



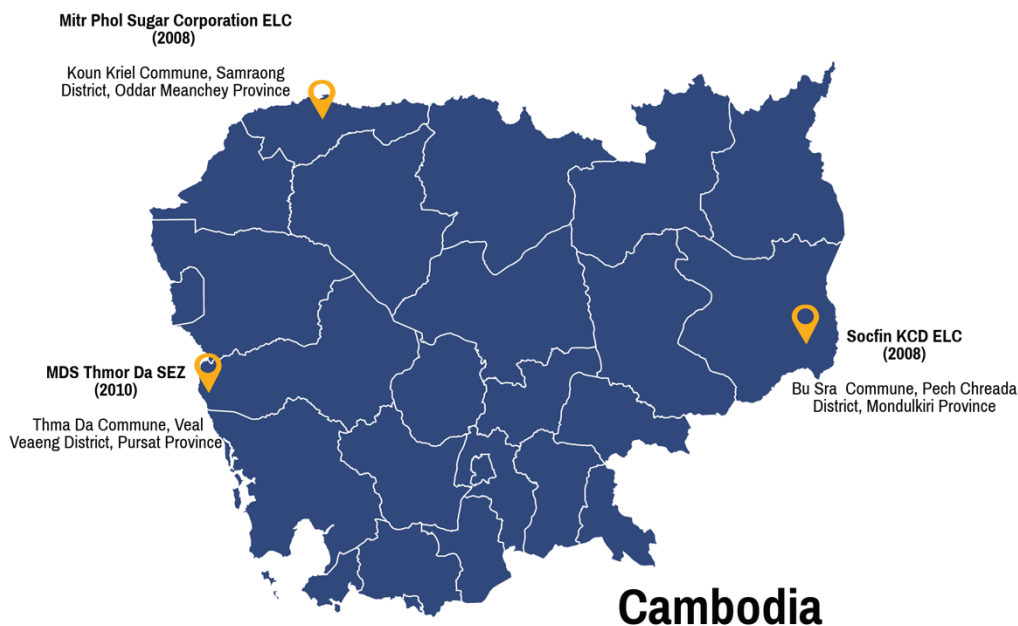
Briefing Note on Business and Human Rights: Preventing, Mitigating and Remediating Land-Related Rights Violations in the Kingdom of Cambodia: Seven Areas for Improvement

Executive Summary

INTRODUCTION

Over the past two decades, the Kingdom of Cambodia has achieved “stellar economic growth and poverty reduction”, according to the World Bank. Between 2007 and 2014, its poverty rate reduced from 47.8% down to 13.5%, exceeding its Millennium Development Goals poverty target. Since 1990, maternal mortality has reduced by half, close to universal primary education enrollment was achieved, and significantly progress in combatting HIV/AIDs was made. Over a 20 years period, Cambodia’s economic growth averaged 7.6 %, and it is expected to continue at a projected growth rate of 7% in 2019.

Nonetheless, **land disputes remain one of the most cited obstacles to Cambodia’s sustainable development.** As of March 2014, more than half a million people were reportedly involved in land disputes. Between 1990 and 2014, over 29,700 families were reportedly evicted or displaced from their homes in Phnom Penh alone. Estimates showed that the indigenous communities in Cambodia lost 30% of their traditional land in 2017 alone. Public authorities have taken a number of steps ranging from the promotion of land tenure security through the issuance of land titles, the creation of a communal land title process for indigenous communities, and the setting up of numerous committees, to resolve land disputes.



The Cambodian Center for Human Rights (‘CCHR’) has been working on land issues in Cambodia since its creation in 2002. As part of its business and human rights project, it conducted research in order to assess the situation of land conflicts in Cambodia and their impact on human rights. In collaboration with ActionAid Cambodia, CCHR identified **three land disputes, which, taken together, affected more than 1,600 households:** the land dispute involving villagers and Mitr Phol Sugar Company in Koun Kriel Commune, Samraong District, Oddar Meanchey Province; the one involving indigenous communities and rubber company Socfin-KCD in Bu Sra Commune, Pech Chreada District, Mondulkiri Province; and finally, the land dispute involving villagers and the MDS Company in the MDS Thmor Da Special Economic Zone (‘SEZ’) in Thma Da Commune, Veal Veang District, Pursat Province.

FINDINGS

CCHR has been closely monitoring these land disputes, and undertook **six field trips** where it conducted interviews with government officials, provincial and local authorities, companies' representatives as well as non-governmental organizations and individuals who have been directly affected by the conflicts. It also undertook a **desk review research** of the applicable laws and standards, as well as corporate research. As a result of this research, CCHR identified seven areas of concerns which are at the core of land-related disputes in Cambodia that hinder a fair, equitable and inclusive development of the country. CCHR's research further shows, however, that **simple steps could be taken to effectively prevent, mitigate and remedy these concerns, and to promote a more fair, transparent and effective land dispute resolution process across the country:**



Finding 1 - Property rights must be given due consideration



Finding 2 - Environmental and social impact assessment must be conducted prior to the start of the operations



Finding 3 - Meaningful consultations must be conducted prior to any development taking place, and free, prior and informed consent must be respected



Finding 4 - The use of force and involuntary resettlement must be strictly prohibited



Finding 5 - Affected communities must be allowed to advocate for their rights freely



Finding 6 - Efforts must be made to ensure a timely and effective remedy for the victims



Finding 7 - Additional, alternative and innovative dispute resolution processes should be facilitated

First, CCHR's research shows that despite the legal framework on human rights protection, land rights and technical requirements for the establishment of SEZs and economic land concessions ('ELCs') being relatively strong, these processes were not always fully respected. There appeared to be no meaningful effort to assess whether the affected communities had a legal right on the affected land, independently of whether they had a formal land possession title or not. Furthermore, social and environmental impact assessments, including consultations, were not always undertaken, and when they were, they were done as a mere formality rather than a genuine effort to limit any detrimental effect of the project on local communities. People were often pressured, at best, or coerced, at worst, into signing over their land to the authorities or the company. Many were forcibly evicted in all three cases, at times violently. In order to avoid such situations, property rights must be given due consideration, environmental and social impact assessment must be conducted prior to the start of the operations, and meaningful consultations must take place prior to any development. At all times, the use of force and involuntary resettlement must be strictly prohibited.

CCHR's research further shows that communities which were negatively impacted by the SEZ or ELCs and who thus attempted to protest faced serious challenges, such as threats and intimidation, arrests and detention, surveillance and violence. In order to promote a just and effective resolution of land disputes, it is essential that the authorities allow those affected to advocate for their rights unhindered.

Finally, CCHR's research shows that the impact of the land disputes went far beyond the mere loss of land: people lost their homes and properties, including important administrative documents; indigenous communities lost their traditions and access to religious sites; people were unable to sustain themselves and children had to drop out of school due to relocation; family members were jailed; many became indebted. Despite such wide-ranging impacts, despite the fact that the three land disputes started more than a decade ago, and notwithstanding multiple attempts by the authorities aiming at solving the disputes, most of those interviewed by CCHR reported not feeling free to accept the resolution proposed, and rather felt they had no choice but to accept. Further, the dispute resolutions offered in the three cases did not fully remedy the violations suffered, and also failed to meet international standards. As a result, significant efforts must be

RECOMMENDATIONS

The Briefing Notes ends with **15 recommendations** to the Royal Government of Cambodia, to private companies operating in Cambodia and to civil society organizations, outlining simple steps to be taken in order to prevent, mitigate and remedy human rights issues arising out of corporate activities in Cambodia, including:

- **Respect for the concept of free, prior and informed consent of affected communities** when it comes to handing over land or accepting a remedy;
- Conduct, respect and monitor **environmental and social impact assessments**;
- **Provide timely and effective remedies**;
- **Stop monitoring, harassing and punishing human rights defenders**;
- For companies, **exercise due diligence** in order to avoid adverse human rights impacts; and
- For CSOs, to **continue monitoring land disputes** and encourage dialogue with the RGC and corporate actors to promote respect for the UNGPs.

ABOUT THE BUSINESS AND HUMAN RIGHTS PROJECT

This Briefing Note forms part of the ‘Strengthening CSOs to Advocate for Increasing Respect for Human Rights by Corporate Actors in the Land Sector’ project, implemented by CCHR and ActionAid Cambodia. It aims to improve corporate conduct through advocating for the authorities to regulate corporate conduct; through supporting communities’ rights and raising awareness; and by enabling a safe environment for civil society and human rights defenders, to create space for dialogue and collaboration between the government, corporate actors, local communities and CSOs and materialize the application of the business and human rights standards in the land sector. More information on the project can be found [here](#).

ABOUT THE CAMBODIAN CENTER FOR HUMAN RIGHTS

CCHR is a non-aligned, independent, non-governmental organization that works to promote and protect democracy as well as respect for human rights throughout the Kingdom of Cambodia. CCHR’s vision is of a non-violent Cambodia in which people can enjoy their fundamental human rights, are empowered to participate in democracy, and share equally the benefits of Cambodia’s development. CCHR promotes the rule of law over impunity; strong institutions over strong men; and a pluralistic society in which variety is harnessed and celebrated rather than ignored or punished.

CCHR is a member of International Freedom of Expression Exchanges (‘IFEX’), the global network for freedom of expression. CCHR is also a member of the World Organization Against Torture (‘OMCT’) SOS-Torture Network, Southeast Asian Press Alliance (‘SEAPA’), and OECD-Watch. The Cambodian Human Rights Portal, www.sithi.org, managed by CCHR, is the 2011 winner of the Information Society Innovation Fund Award in the category of Rights and Freedoms and the 2013 winner of the Communication for Social Change Award, awarded by the Centre of Communication and Social Change at the University of Queensland in Brisbane, Australia.

QUERIES AND FEEDBACKS

The Briefing Note and all other publications by CCHR are available online at www.cchrcambodia.org and www.sithi.org. Should you have any questions or require any further information, or if you would like to give any feedback, please email CCHR at info@cchrcambodia.org. Alternatively, please call us at +855 (0) 23 72 69 01 or contact us at #798, Street 99, Boeung Trabek, Khan Chamkarmon, Phnom Penh, Cambodia.

