- non-violent,
- notorious to the public,
- continuous, and
- in good faith.

If these conditions are met, the legal possession constitutes a right *in rem*,<sup>6</sup> and as such the possessor has similar rights to a legal owner, which means they are free to transfer the property, improve it, use it as collateral for bank loans, and exclude others from it. Article 30 says that any possessor meeting these five requirements has the right to apply for a definitive title of ownership.

Unfortunately, the 2001 Land Law says legal possessors have the right *to apply* for title, not the right *to receive* title.<sup>7</sup> In response to this, some have said that there is no obligation to issue titles to possessors. Legal possessors of valuable real estate or other areas ripe for development or exploitation are often denied legal recognition. If a legal possessor applies for title, or is in an area where systematic titling is being conducted, the only grounds for denying title is if there is a dispute on the land, in which case it should be heard by the Cadastral Commission (see Dispute Resolution Mechanisms, page 71). Possessors should not be denied title

<sup>1</sup> Council of Ministers Instruction No 3 on Implementation of Land Use Policy, 1989.

<sup>2</sup> Land Law 1992, Article 74.

<sup>3</sup> Land Law 2001, Article 29.

<sup>4</sup> Land Law 2001, Article 29.

<sup>5</sup> Land Law 2001, Article 29.

<sup>6</sup> Land Law 2001, Article 39.

<sup>7</sup> Land Law 2001, Article 30.



on grounds that they live in run-down, unplanned or badly serviced communities. Indeed, the Land Law states: "an act or conduct, in fact, that hinders the peaceful holder or possessor of immovable property in an area not yet covered by the cadastral index maps, the ownerships rights of which have not yet been fully strengthened.." is a penal offense.<sup>8</sup>

## Registration of ownership

According to the 2001 Land Law, only formal land title can fully prove legal "ownership." Ownership rights are not unlimited: for example the Land Law prohibits the cultivation of illegal crops.<sup>9</sup> Owners will also have to abide by other laws, such as the Environment Law, Forestry Law and Criminal Law.

Between 1979 and the passing of the 2001 Land Law, registration of ownership was done on an adhoc basis, according to individual's ability to pay the fees. Before 2001, titles were issued but there was no central land registry. Possession certificates were also issued but not registered in a central registry. The 2001 law changed this. It introduced a cadastral system – a central registry of land titles. The aim was to eventually identify, register, title and map all land in Cambodia.<sup>10</sup>

Under the 2001 Land Law there are two ways that land holders can obtain title to their land: through the *systematic* or *sporadic* registration processes.<sup>11</sup> Systematic registration involves the government selecting areas for titling and sending out cadastral teams to measure land holdings and eventually issue titles. The sporadic process is similar to the pre-2001 Land Law system, and is initiated by an application from the land holder. This system is widely accepted to be beyond the reach of the majority of the population due to a combination of official and sometimes informal fees.

Around the time the 2001 Land Law was drafted, observers suggested that it would take at least 15 years to title the entire country. Some more recent estimates say it will take 30 years or more. In the meantime, many millions of households without land titles are not technically owners, even if they have lived on or used their land for several decades. This does not mean they are not protected by the

Land Law. Chapter 4 of the law sets out the conditions for legal possession, and as mentioned above, a possessor has similar rights to a legal owner.

## Classification of land

The Land Law 2001 classifies all lands throughout Cambodia into five categories: Private property; Monastery property; Collective Indigenous Community property; State Public property; and State Private property.

Private land is land which is owned (the occupant has official and legal title), or land which is legally possessed (the occupant is able to prove that they have lived there since before the passing of the 2001 Land Law and that they meet the five conditions of legal possession). Private property can be owned by an individual, a corporation, or jointly by more than one person, for example a husband and wife.<sup>12</sup>

There are also two special cases where collective ownership is possible. These are indigenous properties and monastery properties. Monastery property is straightforward, and any immovable property located "within the premises of Buddhist monasteries" belongs to the Buddhist

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"Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status."

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religion, under the care of the pagoda committee. This property does not belong to any one individual, and cannot be transferred.<sup>13</sup>

Likewise, indigenous communities have the right to collective ownership of their traditional lands. Once registered, indigenous property is formally the legal property of the community, and with that come the same rights as private owners, though they must be exercised in accordance with traditional community rules.

At present, registration of indigenous property is still not possible (see Indigenous Community Lands, page 70). However, the 2001 Land Law contains interim protection stating that until registration is possible indigenous peoples should continue to manage their land according to traditional customs.<sup>14</sup>

Land owned by the state that has a public use is called "State Public Property." This includes land that is of natural origin (e.g. rivers and lakes) has a general public use, service

<sup>8</sup> Land Law 2001, Article 248.

<sup>9</sup> Land Law 2001, Article 256.

<sup>10</sup> Land Law 2001, Article 226.

<sup>11</sup> Land Law 2001, Article 229.

<sup>12</sup> Land Law 2001, Article 10.

<sup>13</sup> Land Law 2001, Articles 20 & 21.

<sup>14</sup> Land Law 2001, Article 23.

or interest (e.g. roads and gardens, public schools and hospitals), or areas of archaeological or heritage value. These cannot be owned or possessed by anyone except the State.<sup>15</sup>

State Private land is “all the land that is neither state public land, nor legally privately or collectively owned or possessed under the Land Law of 2001.”<sup>16</sup> Unlike State Public property, “private property of the state... may be subject of sale, exchange, distribution or transfer of rights as it is determined by law.”<sup>17</sup>

## The “State land” problem

Possession, as already mentioned, must have commenced before the 2001 Land Law was passed and must meet the five conditions in order to be legal. The only other limitation on this is that no possession is legal on State Public property. As can be seen in the Land Law and Sub-decree on State Land Management, legally possessed land (that is pre-2001 and meeting the five conditions) is no longer State property, and is in fact private property.

### Land Law 2001, Article 12:

“The State is the owner of the properties in the territory of the Kingdom of Cambodia enumerated in Article 58 of the 1993 Constitution and of all properties that are escheat, or that are voluntarily given to the State by their owners, or that have not been the subject of due and proper private appropriation **or that are not presently being privately occupied in accordance with the provisions of Chapter 4 of this law.**” (Emphasis added. Chapter 4 of the Land Law refers to legal possession. This clearly sets out that the State is not the owner of legally possessed land.)

### Sub-decree on State Land Management, Article 5:

“Private State land is all the land that is neither state public land, nor legally privately or collectively owned **or possessed under the Land Law of 2001.** Private land of the state includes land that is escheat or land voluntarily given to the State by the owner or land with no identifiable legal possessor or owner.” (Emphasis added.)

Unfortunately, there is no coordinated identification, mapping and registration of State land. As yet there is no clear delineation of what is State Public land. In practice, observers see that people are denied recognition of their possessory

rights (and therefore denied access to land title) because they live on “State land.” The government rarely distinguishes between the two types of State land. As explained above, the only grounds for denying the legal possession rights of the occupier would be if the land was State Public. This is unverifiable as there is no public information on what is and what is not State public property.

Without any publicly available records of what is State public property, as required by the Sub-decree on State Land Management, it is almost impossible to dispute government statements that a community is living illegally on State land. Thousands of Cambodian citizens therefore face a serious barrier to proper recognition of their legal possession and the rights that come with it.

## Possession without occupation or use

One condition of legal possession is that it must be continuous. This does not mean owners must physically live on or even use the land 100 percent of the time. They must, however, use the land in the natural way that one would be expected to use that type of land.<sup>18</sup> If someone leaves paddy field untouched during the peak of the dry season, or leaves agricultural land fallow for a period, it does not preclude legal possession. The idea behind the requirement for continuity of possession was to guard against land speculation.

However, there have been many cases, especially in rural areas, of individuals coming forward and claiming land, presenting old documentation indicating possession. This is often not legal possession for several reasons. Moreover, the legality of these documents is often questionable.

People living in that area have oftentimes never even seen the people with the possession certificates – meaning that the outsider's possession of the land cannot possibly be continuous, as leaving land empty for years on end is not a use in line with natural use of the land. Their possession is also not notorious to the public and is not clear. Article 38 of the Land Law explicitly states that a possessor cannot “hid[e] himself”.

In this way, many old certificates of possession exist (perhaps from prior to the 2001 Land Law) but are now legally invalid and should have no legal standing. Many were issued without proper process and others have become invalid as the possessor of the certificate has failed to meet the five conditions set out in the Land Law.

<sup>15</sup> Land Law 2001, Article 16.

<sup>16</sup> Sub-decree No 118 on State Land Management 2005, Article 5

<sup>17</sup> Land Law 2001, Article 17.

<sup>18</sup> Land Law 2001, Article 38.

## Land sales

Provided there is legal ownership or possession, sale of land must also follow the conditions set out in both the 2001 Land Law and the 1988 Decree 38 Referring to Contract and Other Liabilities (an old decree from the State of Cambodia period, this will eventually be replaced by the new Civil Code when enabling legislation is passed).

The Land Law states that all contracts for land sale must be in writing,<sup>19</sup> and once land is registered, this must be done through the Cadastral Commission and registered. For unregistered land, it is necessary that local officials are notified and witness the sale. Only the true owner of the land may sell it,<sup>20</sup> and if there are joint owners there must be agreement between all owners to sell.

All contracts, including land sale contracts, must follow Decree 38 (hereafter the “Contract Law”). This includes the requirements that there be “real and free agreement,”<sup>21</sup> created in “an atmosphere of trust and honesty,” and made by those with “capacity”<sup>22</sup> to do so, for example, those of legal age. All contracts lacking free agreement or made by a party lacking capacity are void,<sup>23</sup> as are all contracts made as a result of mistake, fraud or duress.<sup>24</sup> Sale of another person’s property is also void.<sup>25</sup> If ownership or possession is not yet clear, or is contested, sale of land is also not legal.

## Land concessions

Land concessions are State Private land leased or allocated by the government to companies or people. The Land Law discusses two types of land concession: Social (SLCs) and Economic (ELCs). It sets out the main principles for granting these concessions, and the finer details are provided by sub-decrees.

**Economic Land Concessions:** Over the previous five years there has been a boom in the granting of ELCs. ELCs are long term leases granted over land for agro-industrial exploitation.<sup>26</sup> They may only be granted on State Private land,<sup>27</sup> cannot exceed 10,000 hectares,<sup>28</sup> and can only be granted up to 99 years.<sup>29</sup> Concessionaires must begin operations within one year of the concession being granted.

Any concession that does not follow the Land Law is null and void.<sup>30</sup> Sub-decree No. 146 on ELCs adds to these conditions specific requirements for applications and the granting of concessions. The requirements for an ELC to be legally granted are:<sup>31</sup>

- The land is already classified and registered as State Private land,<sup>32</sup>
- A land use plan is adopted for the area,
- An Environmental and Social Impact Assessment has been conducted,
- There are assurances that lawful landholders are not going to be displaced, and
- Public consultations regarding the proposed project must have been held.

Until 2008, the Ministry of Agriculture, Forestry and Fisheries had authority to grant concessions of up to 10,000 hectares, and provincial/municipal governors had the authority to grant concessions of up to 1,000 hectares.<sup>33</sup> However, as of September 2008, only the ministry may legally grant ELCs, no matter what the size.<sup>34</sup>

**Social Land Concessions:** The Land Law also states that concessions can be granted for a social purpose.<sup>35</sup> These concessions are called Social Land Concessions. They were created with the aim of redistributing State Private land to land poor and landless households.<sup>36</sup> This type of concession, unlike any other, can be converted into ownership<sup>37</sup> (provided certain conditions are met). Indeed, the acquisition of full ownership is the very aim of an SLC.

As with ELCs, the procedure for granting SLCs is provided for by sub-decree. This sub-decree sets out requirements for the planning stages.

This includes: land use plans; identification of current land location, use and availability; detailed information on target recipients; assessment of available local infrastructure; and, social and environmental impact assessments.<sup>38</sup> SLCs may be granted for residential or agricultural purposes, or both.<sup>39</sup>

According to the sub-decree, if a concession is granted for residential purposes, if there is not already a structure on the land, the recipient must build within three months, and

<sup>19</sup> Land Law 2001, Article 65.

<sup>20</sup> Land Law 2001, Article 66.

<sup>21</sup> Contract Law 1988, Article 3.

<sup>22</sup> Contract Law 1988, Article 2.

<sup>23</sup> Contract Law 1988, Article 6.

<sup>24</sup> Contract Law 1988, Articles 7-11.

<sup>25</sup> Contract Law 1988, Article 35.

<sup>26</sup> Land Law 2001, Article 49.

<sup>27</sup> Land Law 2001, Articles 17 & 58.

<sup>28</sup> Land Law 2001, Article 59.

<sup>29</sup> Land Law 2001, Article 61.

<sup>30</sup> Land Law 2001, Article 18.

<sup>31</sup> Sub-decree No 146 on Economic Land Concessions 2005, Article 4.

<sup>32</sup> Many concessions are being granted in areas that fall under the definition of State Public property. Granting authorities get around this by stating the area has lost its public interest, and reclassifying it as State Private property.

<sup>33</sup> Sub-decree No146 on Economic Land Concessions 2005, Article 29.

<sup>34</sup> Sub-decree No131 on Modification of the Sub-decree on Economic Land Concessions 2008, Article 1.

<sup>35</sup> Land Law 2001, Article 49.

<sup>36</sup> Sub-decree No19 on Social Land Concessions 2003, Article 2.

<sup>37</sup> Land Law 2001, Articles 18 & 52.

<sup>38</sup> Sub-decree No19 on Social Land Concessions 2003, Article 9.

<sup>39</sup> Sub-decree No19 on Social Land Concessions 2003, Article 15.



the house must be occupied at least six months in a year. Land granted for agriculture must be cultivated within 12 months of the concession being granted.

If the terms of the concession are complied with for five years, the recipient has the right to ownership of the land and may request official title from the Ministry of Land Management, Urban Planning and Construction. During the five-year period the land may not be sold, rented or donated, and if any of the conditions are broken, the land reverts to the State.<sup>40</sup>

Last year's NGO Position Papers acknowledged progress towards allocating land to poor families through SLCs. There are a number of SLC pilot projects ongoing, namely Chorm Kravien commune, Kampong Cham, and Sambok and Choamkrong communes in Kratie.

Funding to such pilot projects is likely to increase following approval of the World Bank/GTZ funded Land Allocation for Social and Economic Development in April 2008.

The Position Papers did warn, however, that without adequate safeguards in place, SLCs could be granted on areas already occupied or used, and could actually contribute to landlessness.

**Other types of Concessions:** The Land Law also mentions Use, Development and Exploitation Concessions (UDECs), which cover projects rendering a public service, such as mining concessions, port concessions, airport concessions, and fishing concessions.<sup>41</sup>

However, it also states that these concessions are not covered by the Land Law. To date, researchers have been unable to ascertain for certain what the legal frameworks for these concessions are.

The Council for Development of Cambodia (CDC)

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The Law on Concessions includes no restrictions on what type of land concessions may be granted on, no limit on the duration and no limit on the size.

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discusses UDECs on its website, alongside ELCs and SLCs.<sup>42</sup> Apparently in reference to all three types of concession, it states "Land concessions may only create rights for the time fixed by the concession contract.

Land concessions areas shall not be more than 10,000 hectares, and maximum duration is limited to ninety-

nine years." Reading this, it appears that UDECs must abide by similar restrictions to other concessions, however, there are a number of known mining concessions greatly exceeding 10,000 ha (some even measuring over 100,000 ha).

The document section of the CDC website includes a Law on Concessions, passed in 2007.<sup>43</sup> This covers concessions relating to "infrastructure facility".

Article 5 of the same law lists a number of sectors where these concessions may be granted, this includes: power generation; transportation; water supply; telecommunications; tourism; gas and oil related infrastructure; sewerage and waste management; and Special Economic Zones (SEZs).<sup>44</sup>

The list is not exhaustive and includes "other sectors for which a specific law allows for the granting of Concessions."

This could cover a wide range of projects, and may include mining operations. The Law on Concessions includes no restrictions on what type of land concessions may be granted on, no limit on the duration and no limit on the size. However, this is at odds with the above quote from the CDC website stating that there are time and size limits on UDECs.

It is a great concern that there is a lack of clarity in this area, especially with regard to mining concessions, which are apparently being granted with increasing frequency.

It is also worrying that the Law on Concessions does not include size and duration limits on infrastructure concessions.

<sup>40</sup> Sub-decree No 19 on Social Land Concessions 2003, Article 18.

<sup>41</sup> Land Law 2001, Article 50.

<sup>42</sup> CDC Website ([www.cambodiainvestment.gov.kh/?q=ii\\_land](http://www.cambodiainvestment.gov.kh/?q=ii_land)) Downloaded June 2009.

<sup>43</sup> CDC Website ([www.cambodiainvestment.gov.kh/cambodiafiles/userfiles/file/Law%20on%20Concession%20english.pdf](http://www.cambodiainvestment.gov.kh/cambodiafiles/userfiles/file/Law%20on%20Concession%20english.pdf)) Downloaded June 2009.

<sup>44</sup> Law on Concessions 2007, Article 4.

# Indigenous Community Lands

As discussed above, there is a classification of land called Collective Indigenous Community Property, which gives ownership of traditional indigenous lands to the entire community. This right does not bestow individual ownership rights on members of the community, but permits the land to be owned and managed according to traditional custom. Currently, no indigenous land in Cambodia is registered as the relevant implementing laws are still pending.

## Legal framework

The Sub-decree on Procedures for Registration of Indigenous Community Land was passed in May 2009, however, before land can be registered, the community must first be registered as a legal entity with the Ministry of Interior.<sup>45</sup> The procedure for registering the community will be set out in a sub-decree drafted by the ministry, however, there is no public draft of this sub-decree, and no clear information on when it will be completed and passed. In addition to this, draft documents for the Land Administration Sub-Sector Program<sup>46</sup> state that a further *prakas* on registering indigenous land will be drafted.

## Interim protection

Although it is still not possible to legally register indigenous land, and in all likelihood may not be possible for some time, Article 23 of the 2001 Land Law provides strong and immediate interim protection of indigenous communities' rights: "Prior to their legal status being determined under a law on communities, the groups actually existing at present shall continue to manage their community and immovable property according to their traditional customs and shall be subject to the provisions of this law." The indigenous community therefore shall be subject to legal protection even though they are yet to be registered.

According to Article 23 of the Land Law 2001: "An indigenous community is a group of people that resides in the territory of the Kingdom of Cambodia whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possession according to customary rules of collective use." However, local authorities and private companies sometimes avoid the strong protections of the land law by claiming that certain communities are not an indigenous community because

they no longer wear traditional clothing (banned during the Khmer Rouge reign) and because they now use mobile phones and motorbikes. This however is not a valid claim if the community still practices a collective way of life, for example, collective decision making.

Article 25 of the Land Law states, "The lands of indigenous communities are those lands where the said communities have established their residences and where they carry out traditional agriculture." Paragraph 2 of the same Article emphasizes that, "The lands of indigenous communities include not only lands actually cultivated but also includes reserved lands necessary for the shifting of cultivation which is required by the agricultural methods they currently practice and which are recognized by the administrative authorities."

The indigenous community lands however are not only for residences and traditional agriculture. During a debate on Chapter 3 of the Land Law at the National Assembly, BouThong, member of the National Assembly from Ratanakkiri explained that, "The management styles [of indigenous people], there are three to four styles: management of lands for residence, management of lands for subsistence such as farmlands, management of lands as a reserve lands or abandoned lands, and fourth, management of lands as spirit forest and land, a place for worship the one's whole life. No one or organization can violate the indigenous tradition." Spirit forest land and burial forest land are included in the definition of indigenous community land entitled to be registered as collective land.<sup>47</sup>

Further to this, various statements have been made by government officials and institutions, for example, the Council on Land Policy and provincial authorities in Mondulakiri and Ratanakkiri, that the transfer of indigenous property to people outside the community is illegal.

Local authorities and private companies sometimes avoid the strong protections of the Land Law by claiming that certain communities are not an indigenous community because they no longer wear traditional clothing (banned during the Khmer Rouge reign) and because they now use mobile phones and motorbikes.

<sup>45</sup> Article 3, Sub-decree on Procedures of Registration of Land of Indigenous Communities.

<sup>46</sup> One of the three Ministry of Land sub-sector programs that make up the Land Administration, Management and Distribution Program. The other two are the Land Management Sub-Sector Program and Land Distribution Sub-Sector Program.

<sup>47</sup> Sub-decree on Procedures of Registration of Land of Indigenous Communities, Article 6.

# Dispute Resolution Mechanisms

Those involved in land disputes or conflicts have, in theory, a number of dispute resolution options available to them, depending on whether the land in question is registered or unregistered. This is often a cause of confusion for complainants, but it is clear that for disputes over unregistered land complaints must be submitted to the Cadastral Commission (CC), and disputes over registered land to the courts.<sup>48</sup> The National Authority for Land Dispute Resolution also works to resolve land conflicts, but its powers, jurisdiction and track record of resolving disputes are much less clear.

## Cadastral Commission

Any disputes over land which is not yet registered, i.e. possessed land or indigenous community land, should be submitted to the Cadastral Commission.<sup>49</sup> The composition and responsibilities of the CC are set out in sub-decree.<sup>50</sup> The CC has three levels: district/khan (DKCC), provincial/municipal (PMCC) and national (NCC). Complaints must first be submitted to the DKCC, which only has the power to conciliate.<sup>51</sup> If there is no resolution to the dispute, it should be referred to the PMCC, which again may only conciliate.<sup>52</sup> In the case of an unsuccessful conciliation, the case should be referred to the NCC, who will adjudicate the dispute.<sup>53</sup> On receiving the NCC's decision the cadastral authorities should register the land accordingly. If a party is not satisfied with the NCC decision it may then complain to the court for judicial review.<sup>54</sup>

In practice, it is apparent that the CC does not always follow the appropriate procedures set out by law. Some communities who have applied for resolutions have had their complaints improperly referred to municipal courts; or due to the backlog of cases have seen their complaints referred back down to a lower level of the CC. One source working with government said in 2009, of close to 5,000 complaints filed with the CC since its creation, 1,800 are still pending. Many NGOs are concerned about the CC's apparent inability to resolve high profile land disputes.<sup>55</sup> The majority of disputes resolved are simple boundary disputes between neighbors. In disputes which involve a single individual against a community, resolutions are rare. Faced with a lack of action at the CC, communities often complain to the courts, which simply state that the dispute it is not within the court's jurisdiction, and refer complainants back to the CC.

Communities then feel there is no other option but to take their complaints directly to Prime Minister Hun Sen's house. Advisors to the prime minister often accept these complaints, but it is unclear whether these complaints are ever forwarded to his office. There is rarely any follow up on these land disputes by the advisors.

## Courts

As mentioned above, when dissatisfied with a CC decision, a party may complain to the courts.<sup>56</sup> In this case, the court should review the complaint and assess whether correct procedures were followed, if there was any conflict of interest, or if the CC acted beyond its power. If so, the CC must take action in line with the court's directions.<sup>57</sup>

Any dispute over land that is already titled should be filed with the courts, as should any dispute involving "contractual disputes over unregistered land such as succession dispute, sale/purchase contract, lease agreement and mortgages."<sup>58</sup>

## National Authority for Land Dispute Resolution

The National Authority for Land Dispute Resolution was created in 2006 by Royal Decree. It purportedly has jurisdiction over cases which are "beyond the jurisdiction" of the Cadastral Commissions.<sup>59</sup> However, as illustrated above, there are no cases of disputes which are beyond either the jurisdiction of the Cadastral Commissions or the courts.

The Authority has no established rules or procedures and is made up of senior government officials, including senior police and military figures, whose background and position make them ill suited for this important and sensitive role, particularly considering the number of high profile land-grabbing cases which involve military figures.<sup>60</sup>

LICADHO estimates that more than 3,500 families were involved in land disputes involving the military or police in 2008.<sup>61</sup>

The Authority is not a particularly active body and was criticized for this by Prime Minister Hun Sen himself in the lead-up to the July 2008 national election.

<sup>48</sup> See joint prakas of Ministry of Justice and Ministry of Land Management on Determination of Competence of the Court and Cadastral Commission Regarding Land Disputes 2003.

<sup>49</sup> Land Law 2001, Article 47.

<sup>50</sup> Sub-decree No 47 on Organization and Functioning of the Cadastral Commission 2002.

<sup>51</sup> Sub-decree No 47 on Organization and Functioning of the Cadastral Commission 2002, Article 6.

<sup>52</sup> Sub-decree No 47 on Organization and Functioning of the Cadastral Commission 2002, Article 15.

<sup>53</sup> Sub-decree No 47 on Organization and Functioning of the Cadastral Commission 2002, Article 19.

<sup>54</sup> Sub-decree No 47 on Organization and Functioning of the Cadastral Commission 2002, Article 23.

<sup>55</sup> NGO Position Papers on Cambodia's Development in 2007-08.

<sup>56</sup> Land Law 2001, Article 47 & Sub-decree No 47 on Organization and Functioning of the Cadastral Commission 2002, Article 23.

<sup>57</sup> Sub-decree No 47 on Organization and Functioning of the Cadastral Commission 2002, Article 23.

<sup>58</sup> Joint Prakas of Ministry of Justice and Ministry of Land Management on Determination of Competence of the Court and Cadastral Commission Regarding Land Disputes 2003, Article 4.

<sup>59</sup> Royal Decree on the NALDR 2006, Article 3.

<sup>60</sup> Of 20 members, 6 are representatives of either military institutions or the police, Royal Decree on the NALDR 2006, Article 1. See also: *The Cambodia Daily*, 'Controversial Land Dispute Resolution Team Has New Leadership'.

<sup>61</sup> *Phnom Penh Post*, '3,500 families affected this year by land grabs involving army', 29 December 2008.



## Background to Siem Reap Crackdown

The dispute over the high-yield rice fields escalated following the installation of water gates and the repair of a reservoir in 2004-2005, but the conditions that fuelled it can be traced back to a dam built during the Khmer Rouge regime, the split of the commune around it, lack of land titles, and allegations of bribery, double standards, and mismanagement by government officials (at the commune, district and provincial levels) in the privatization of the reservoir and the land surrounding it once it soared in value.

The 175 families from four villages in Chi Kraeng commune began clearing and cultivating the land below Sung Dam/78 reservoir in 1981, though rice yields were low due to the lack of water.

In 1986, the commune (which had 28 villages) was split into two: Chi Kraeng and Anong Samnor, with Chi Kraeng River serving as the natural boundary of the two (Chi Kraeng commune is west of the river and Anong Samnor is east of it). Although the disputed land is in Anong Samnor commune, farmers from four villages in Chi Kraeng who cleared it continued to farm it without opposition for more than a decade after the commune was divided.

They say they have used it (for gathering firewood, fishing in ponds and farming) for generations, though—as is common in rural Cambodia—they lack land receipts or titles to the land. Following the split of the commune, residents and local officials in Anong Samnor commune made no attempt to obtain titles to it because rice yields were low.

In 2004, the Chi Kraeng farmers postponed cultivation to work on a water gate that would flow water from the reservoir to 92 hectares. Prior to building the canal, on April 16, 2004, they requested permission (from the provincial agricultural department via the district agriculture office) to build the water gate but received no reply. They proceeded anyway.

At the end of the year, 42 families from Trapaing Tros village in Anong Samnor claimed that the 475 hectares were theirs. District and provincial authorities subsequently asked the Chi Kraeng farmers to stop farming on the disputed land until the dispute was resolved. The Chi Kraeng farmers agreed to this request.

However, while the Chi Kraeng farmers were awaiting a resolution, three businessmen allegedly hired residents of Anong Samnor to install a canal from the reservoir, and on February 21, 2006 they were granted ownership of the canal used to flow water into the fields cleared by the Chi

Kraeng farmers. During this time, farmers from Anong Samnor were permitted to farm the land, despite the fact that ownership of it was disputed.

Human rights investigators allege that the Anong Samnor farmers include relatives of the canal owners, who are in turn linked to district and provincial officials. Moreover, the owners of the water gate sold land to farmers and officials from outside the district (for up to \$1,600 per hectare), including residents of Siem Reap town, according to documents obtained by human rights investigators. These sales were not authorized by local authorities, investigators say. Some farmers from Anong Samnor have said they bought plots of land from the canal owners.

The dispute went national in 2006 when the Chi Kraeng farmers submitted a complaint on behalf of 1,347 families to the Cabinet of Prime Minister Hun Sen: 175 families complained about alleged land grabbing, while 1,172 families from Anong Samnor commune complained that public water was being embezzled from the reservoir. When ownership of the canal was transferred to the businessmen, communities who had used the reservoir were denied access to it or were charged fees (buckets of rice) in exchange for water. The complaint was written with the assistance of a reporter with *Sangkum Khmer* newspaper. Subsequently, a letter was sent from the prime minister's office to resolve the dispute peacefully and quickly. This was followed by a letter from the provincial governor to the district chief asking him to solve the dispute. No action was taken, residents said.

In 2007, the reporter submitted another complaint on behalf of the 1,347 families to the National Assembly and the Ministry of Interior which subsequently sent a letter to provincial officials asking them to resolve the dispute. No action was taken.

In November 2008, the reporter submitted another complaint to the National Assembly and the ministry seeking their intervention on behalf of the Chi Kraeng farmers.

Rights investigators quote the reporter as saying that in response to this complaint two letters were sent from the National Assembly: one to the 175 farming families granting them the right to cultivate the 475 hectares, and another to provincial authorities. The reporter is quoted as saying in reports as saying that the “carefully worded” letter to local authorities does not tell them exactly what to do but encourages them to resolve the dispute quickly and peacefully.

The Chi Kraeng farmers, however, believed that the letter they received from the National Assembly was enough for them to return to their rice fields, and in early December 2008 they began sowing rice. About two weeks after they started farming they were approached by about five police officers who asked who gave them permission to farm the disputed land.

They showed the policemen a copy of the letter from the National Assembly and the officers left.

On December 25, 2008, about 20 armed police arrived on the disputed land.

They pointed their guns at the farmers, threatened to kill them, and ordered them to leave the land. The farmers refused to leave. The police left.

The next day the two community leaders and the Cambodian journalist who had been helping them were arrested and detained in the provincial prison on charges that included incitement to commit a crime and infringement on private property.

From January 14 to 29 farmers surrounded the provincial courthouse in Siem Reap town, setting tires aflame and

demanding the release of the journalist and the two community leaders. The investigating judge denied bail, but his decision was overturned on January 29. On the same day the province's governor pledged to personally resolve the dispute.

His intervention on February 2, however, aggravated the situation because, farmers said, he was hostile towards them and their lawyer and his solution unfair.

He proposed granting the land to two local businessmen, allowing them to harvest the rice and then compensate the farmers who planted it by paying them for their seeds. He also called for a census of affected farmers to be taken so that they might eventually be given new land, though no time frame for this was specified. The Chi Kraeng farmers, whose villages are about 15 kilometers from the rice fields, refused to accept the governor's solution and began camping, with their families, near their fields to protect the rice they had sown.

There were an estimated 200 men, women and children from the Chi Kraeng villages at the disputed site when police opened fire on them on the morning of March 22.



## Children's Day at Andong



A young boy prepares for a ceremony to mark Children's Day at Cambodia's most notorious relocation site: Andong. After the violent eviction of the inner city community of Sambok Chap on June 6, 2006, residents were dumped in the swampy area about 20 kilometers from the city. Like many Andong children, the boy is suffering from a skin disease. About one-third of the medical services provided by LICADHO's medical team to residents are for children under the age of five. The most common health problems include malnutrition, typhoid, dengue fever, hepatitis A or B, hypertension, respiratory tract infections, gastrointestinal illnesses including stress-related ulcers and depression, according to LICADHO. There is a high rate of miscarriage, hemorrhaging and anemia due to a lack of care for pregnant women. Many children suffer from pneumonia, bronchitis, tuberculosis, diarrhea, dysentery, malnutrition and skin diseases.

*Photo by Peter Harris*







## Forced Evictions and Intimidation in Cambodia