



## **CAMBODIA**

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**Joint submission prepared by FIDH (International Federation for Human Rights), the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), and the Asian Forum for Human Rights and Development (FORUM-ASIA)**

#### **FIDH**

The International Federation for Human Rights, known by its French acronym FIDH, is an international human rights NGO representing 184 organizations from 112 countries. Since 1922, FIDH has been defending all civil, political, economic, social, and cultural rights as set out in the Universal Declaration for Human Rights.

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#### **LICADHO**

Founded in 1992, the LICADHO is one of the leading human rights NGOs in Cambodia. LICADHO has been at the forefront of efforts to protect civil, political, economic, and social rights in Cambodia and to promote respect for them by the Cambodian government and institutions. Building on its past achievements, LICADHO continues to be an advocate for the Cambodian people and a monitor of the government through wide ranging human rights programs from its main office in Phnom Penh and 13 provincial offices.

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## FORUM-ASIA

FORUM-ASIA is a leading membership-based human rights organization in Asia. It is a network of 58 human rights organizations from 19 Asian countries. It addresses key areas of human rights violations that include freedoms of expression, assembly and association, human rights defenders, and democratization. Human rights advocacy at national, regional and international levels, including the UN Human Rights Council, is a central FORUM-ASIA's focus.

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### Human rights violations stemming from land confiscation remain unaddressed

1. This submission focuses on land grabbing and related human rights violations that remain endemic throughout Cambodia and affect hundreds of thousands of individuals.
2. Since Cambodia's previous UPR in 2014, FIDH's member organization in Cambodia, the *Cambodian League for the Promotion and Defense of Human Rights (LICADHO)*, has documented a surge in conflicts following the 2013 general election. In the years 2014 – 2016, over 30,000 families were documented by *LICADHO* as being newly affected by land conflicts with state actors or private companies. In 2014 alone, *LICADHO* documented 10,625 families, or an estimated 49,519 individuals, as being newly affected by land conflicts. This number is more than three times the number of families documented in 2013 (which stood at 3,475) and nearly twice the number recorded in 2012 (which was 5,672).
3. On 1 April 2014, *LICADHO* issued a statement entitled "2014 Brings a New Wave of Cambodian Land Conflicts," which documented and condemned the post-election surge in land disputes. The following day, the Cambodian government held a press conference during which they claimed that the findings cited were "not real." Such a denial is particularly grave, given that the lack of action to tackle the issue had tragic consequences. Less than four months after the government's press conference, a 19-year-old Cambodian was shot and killed by Brigade 41 soldiers, who fired on a group of farmers involved in a land dispute with the military unit in Preah Vihear Province.
4. The number of land conflict cases since Cambodia's previous UPR in 2014 remains high, as is reflected in *LICADHO*'s statistics of reported cases, with 10,579 affected families reported in 2015 and a further 9,616 families reported in 2016. As the 4 June 2017 commune elections drew closer, the number of families affected by land conflict fell to 3,032 in 2017. In the first six months of 2018, *LICADHO* recorded 1,492 families affected by land conflict. As the country is approaching the 29 July 2018 general election, *LICADHO* has noted a fall in the number of new cases, reflecting an ongoing trend in which the intensity of land disputes decreases during pre-election periods. However, past experience suggests that this drop is the result of a temporary hiatus driven by political expediency because none of the underlying and systemic issues fuelling land conflict have been addressed. A surge in reported land-related cases following the July 2018 general election is expected.

5. In June 2018, land-related demonstrations in Phnom Penh were a virtually daily occurrence, with communities travelling from multiple provinces to hold protests at key ministries in the capital to seek redress for land grabbing. Communities affected by sugar-producing Economic Land Concessions (ELCs) have been among the most active of these communities and have faced ongoing harassment, including actions by state forces aimed at preventing them from leaving their home provinces in vehicles. Following one such intervention by state forces, communities from Koh Kong Province walked part of the 150km journey to Phnom Penh in order to peacefully demonstrate.

### **Economic Land Concessions (ELCs) fuel land disputes**

6. Over 2.2 million hectares of Cambodia's land has been granted to private firms under long-term leases, mostly through the country's ELC scheme. The vast majority of ELCs have been issued in violation of Cambodia's 2001 Land Law and its Sub-decree on ELCs. The requirements stipulated in these regulations regarding land size, prior Environmental and Social Impact reports, prior consultations and the informed consent of affected communities, transparency, and fair and adequate compensation have been routinely ignored. Although some ELCs have been cancelled and the land returned to the control of the state, over two million hectares remain under long-term leases, mostly for agro-industrial purposes. In cases where land has been returned to the state, it is rare for its original occupants to be able to reclaim their property and rebuild their homes and livelihoods.
7. In May 2012, Prime Minister Hun Sen signed a directive declaring a moratorium on the granting of new ELCs. The directive also announced a systematic review of ELCs, a process that has failed to resolve long-standing land disputes linked to such concessions. Years have passed since then, and the government has yet to fully disclose the extent of its massive land giveaway – or the exact location of the two million hectares of land covered by existing land concessions. These concessions continue to fuel land conflicts on an annual basis, alongside years-old unresolved cases of forced evictions and land loss.
8. In November 2017, the long-awaited draft Law on the Management of Agricultural Land was placed on hold by the Prime Minister. The law contained potentially damaging provisions that established a regime for "Agricultural Land Concessions." This regime consisted of the introduction of a land concession scheme similar to the ELCs, but with no size limit and even fewer safeguards to protect individuals from harmful agro-industries compared to the ELC regime. It also contains harmful provisions curtailing the rights of indigenous communities and undermining property rights. Although the draft law has been indefinitely delayed, its provisions reflect the government's continued lack of commitment to respecting the economic, social, and cultural rights of Cambodians, who are already subject to the consequences of rampant land grabbing and insecure tenure.

### **Thousands forcibly evicted as a result of sugar-producing ELCs**

9. As of July 2018, thousands of families across four Cambodian provinces (Koh Kong, Kampong Speu, Oddar Meanchey, and Preah Vihear) still awaited proper redress for their

loss of land, homes, livelihoods, and other harm suffered as a result of the massive expansion of the Cambodian sugar industry under the ELC regime. These concessions were also incentivized by, and benefitted from, duty-free export to the European Union (EU) under the “Everything But Arms” (EBA) Generalized System of Preferences trade scheme.

- 10.** In some cases, communities and civil society have been advocating for adequate redress and effective remedies for these communities for over a decade. Since Cambodia’s previous UPR, community representatives have faced intimidation, imprisonment, and violence, and have been coerced into accepting inadequate compensation for their losses. In many cases, recipients of settlements, often forcibly imposed by the sugar companies and local authorities, have been excluded from seeking subsequent remedies.
- 11.** An independent audit into harms caused by the EBA arrangement and sugar-producing ELCs was proposed by the EU in late 2014. However, the terms of reference were eventually refused by the government. Instead, in September 2017, the government unilaterally launched a ‘resolution process’ that was meant to provide redress to families who had lost their homes, land, livelihoods, and suffered other harm and rights violations. The process has lacked transparency throughout. Civil society organizations (CSOs) have been virtually excluded from the process and both CSOs and community representatives have received threats for having supported the affected communities.
- 12.** Some of the affected communities include indigenous peoples, who hold particular social, economic, and cultural rights under Cambodian law. This ‘resolution process’ leaves no space for the traditional cultural and religious practices of these communities, who have been repeatedly denied registration of a Communal Land Title (CLT),<sup>1</sup> both prior to, and after the harm caused by sugar-producing ELCs. The current redress being offered by the authorities is culturally insensitive as it attempts to enforce small private land titles on indigenous communities who are asking for a CLT.
- 13.** In January 2018, the government issued a progress report on its sugar-producing ELC ‘resolution process.’ It detailed that the family of ruling Cambodian People’s Party (CPP) senator, Ly Yong Phat, had acquired approximately 18,000 hectares of private land titles in areas of disputed land in Kampong Speu Province. While requiring further investigation, the existence of large swathes of private land titles of unknown provenance suggests unofficial extensions to pre-existing ELCs, circumventing the ongoing moratorium on ELCs established in 2012.
- 14.** While some communities, particularly in Koh Kong Province, have received settlements including land and/or money as compensation, these appear to be *ad hoc* resolutions rather than a systematic review of eligible claims, and in some cases, have been rejected due to the poor quality of the replacement land offered. The lack of uniformity and clear terms of reference in this process has led to the potential exclusion of many families, who suffered losses as a consequence of sugar-producing ELCs, from receiving compensation. In Oddar Meanchey Province, hundreds of affected families were initially excluded from this process. Even after they were eventually permitted to submit claims, virtually all claims were dismissed in what appeared to be an arbitrary policy decision.

## **Violence used against villagers protesting against land grabs**

- 15.** The use of armed security forces in the context of land disputes remains an issue that increases the risks of violence against civilians affected by land disputes. State security forces, which are often sponsored by private companies with ties to the ruling party, are often misappropriated or ordered to provide protection to the assets of private companies. Such forces are mobilized to intimidate and threaten villagers away from a disputed area, and have previously been used in the violent forced evictions of villagers.
- 16.** On 8 March 2018, security forces opened fire on a crowd of farmers protesting against the destruction of their homes and the arrest of eight fellow villagers earlier that day. The villagers' homes were being cleared to make way for a rubber plantation. Media and social media reports, accompanied by video footage, indicated that dozens of rounds – including burst-fire from automatic weapons – had been shot in the area, which lies inside an ELC controlled by a Cambodian company with ties to the ruling party. Authorities claimed that warning shots were fired into the air to disperse the crowd. However, civil society monitors, including medical personnel, were able to corroborate online video and photographic evidence indicating that security forces shot and injured at least three people, including one villager who was shot in the buttocks, suggesting she was running away. Others were also injured in beatings.
- 17.** Following the outbreak of violence, the military placed a cordon around the affected villages, preventing civil society observers from reaching them. Shortly afterwards, all residences within the disputed area were burnt or razed by state forces. The eight farmers, who had been arrested on the morning of 8 March were subsequently charged with “criminal incitement, destruction of property, and intentional acts of violence” under the Criminal Code and “blocking a road” under the Traffic Law. Although later released on bail, they still face these charges and could serve long prison sentences.

## **Attacks on civil society organizations (CSOs) and human rights defenders (HRDs) involved in supporting affected communities**

- 18.** It is increasingly difficult for CSOs to provide legitimate and lawful support to communities involved in land disputes. Human rights defenders (HRDs) active in land disputes frequently face violence, judicial harassment, and other forms of targeted actions intended to halt and punish their activism. Land rights activists regularly face trumped-up criminal charges or high-value civil lawsuits aimed at intimidating and silencing them, particularly where local authorities or politically-connected economic actors are involved in land disputes.
- 19.** In October 2017, the Ministry of Interior announced that any CSO seeking to conduct activities in Cambodia's provinces had to inform the ministry of their activities at least three days in advance. This measure increased the risk of harassment of both CSOs and the communities they support at the hands of the authorities.
- 20.** This announcement came within weeks of the politically motivated suspension of prominent local land rights NGO *Equitable Cambodia* under the repressive Law on Associations and

Non-Governmental Organizations (LANGO). The order to suspend *Equitable Cambodia* came within the context of *Equitable Cambodia's* advocacy on behalf of families affected by mass land grabbing associated with sugar-producing ELCs and directly referenced their work supporting communities affected by an ELC owned by ruling-CPP senator Ly Yong Phat. The organization was considered suspended by the Ministry of Interior between September 2017 and February 2018.

- 21.** During the 'Black Monday' campaign, which called for the release of five arbitrarily detained HRDs, multiple prominent individuals known to the authorities for their land rights activism were arrested for allegedly participating in a "color revolution," a term used to misrepresent legitimate and lawful activities conducted by civil society as an attempt to overthrow the government. Over the course of the 'Black Monday' campaign from May 2016 until May 2017, there were at least 38 instances of arbitrary arrest, predominantly targeting well-known women HRDs campaigning for urban land rights. WHRD Sar Sorn was arrested at least four times, while WHRDs Bov Sophea and Tep Vanny were later convicted on trumped-up charges related to their participation in 'Black Monday' events.
- 22.** Tep Vanny, a land rights activist and prominent member of the Boeung Kak Lake community, has been imprisoned for almost two years and is serving the remainder of a 30-month sentence on unsubstantiated charges of "intentional violence" relating to a peaceful demonstration protesting land grabbing in 2013. Since her initial arrest in August 2016, Tep Vanny has faced four separate legal proceedings, three of which were years-old cases that were punitively reactivated against her and a number of fellow Boeung Kak Lake activists following their participation in the 'Black Monday' campaign in 2016. All of the hearings were marred by severe fair trial rights violations, such as lack of evidence, denial of defense witnesses, and prevention of cross-examination.
- 23.** In November 2014, *LICADHO* documented specific challenges faced by women land activists and WHRDs who were breaking social and cultural norms to defend their rights in its report "*Good Wives: Women Land Campaigners and the Impact of Human Rights Activism.*"<sup>2</sup> Cambodian women have been at the forefront of these campaigns with many becoming community leaders and human rights advocates while facing continued government repression.
- 24.** In May 2015, then-*Cambodian Human Rights and Development Association (ADHOC)* staff member Ny Chakrya was subjected to spurious prosecution following his work as a HRD supporting two arbitrarily detained clients of the human rights NGO *ADHOC* who were victims of land grabbing, judicial harassment, and other serious rights violations in Siem Reap. On 22 September 2016, he was convicted on charges of "public defamation," "acts of slanderous denunciation," and "commentaries to put pressure on jurisdiction" under Articles 305, 311, and 522 of the Criminal Code respectively. He was sentenced to six months' imprisonment, which he has yet to serve. The Court of Appeal upheld this conviction in December 2016. His appeal hearing is pending at the Supreme Court.
- 25.** Since 2015, five activists from the environmental NGO *Mother Nature* have been jailed for extended periods in relation to their peaceful activism against alleged unlawful sand

dredging in Koh Kong Province. A further two *Mother Nature* activists have faced harassment by judicial officers for investigating similar sand dredging practices in Kandal Province.

- 26.** In August 2015, three *Mother Nature* activists, San Mala, Sim Samnang, and Try Sovikea, were arrested and charged with “making threats to cause destruction, defacement or damage followed by an order” under the Criminal Code while participating in a campaign action to halt allegedly unlawful and environmentally damaging sand dredging in Koh Kong Province. The sand dredging company the campaign opposed, Direct Access, has ties to the ruling party and is believed to have been extracting sand beyond the lawful limits of its license, resulting in severe harm to the fish stocks relied upon by the local communities for subsistence and livelihoods. The three stood trial on 28 June 2016 and were subsequently sentenced to 18 months’ imprisonment, with eight months suspended. They were released in July 2016 after 10 months in prison on time already served. In February 2017, the Court of Appeal upheld the convictions, sentences, and fines. The Supreme Court heard an appeal by the three activists on 6 July; the verdict is expected on 13 July 2018.
- 27.** *Mother Nature* founders, Alex Gonzalez-Davidson and Buddhist monks Sok Chantra and Prom Thomacheat, were subsequently charged as accomplices in this case. The charges were ultimately not pursued. Alex Gonzalez-Davidson had previously been subjected to politically motivated deportation in February 2015 after the government refused to renew his visa.
- 28.** On 26 January 2018, *Mother Nature* activists Dem Kundy and Hun Vannak were convicted by Koh Kong Provincial Court on charges of violating privacy and incitement and each sentenced to one year in prison with seven months suspended. They were also fined 1,000,000 riel (US\$250) each. The two activists were arrested on 12 September 2017 while filming suspected sand dredging activities in Koh Kong Province, just two days after *Mother Nature* posted an online video showing the potential smuggling of silica sand to Taiwan that was viewed over 95,000 times on social media. The group had also drawn attention to international trade figures indicating systematic smuggling of Cambodian sand to Singapore. On 15 September 2017, three days after their arrest, the Ministry of Interior announced that *Mother Nature* had been de-registered as an NGO under the LANGO.
- 29.** Areng Valley activist Ven Vorn, a former commune councilor for the ruling CPP, was also subjected to arbitrary detention and a politically-motivated conviction on a trumped-up charge related to his activism, which was aligned with *Mother Nature*’s campaign against environmentally damaging hydropower projects. After an initial arrest on 2 September 2015 during a demonstration protesting the detention of San Mala, Sim Samnang, and Try Sovikea, Ven Vorn was re-arrested on 7 October 2015. He was charged with forestry crimes related to materials he used for the construction of a small community center. After five months’ detention, he was tried and convicted in March 2017, receiving a one-year suspended sentence.
- 30.** On 12 May 2018, Ven Eth, the younger brother of Ven Vorn and a vocal supporter of *Mother Nature*, was subjected to an attempt on his life when an unknown assailant fired

multiple shots at him. Ven Eth is a former member of the Cambodia National Rescue Party (CNRP) and was an opposition candidate in the 2017 commune elections. He had been in hiding since April 2018 when he publicly reported death threats issued by a CPP commune councilor related to his environmental activism, membership of the CNRP, and refusal to defect to the ruling party.

### **Urban land rights violations remain unresolved**

- 31.** The Borei Keila community in Phnom Penh, has been seeking fair compensation and relocation on the site of their former homes since they were forcibly evicted on 3 January 2012. Their eviction was to make way for a high-rise housing development by the company Phanimex. Since 2012, in a process lacking independence and transparency, authorities have presented the remaining residents with relocation or compensation deals. These offers do not provide adequate redress for the losses incurred by the families and have been consistently underpinned by coercion, intimidation, and outbreaks of authority-led violence against the community.
- 32.** In November 2015, Phnom Penh City Hall announced a deal with the remaining 183 families occupying the Borei Keila site. The deal, which was implemented in January 2016, allowed for only 35 families to be entitled to new alternative housing in Borei Keila. A further 85 families were informed they would either have to move to a poor-quality relocation site in Andong, Kandal Province, or accept US\$5,000 each as compensation. Another 34 families were told they lacked sufficient evidence to back their claims and were offered token damages of US\$3,000 each, while 29 more families had their claims dismissed altogether. The community still awaits a complete resolution for its forced eviction.
- 33.** As of December 2017, the Boeung Kak Lake land conflict also remained unresolved, with 19 families still seeking adequate compensation for the harm suffered during the forced evictions and land grabs.
- 34.** Recommendations to the government:
  - Ensure the resolution of land disputes across the country through a process that is timely, transparent, inclusive, and acceptable to the communities that were forcibly evicted from their homes and affected by land and livelihood loss.
  - Ensure that communities receive adequate compensation for their loss of land and other damages, and when possible, be allowed to return to their original lands and rebuild their homes.
  - Cease all forms of repression, including judicial harassment and all acts of violence against activists and HRDs protesting against land grabs or advocating for land and environmental rights.
  - Ensure that the rights to freedom of opinion and expression and freedom of peaceful assembly are guaranteed, and immediately and unconditionally release activists and HRDs detained for exercising their rights to freedom of opinion and expression and freedom of peaceful assembly in the context of land and environmental rights.
  - Publicly release details on the number of land concessions and their location.



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<sup>1</sup> At the time of writing it is believed that fewer than 20 of Cambodia's over 500 recognized indigenous communities have successfully registered for a CLT.

<sup>2</sup> LICADHO, *"Good Wives": Women Land Campaigners and the Impact of Human Rights Activism*, 23 November 2014, available at: [http://www.licadho-cambodia.org/collection/24/good\\_wives\\_women\\_land\\_campaigners](http://www.licadho-cambodia.org/collection/24/good_wives_women_land_campaigners)