



International Federation for Human Rights (FIDH) - Briefing Note

Cambodia: A Mounting Human Rights Crisis

“Land disputes and forced evictions continue unabated in Cambodia, and feature the use of force by the authorities and business enterprises.”

– Mr. Surya Subedi, UN Special Rapporteur on the human rights situation in Cambodia, July 2012

In 2012, the human rights situation in Cambodia continues to deteriorate and impunity remains entrenched. In particular, violations of land and housing rights are **serious and systematic**, while intimidation and criminalisation of human rights defenders defending these and other rights is **on the rise**.

Land and Housing Rights

The total area of arable land in Cambodia has dramatically shrunken, primarily due to land-grabbing, resulting in the tragic loss of livelihoods of hundreds of thousands of Cambodians and aggravating poverty. According to FIDH’s member and partner organisations in Cambodia, since 2003, over 400,000 people have been affected by land-grabbing and evictions in cases documented in Phnom Penh and 12 other provinces; in 2011 alone, over 11,000 families were newly affected by land conflicts.¹ By another estimate, as of 2011, 127 communities or approximately 56,904 families, in 11 municipalities/provinces have been forcibly evicted; 606 communities faced imminent eviction.² Violation of land and housing rights results in the infringement of other rights, such as the rights to education, food, health, decent work, and participation in public life, all of which are protected in law but often breached in practice.

Land-grabbing and forced evictions are closely related to the **frequent issuance of economic and other land concessions** by the Government to private actors, purportedly for economic and industrial development. As of August 2012, the Government granted at least 2,157,744 hectares of economic land concessions (ELCs) to over 200 companies.³ There was a dramatic increase in the granting of ELCs in 2011 (approximately 800,000 hectares).⁴ Between January and August 2012, as many as 56 ELCs are known to have been granted.⁵ Many of these concessions were negotiated and granted with little transparency and often without first conducting **human rights, social, or environmental impact assessments**, and without **adequate consultation** of the affected communities. Those who lost land to such schemes were often denied adequate and just **compensation** for loss of livelihoods. The ELC process also **lacks transparency** at all stages.

Investigations also reveal that most, if not all, ELCs were granted **in violation of provisions of the 2001 Land Law and/or Sub-Decree on ELCs**, often side-stepping legal safeguards, such as the prevention of concessions in protected areas, environmental and social impact assessment, and free, prior and informed consent of indigenous communities. The case study of a rubber plantation in Mondulkiri province published in FIDH’s 2011 report, *Land Cleared for Rubber, Rights Bulldozed*⁶, provides a snapshot of these irregularities and circumvention of domestic legislation. Although Cambodian law allows for the registration of indigenous communities as legal entities and protects their right to collective ownership, the Bunong indigenous

¹ Statistics collected by the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), May 2012.

² Cambodian Human Rights and Development Association (ADHOC), Report of Land and Housing Rights 2011, March 2012.

³ Statistics collected by LICADHO.

⁴ See footnote #2, page 1.

⁵ Statistics collected by ADHOC.

⁶ The report can be downloaded at: <http://www.fidh.org/Land-cleared-for-Rubber-Rights.html>

community in Bousra village in Mondulkiri faced multiple political, administrative, and procedural obstacles that in effect made it extremely difficult, if not impossible, for them to secure collective land title before their land were cleared for rubber plantation.

Evictions and land-grabbing are often violent and involve State security forces, who enjoy impunity. On 16 May, in an extremely violent mass eviction, hundreds of armed soldiers and police, supported by helicopter, used excessive force to evict more than 600 families in **Broma village in Kratie province**. The families had been embroiled in a land dispute with the well-connected Casotim company, which was granted a 15,000-hectare agro-industrial land concession for development purposes. During the military-style crackdown, **Heng Chantha**, a 14-year-old girl, was shot and killed. Government officials later justified the lethal operation by claiming the villagers, some of whom are members of the civic group Democrats Association, were part of an attempt to secede from Cambodia. No credible investigation has been initiated thus far and no state officials have been prosecuted for the killing of Chantha or the use of excessive force against civilians.

On 7 May 2012, a month before the commune elections and during the visit of the Special Rapporteur, the Cambodian Prime Minister issued a directive to “temporarily postpone” the granting of ELCs. While the directive mandates that any company found to have violated “applicable procedures and contracts” could have their ELCs withdrawn, it does not require a **systematic review** of all existing ELCs to ensure they comply with current laws and regulations. No systematic effort to withdraw on-the-ground established ELCs has occurred under this directive, even in long-running cases where irregularities and serious human rights abuses have been sufficiently documented. The directive does not apply to ELCs for which negotiation has begun prior to its issuance and. Of course, information about such negotiations is not public. According to sources, at least 12 ELCs have been granted since the May 7 directive was issued. This loophole means a limitless number of ELCs can still be issued, as long as the government claims it had the intent to do so prior to the moratorium. Ultimately, the directive does not address the numerous existing disputes and violations resulting from ELCs already granted in the past decade.

In June 2012, the Prime Minister announced a nation-wide land titling scheme whose stated goal is to measure land and distribute land titles to families throughout the country. While the Prime Minister initially said the campaign would target disputed areas, he later backtracked and said disputed land would not be covered by his privately-funded titling scheme. The Government has dispatched close to 2,000 youth volunteers, many of them students, to assist the Ministry of Land Management, Urbanization, & Construction to measure land for supposedly 350,000 households. However, details of the programme’s implementation remain extremely unclear. It is unclear how land measurement is being carried out and whether the youth volunteers are professionally competent to assume such tasks. There are also no clear criteria for granting land titles, meaning the process is open to charges of unfairness. Land activists have also raised concerns that students appear to also have the authority to award land, and have documented cases in which students attempted to influence or intimidate communities into agreements that are less than fair.⁷ The scheme also fails to account for the indigenous communities’ efforts to seek collective titles, and the threat to those efforts posed by awarding private titles to some community members.

Violence, Intimidation and Criminalisation of Activists and Protesters

The proliferation and prolonged duration of land disputes has been accompanied by an unmistakable shrinking of the democratic space, and made worse by the **lack of an independent and competent judiciary** that could guarantee equitable access to justice. Victims are usually poor and marginalized, and have little confidence in either the courts or law enforcement agencies. In the face of **persistent impunity**, those whose rights have been violated are increasingly resorting to social protests to air their grievances, in the absence of any meaningful channels of redress. In 2011, local rights groups have documented government restrictions on,

⁷ *The Phnom Penh Post*, PM’s land titling scheme full of ambiguity, 6 July 2012.

<http://www.phnompenhpost.com/index.php/2012070657262/National-news/titling-scheme-full-of-ambiguity.html> (Accessed on 6 September 2012).

and **excessive use of force** by state security forces against, peaceful protesters.⁸ The trend continues in 2012, in which there have been at least nine such incidents.

The escalating intimidation and criminalisation of human rights defenders and their organisations severely constrain their ability or willingness to assist victims and thus risk denying victims another channel of important support. In the first nine months of 2012, at least 50 activists or peaceful protesters are known to have been subjected to intimidation, arbitrary arrests and detention, or violence. Over the last ten years, human rights defenders assisting victims of land rights violations have increasingly come under pressure from national and provincial authorities, been vilified by Government-affiliated groups and pro-Government media, and faced judicial harassment or, worst, assassination.

In January, the police arbitrarily arrested without a warrant and detained without charge **22 women and six children from the Borei Keila community** in Phnom Penh, while they were peacefully protesting their eviction.⁹ Prior to these arrests, on 3 January, the Cambodian company Phan Imex sent a demolition team, supported by municipal police, to violently raze the homes of around 300 families living in Borei Keila. The police used tear gas and rubber bullets – as well as live ammunition – against the residents. Those forcibly evicted were relocated to two remote resettlement sites, where they are living in makeshift tents, without adequate access to electricity, sanitation or clean drinking water, schools, and employment opportunities. The women and children were detained in the Prey Speu social affairs center without access to their families, legal counsel, and medical care. Three women were released on January 16 and another woman on January 17, after both agreed to sign a contract to accept land in a remote relocation site. On January 18, the remaining women and children climbed the fences around the detention center and escaped during a visit to the facility by two opposition parliamentarians and the media. No state officials have been held accountable for the excessive use of force during the eviction or for the arbitrary detention of these victims.

In February, Mr. **Soum Chankea**, Provincial Coordinator in Banteay Meanchey province for the Cambodian Human Rights and Development Association (ADHOC), a member of FIDH, faced charges of “slandering denunciation” for his role in providing legal advice to a victim of alleged sexual harassment committed by individuals connected to high-level government officials. The provincial prosecutor decided to withdraw the charges in June.

On 20 February, around 6,000 workers demonstrated in front of the Kaoway Sports Ltd factory in Bavet town, Svay Rieng province, to demand for better working conditions. A man arrived in a car, stepped out and shot at the protesting workers, injuring three unarmed women. The shooter was later identified as being Bavet town’s own governor, Mr. **Chhouk Bandit**. Despite the severity of the crime, the prosecutor only charged Bandit with ‘unintentional physical assault’ in April, but did not request pre-trial detention. The Government did not take any serious disciplinary actions against Bandit and merely transferred him to another lesser post. Witness hearings are on-going.

In March, the organizers and participants, both Cambodian and foreign, in the annual **ASEAN Civil Society Conference/ASEAN People’s Forum (ACSC/APF)** faced a series of restrictions, intimidation and arrests. The owner of the hotel where the APF was held reportedly came under intense government pressure to censor and prevent presentation of certain topics, including land rights and the human rights situation in Burma.¹⁰ As a result, several workshops were cancelled or relocated to another more remote venue. On 30 March, **community representatives from Koh Kong** province came to Phnom Penh to submit a petition to the Chinese embassy regarding a land disputes between them and a Chinese company. Security officials prevented

⁸ See ADHOC 2011 Land and Housing Rights Report, page 3. See also LICADHO, *The Delusion of Progress: Cambodia’s Legislative Assault on Freedom of Expression*, October 2011, pages 27-29.

⁹ See Joint Allegation Letter by the UN Special Rapporteurs on 1) adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; 2) the human rights situation in Cambodia; 3) on rights to freedom of peaceful assembly and association; 4) freedom of expression and opinion; and 5) right to health. [https://spdb.ohchr.org/hrdb/21st/public_-_AL_Cambodia_20.04.12_\(2.2012\).pdf](https://spdb.ohchr.org/hrdb/21st/public_-_AL_Cambodia_20.04.12_(2.2012).pdf)

¹⁰ See Joint Allegation Letter by the UN Special Rapporteurs on 1) the human rights situation in Cambodia; 2) freedom of expression and opinion; 3) rights to freedom of peaceful assembly and association; and 4) human rights defenders. [https://spdb.ohchr.org/hrdb/21st/public_-_AL_Cambodia_04.05.12_\(3.2012\).pdf](https://spdb.ohchr.org/hrdb/21st/public_-_AL_Cambodia_04.05.12_(3.2012).pdf)

these representatives from leaving their guesthouse in Phnom Penh and forcibly transferred them back to Koh Kong. When several Koh Kong representatives came back to Phnom Penh the next day to join a workshop at the APF but was later taken from their guesthouse and detained by the police for three hours; they were released after being forced to thumbprint documents stating they would not disrupt the upcoming ASEAN Summit in Phnom Penh.

On 26 April, Mr. **Chut Wutty**, environmental rights defender and founder of the National Resources Protection Group (NRPG), was fatally shot in Koh Kong province while accompanying two journalists to Mondol Seima district to report on illegal logging. Mr. **In Rattana**, a military police officer, was also found dead on the scene with a gunshot wound. The authorities were quick to put the blame on Rattana, whom they eventually said was accidentally shot by a security guard working for the logging firm Timbergreen while the latter was allegedly trying to disarm Rattana. The said security guard was charged four days after the Government conducted an investigation into the killings. Critics have denounced the inquiry as lacking in credibility due to the absence of investigation into the events leading to the shooting.

On 22 May, **13 women land activists** from the Boeung Kak Lake community were arbitrarily and violently arrested while holding a peaceful protest at the development site affecting their community. The 13 women, all mothers or grandmothers, were charged, tried, convicted and sentenced to lengthy prison terms on trumped-up charges in a three-hour summary trial on 24 May.¹¹ Two land activists belonging to the same community, Mr. **Sao Saroeun** and Ms. **Ly Chanary**, were also arrested outside the court on 24 May and were placed in pre-trial detention until 15 June, when they were released and placed under judicial supervision pending their trial. In the morning of 24 May, **Venerable Loun Sovath**, a finalist in the 2012 Martin Ennals Award for Human Rights Defender and prominent advocate for land and housing rights¹², took part in the demonstration in front of the Phnom Penh court to support the 13 women on trial. He was later surrounded by authorities in civilian dress, who, with the help of police and monks, forced him into a vehicle, and took him to Botum Paga in Phnom Penh, where he was held incommunicado for 10 hours. He was released after being forced to sign a document stating that he would no longer continue his advocacy efforts.

On 27 June, the 13 women were released after the Appeal Court upheld their conviction but suspended the remainder of their prison sentences. Riot police, ordered by Phnom Penh deputy police chief Phoung Malay, used excessive force to prevent supporters from marching towards the Court. In the ensuing violence, a pregnant woman was kicked in the stomach. The woman, **Bov Srey Sras**, later lost her unborn child. Srey Sras is suing Malay for having ordered the violence which led to her miscarriage. Malay has not faced any disciplinary actions.

On 25 May, the Supreme Court upheld the 2010 conviction of **Leang Sokchouen**, a staff of the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), an FIDH member. Sokchouen was arbitrarily arrested on 29 May 2010 for his alleged involvement in producing and distributing “anti-government” leaflets in Takeo province in January 2010. On 30 August 2010, he was convicted after an unfair trial and sentenced to two years’ in prison and a two million riel fine (US\$500) on charges of disinformation.¹³ The prosecution failed to present any in-court witness testimony or credible evidence, and the judgement appeared to be based entirely on written statements prepared by the police.¹⁴

On 15 July, police arrested Mr. **Mam Sonando**, Director and Owner of the independent FM station 105 (Beehive Radio). The Phnom Penh Municipal Court later pressed serious charges against him under six articles

¹¹ Joint INGO Letter to the Prime Minister: Vacate convictions against BKL human rights defenders, 29 May 2012. <http://www.fidh.org/Joint-open-letter-to-the-Prime,11759.html>

¹² See profile of Venerable Loun Sovath in the Observatory report, *Cambodia: Freedoms of Expression, Association and Assembly: A Shrinking Space*, September 2010, page 22. http://www.fidh.org/IMG/pdf/OBS_CAMBODGE_final_ENG.pdf

¹³ Amnesty International, Human Rights Watch, the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), International Groups Condemn Sentencing of Local Rights Staffer - Arbitrary Arrest, Unfair Trial Marked by Flawed Legal Proceedings, 1 September 2010. <http://www.fidh.org/Cambodia-International-Groups.html>

¹⁴ LICADHO, Supreme Court Upholds Baseless Conviction of LICADHO Staff, 25 May 2012. <http://www.licadho-cambodia.org/pressrelease.php?perm=280>

in the Penal Code, including ‘insurrection’ and ‘inciting rebellion against the State’.¹⁵ Sonando, who holds both Cambodian and French citizenships, was in the past decade detained twice before on trumped-up charges. The latest charges stem from unsupported accusations by the government that he was responsible for instigating villagers in Kratie province to secede from Cambodia (see 16 May event). The Prime Minister of Cambodia called for Sonando’s arrest in a public speech on 26 June, one day after Sonando’s radio station broadcast a report from the Hague about a submission to the International Criminal Court (ICC) against the Government. The submission alleges that the mass forced evictions in Cambodia since July 2002 constituted crimes against humanity. Sonando, who is 70 and reportedly in poor health, is in pre-trial detention in the overpopulated Prey Sar Prison (Correctional Centre 1). The government dispatched hundreds of police to block off the roads leading to the Phnom Penh Municipal Court to curtail the presence of observers of the trial of Sonando, which took place on 11 to 13 September. The Court will announce its verdict on 1 October.

On 27 July, police officers and local officials disrupted and ordered the discontinuation of **a training session for local villagers on land rights organised jointly by ADHOC and the Cambodian Center for Human Rights (CCHR)** in Patang village, Patang commune, Rattanakiri province. When the organizers refused to stop the training, two more police officers arrived, one carrying an M-16 assault rifle. In face of the real threat of physical violence, the organizers decided to cancel the training. The officials alleged that they were acting upon orders from the provincial authorities, because the organizers had allegedly failed to satisfy notification requirements. However, under Article 3 of the Cambodian 2009 Law on Demonstrations, organisers are exempted from notification requirements for all educational/training activities related to social interests. Notwithstanding this exemption, CCHR had sent a letter to Patang Village Chief in order to notify him of the upcoming training session.

August saw more display of hostility against human rights defenders, seemingly at the behest of the Government. On 3 August, the Cambodia Democracy Student Coalition and Student Association as well as the Association of Pagoda Youth, both Government-affiliated groups, issued public statements and warned Mr. **Sia Phearum**, Secretariat Director of Housing Rights Task Force (HRTF), to stop criticising the Government’s land policy. A day earlier, Phearum gave an interview to Radio Free Asia in which he made comments critical of the use of youth volunteers as land surveyors in the Prime Minister’s land titling programme established in June (see Page 2). In the 3 August statement, the student group warned that if Phearum or other NGOs continued to criticise the programme, it could not guarantee that youths would react peacefully.

Also in early August, the Phnom Penh Municipal Court issued a summons to Mr. **Chan Soveth**, Senior Investigator and Deputy Head of the Monitoring Section of FIDH member organization ADHOC, to appear before an investigating judge on 24 August.¹⁶ The summons came soon after the Cambodian Prime Minister, in a public speech on 1 August, alleged that an unidentified NGO worker had provided assistance to a villager involved in the Kratie ‘secessionist’ plot. The summons states that Soveth has been accused of assisting a perpetrator of a felony under Article 544 of the Cambodian Criminal Code. If found guilty, he faces one to three years imprisonment and a fine of two million to six million riels. It is believed that the charges facing Soveth are linked to his routine humanitarian assistance to a villager affected by the mass eviction in Kratie province in May, the same incident to which the charges against Mam Sonando were connected. On 23 August, the Court decided to postpone indefinitely the 24 August questioning, without providing any details about the pending charges.

In September, two prominent women land activists were placed under pre-trial detention on seemingly trumped-up charges.¹⁷ On 4 September, prominent Boeung Kak land activist Ms. **Yorm Bopha** and her husband, Lous Sakhorn, were detained for allegedly assaulting a person who was suspected of stealing, an allegation that Bopha has denied on the ground that she was not even present at the scene. Although her husband was released on bail, Bopha is currently in pre-trial detention in Prey Sar Prison and told a visiting

¹⁵ The Observatory for the Protection of Human Rights Defenders (FIDH-OMCT), Independent radio station director Mam Sonando arrested and charged, 17 July 2012. <http://www.fidh.org/CAMBODIA-Independent-radio-station.html>.

¹⁶ The Observatory, Cambodia: Judicial harassment of Mr. Chan Soveth, 16 August 2012. <http://www.fidh.org/Cambodia-Judicial-harassment-of-Mr.html>

¹⁷ Joint Statement, Latest Detention of Women Land Activists: Rights Groups Call for Immediate Release, Condemn Government’s Ongoing Persecution of Human Rights Defenders, 13 September 2012. <http://www.fidh.org/Cambodia-Latest-Detention-of-Women-12177>

FIDH representative that her health deteriorated in detention. She faces between two to five years of imprisonment and a fine of four to ten million riels if found guilty under article 218 of the Penal Code. A day after Bopha's arrest, the Phnom Penh Municipal Court questioned and then charged Ms. **Tim Sakmony**, a Borei Keila community representative, with making a false declaration and placed her in pre-trial detention as well. Sakmony's detention came after a complaint lodged by Suy Sophan, the politically connected owner of Borei Keila developer Phan Imex. The "false declaration" allegation seemingly refers to Sakmony's request for the Phan Imex to compensate her disabled son for the company's failure to provide him with an apartment after his eviction from Borei Keila in January 2012.

On 9 September, local newspaper *Vorakchun Khmer Daily* reporter **Hang Serei Oudom**, who reported extensively on illegal logging, went missing and his body was discovered in the trunk of an abandoned car two days later in Rattanakiri province. The Police reported that he received several blows to his head and that this was a "murder." Oudom's news articles often exposed the complicity of officials or private companies in deforestation and other environmental crimes. In his last article that appeared on 6 September, Oudom accused the son of a military police commander of timber smuggling and extortion. Oudom's killing is the second of the year after the killing of environmental activist Chut Wutty.

The aforementioned cases are by no means exhaustive, but they clearly represent a downward trend for the democratic space to act for civil society groups and individual activists in Cambodia. Not only is the space shrinking, it is also becoming ever more dangerous to carry out human rights work. The Chan Soveth summons represents a particularly serious threat to all human rights defenders in Cambodia who provide humanitarian assistance to victims as a part of their daily routine. The bravery of these defenders seems to be matched only by the government's growing lack of political will to protect human rights enshrined in both the Constitution and the many international human rights treaties Cambodia has ratified.

Recommendations

FIDH calls on the Government of Cambodia to urgently implement the following general recommendations. The international community, including donor countries whose aid supports more than half of the country's budget, should see it as an obligation, rather than a policy option, to press the Government to implement these and other recommendations repeatedly made to it by civil society, victims, and international monitoring bodies.

On land and housing rights

- Cease all forced evictions and introduce a moratorium on forced evictions in Cambodia until a transparent and accountable legal framework and relevant policies are in place to ensure that evictions are conducted only in accordance with Cambodia's obligations under international human rights law
- Ensure that all those forcibly evicted are guaranteed adequate compensation and suitable alternative accommodation that meets international standards for adequate housing, water and sanitation, food security, and livelihood
- Strengthen the May 2012 directive by imposing a nation-wide moratorium on all ELCs at all stages of negotiation, and systematically review all existing ELCs to ensure they comply with the 2001 Land Law and the Sub-Decree on ELCs or else be withdrawn immediately
- Recognize and respect all legitimate tenure right holders and their rights in law and in practice, in accordance with international standards on the protection of tenure rights, including the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

On violence, intimidation, and criminalisation of human rights defenders

- The courts must independently review the charges against **Mam Sonando, Sao Saroeun, Ly Chanary, Yorm Bopha**, and **Tim Sakmony**, and the basis for the summons of **Chan Soveth**. In the continuing absence of credible evidence in these cases, all charges should be dropped and the individuals should be released
- Fully, impartially and independently investigate all instances of violence against peaceful demonstrators and activists, with a view to prosecute and punish all those responsible for human rights

violations, regardless of rank, position or political affiliation, in accordance with due process of law. In particular, the government must conduct a credible investigation into the killings of **Hang Serei Oudom, Chut Wutty, In Rattana**, as well as the events leading to their deaths

- The government must refrain from interfering with the judicial system. In particular, it must also allow for prosecution to occur into **Heng Chantha's** killing, as well as successful prosecution of former Bavet governor Chhouk Bandit to the fullest extent of the law, in accordance with international fair trial standards
- Guarantee in all circumstances the physical and psychological integrity of all human rights defenders and their organisations in Cambodia, and conform with the provisions of the Declaration on Human Rights Defenders, adopted on December 9, 1998 by the United Nations General Assembly