

# STOLEN LAND STOLEN FUTURE

A REPORT ON LAND GRABBING IN CAMBODIA



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<b>EXECUTIVE SUMMARY</b>	4
<b>CAMBODIA FOR SALE</b>	
Introduction	6
From land use to economic land concessions	7
Drastic increase of land grabbing makes the poor poorer	8
Weak implementation of land law fails the most vulnerable	9
Expropriation and evictions	10
Widespread and serious human rights abuses	11
Stakeholders	12
Local communities and civil society organisations	12
Government institutions	13
International donors	14
<b>CASE STUDY</b> Koh Kong Sugar Plantations	15
Introduction	15
Impact on local communities	16
Where is the sugar going?	17
Violations of Law and Human Rights	17
The villagers' demands	18
Responses from the EU	18
Conclusion	20
<b>ARTICLE</b> I hope I can get my land back	21
Lessons Learnt	23

# EXECUTIVE SUMMARY

The global rush for land in developing countries has a devastating impact on poverty reduction. Investment in large-scale plantations and concessions frequently increases food insecurity for the poor and violates their rights instead of contributing to development, as documented in this report.

An area estimated to be between the size of the United Kingdom and Western Europe (20<sup>1</sup>-227<sup>2</sup> million hectares) has been sold or leased, mostly to international investors, in recent years.

The land grabbing often takes place in food insecure developing countries, where the original users or owners of the land are poor smallholder farmers or people using communal land. The sold or leased lands are mainly being used for producing cash crops, food or biofuel, and are becoming increasingly profitable as a consequence of the crisis in the financial, food, and energy sector.

The land grabbers are mainly international corporations, businesses and institutions, but also national investors often supported by international actors in the form of investment, loans or trade agreements. In this report, land grabbing is defined as land acquisitions or concessions, where one or more of the following factors are present<sup>3</sup>:

- Violation of human rights, and particularly the equal rights of women

- No involvement of free, prior and informed consent of the affected land-users
- Not based on a thorough assessment of the consequences, or are in disregard of social, economic and environmental impacts, including the way they are gendered
- Not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing
- Not based on effective democratic planning, independent oversight and meaningful participation

The focus of this report is land grabbing in Cambodia. It is based on APRODEV Agencies experience from many years of development work. The report documents how affected communities have lost their livelihoods because of land grabbing by national and international business corporations. Local communities have not been consulted and they have received little or no compensation for their loss. The communities have been evicted from their land and have faced systematic human rights violations.

Cambodia has experienced a dramatic increase in land grabbing in recent years. Almost 56 percent of all arable land is given to private companies for agro-industrial use<sup>4</sup>. The land grabbing has resulted in loss of livelihoods for local communities. Within Cam-

1 Estimates by International Food Policy Research Institute (IFPRI) 2005-2009. Towards a better understanding of global land grabbing: an editorial introduction, Saturnino M Borras Jr. et al., 24 March 2011, *Journal of Peasant Studies*,

2 Estimate of land that has been either sold or leased since 2001 according to research by the Land Matrix Partnership, *Land and Power*, Oxfam Briefing paper, 22 September 2011

3 Tirana Declaration: "Securing land access for the poor in times of intensified natural resources competition", International Land Coalition, 2011, [http://www.landcoalition.org/sites/default/files/aom11/Tirana\\_Declaration\\_ILC\\_2011\\_ENG.pdf](http://www.landcoalition.org/sites/default/files/aom11/Tirana_Declaration_ILC_2011_ENG.pdf)

4 Cambodian League for the promotion and defence of human rights (LICADHO)

bodia, there is concern that the European Union's preferential trade agreement "Everything But Arms (EBA)", is fuelling the alarming land grabbing development. Despite the objective of the EBA to support development in the least developed countries the agreement does make it more profitable for Cambodia's elite to grab land from small holder farmers. The EU has so far refused to follow its own proceedings to ensure that human rights are being upheld in its trade agreements.

For investment in land in developing countries to contribute to development and improve food security for the poor, international institutions, donors and national governments must include communities whose livelihoods are affected in decision-making, listen to their concerns and respect their legal rights. Human rights safeguards should always be incorporated into land deals, and existing laws designed to protect land rights should be fully implemented. International development actors have a vital role to play to ensure that their trade and aid policies do not contribute to land grabbing that increases food insecurity for the poor – and thereby undermines years of international development aid and efforts.

#### APRODEV strongly recommends the EU to:

Ensure that bilateral and multilateral development aid will not encourage land grabbing locally, nationally and internationally but further the realisation of human rights and the right to food. Mechanisms, standards and monitoring schemes must be developed to ensure that EU Development Aid does not contribute to increasing food insecurity in developing countries and thereby undermine EU overall policy of poverty reduction:

- ensure the inclusion of recommendations and requirements with respect to the observance of human rights in bilateral negotiations with the Cambodian government
- ensure that EU policies do not encourage illegal land grabbing locally, nationally and internationally
- EU 's trade policies must comply with the principle of Policy Coherence for Development in accordance with the Lisbon Treaty's article 208, which state that the EU's goal of fighting poverty in its development policy must not be undermined by other EU policies and be in accordance with the Lisbon Treaty's goal of advancing human rights as a fundamental principle of the EU art.2 and art. 21)
- human rights safeguard provisions must be implemented within European preferential trade agreements and transparent monitoring schemes must be developed to ensure the respect of human rights including the right to food
- the European Commission must include stronger social criteria in the certification systems in the EU 's renewable energy directive and monitor the impact on food security and food prices
- develop a complaint mechanism accessible for civil society that can make the EU more responsive and accountable to concerns about the impacts of its policies
- continue funding for programmes in Cambodia that promote good governance, human rights, and social accountability
- in the Cambodian sugar case work actively to make the European Commission comply with its obligation to inform the Generalised Preference Committee of the human rights violations taking place in Sre Ambel and Botumsakor Districts of Koh Kong province and launch an investigation into the matter



# CAMBODIA FOR SALE

## INTRODUCTION

Around 80 percent of Cambodia's 15 million population depends on land and natural resources for a livelihood. Only 6.5 million of Cambodia's 18.1 million hectares are considered arable. Rural households typically have a small homestead plus additional plots (from 1-3 hectares) for cultivating rice. Subsistence agriculture relies greatly on non-timber forest products, fish and other small animals for additional food and income. This hand-to-mouth existence means that loss of agricultural land and/or loss of access to natural resources lead directly to poverty and poor health. Many NGOs use land ownership or

access to land as an indicator of poverty and it remains the most important safety net for Cambodia's poor.

Cambodia's recent history of conflict, massive displacement and forced collectivisation, followed by a rapid transition to a market economy and economic integration regionally and internationally, has had unique and unprecedented impacts on land use which, in a context of a country where land governance still needs to be improved, have led to an escalation of conflicts over land and vulnerability of the poor to land grabbing and forced evictions. As in-

creasing numbers face land conflicts and insecurity, there are far-reaching implications for food security and climate change adaptation, housing and employment, health and education, and, ultimately, for social equity and sustainability of Cambodia's development.

The magnitude of Cambodia's land problems have been highlighted by the United Nations Development Programme (UNDP)<sup>5</sup> and many other organisations.<sup>6</sup> Land grabbing often leaves people destitute and without effective access to legal or other remedies. It mainly affects the socially and economically most vulnerable, and it adds to Cambodia's growing inequality by divesting people of a livelihood and resulting in the creation of segregated relocation sites where people have no access to a means to earn a living.

Most evictions contravene recognised human rights standards, with lack of prior notice, inadequate or no consultation or participation in decision-making for those affected, absence of information sharing, and lack of housing alternatives as common problems. The use of excessive force, including military force, to carry out evictions is a disturbing trend.<sup>7</sup> Women suffer particularly as a result of losing their homes, livelihoods, relationships and support systems resulting in breakdowns of kinship ties, physical and psychological trauma and even increased morbidity and mortality. Also of serious consequence is the fact that evictions increase the vulnerability of women to further acts of violence.<sup>8</sup>

## FROM LAND USE TO ECONOMIC LAND CONCESSIONS

Land ownership in Cambodia has historically been tied to land use rather than formal title. Land was acquired through cultivation (although it theoretically belonged to the country's rulers). As recently the 1960s, population density in much of rural Cambodia was low, allowing families to expand the land area they cultivated as they grew, clearing the country's extensive forests without significant ecological impacts. Land was not traded. Attempts by French colonists (1800s-1930) and the post colonial government (1953-1975) to introduce formal private ownership were partially successful in the rice growing plains but unsuccessful in upland and forest areas. However, even where settled agriculture was the norm, the notion of land as private property contrasted with traditional ownership practices.

Civil war in the 1960s and 70s caused thousands to abandon their lands and seek refuge in Phnom Penh. The Khmer Rouge takeover (1975-1979) moved most of the population to rural agricultural production

camp, uprooted communities from their traditional lands, expropriated all property, destroyed most land records and collectivised all the lands. Many people fled to refugee camps or sought asylum overseas. After the ouster of the Khmer Rouge in 1979, rural communities returned to their villages and resumed farming on whatever lands were available, but all land was still considered state property. Recognition of private ownership of land by families and individuals began again in the mid 1980s. Although pre-1975 land claims by returnees were not recognised, land distribution in rural areas during that period was relatively equal.

In the 1990s, with the development of a market economy, an unregulated land market started to grow. The Constitution adopted in 1993 provided for legal private and public state ownership of land, and a Land Law was introduced in 1992, which allowed people to apply for land certificates to confirm occupancy and use rights. However, only a small propor-

<sup>5</sup> Expanding Choices for Rural Cambodia: UNDP Country Report, 2007

<sup>6</sup> See especially Land is Life, NGO Forum Land and Livelihoods Programme, 2009; and also reports by LICADHO

<sup>7</sup> See for example <http://www.licadho-cambodia.org/articles/20100402/109/index.html>

<sup>8</sup> A Cambodian Guide to Defending Land and Housing Rights, Bridges Across Borders Southeast Asia, Centre on Housing Rights and Evictions, International Accountability Project, 2009

tion of applicants received formal land certificates. During the same period, in an attempt to stimulate private investment, economic concessions to private companies started to be granted on forest and state lands. These concessions were outside existing laws, and contributed to dispossessing rural communities from farm and forest lands<sup>9</sup>.

### Drastic increase of land grabbing makes the poor poorer

The available statistics do not reflect the full extent of current problems of land grabbing, since all cases are not documented and many smaller incidents go unreported. However, although difficult to quantify conclusively, there is overwhelming evidence that land insecurity and land grabbing has grown markedly in the last two decades, and that evictions carried out in the name of development contribute little to local economies<sup>10</sup>. A Parallel Report on land and housing rights in Cambodia describes the current context of rapid but unplanned economic growth, spiralling land prices and speculation, corruption related to land deals, and the absence of secure land tenure for low income-households. In urban areas redevelopment has been a major cause of forced evictions. In Phnom Penh alone, 133,000 people, or 11 percent of the population, were estimated to have been evicted from their homes between 1990 and 2009. Rural landlessness, often caused by forced evictions, rose from 13 percent in 1997 to between 20 and 25 percent in 2007.<sup>11</sup> The people most vulnerable to land grabbing are those without formal title to their land. Formal title does give people some security and legal claim in the courts, although even people with land titles can be evicted. Communities with no formal title often become vulnerable to land grabbing when infrastructure (particularly roads) makes their land more attractive to commercial investors.

Rural land grabbing has taken many forms, including appropriation of land for development projects such as roads. However, the most extensive land grabbing is due to economic land concessions (ELCs), which are the focus of this report.

ELCSs involve the granting of State Private Land to private companies for agro-industrial exploitation.<sup>12</sup> According to the Cambodian NGO Forum Land Information Centre, the majority of recent cases of large scale land conflicts involving ELCs in Cambodia have been between forest-dependent communities and ELCs, although agricultural land is also disputed. Battambang, Preah Sihanouk and Kandal are the worst affected provinces. In 2007, over 943,069 hectares of land in rural Cambodia were in the possession of private companies in a total of 59 ELCs for the development of agro-industrial plantations. This constituted approximately 5.2 percent of the total land area in Cambodia (14.5 percent of arable land). The provinces most affected were Kratie, Stung Treng, Kompong Speu, Ratanakiri and Kompong Cham. These statistics excluded numerous smaller (under 1000 hectares) ELCs granted at the provincial level, for which information on numbers and ownership had not been disclosed.

The majority land grabbing cases linked to ELCs involve the poor against the rich and powerful, with government officials and military frequently implicated, often in collusion with private companies (both Cambodian and foreign). Of the 59 concessions mentioned in a UN report, 36 were granted in favour of foreign business interests or prominent political and business figures.<sup>13</sup> A large number of economic land concessions have been granted in favour of prominent Cambodian political and business figures, including senators and oknhas<sup>14</sup>.

The most recent data gathered by LICADHO indicates that 2,077,701 hectares (almost 56 percent of arable

<sup>9</sup> Land and Resource Alienation in Cambodia, Shalmali Guttal, Focus on the Global South, 2006

<sup>10</sup> Land Grabbing and Poverty in Cambodia: The Myth of Development, LICADHO, May 2009

<sup>11</sup> UN Capital Development Fund (UNCDF), Local Development Outlook Cambodia, April 2010

<sup>12</sup> Land Grabbing and Poverty in Cambodia: The Myth of Development LICADHO, May 2009

<sup>13</sup> United Nations Cambodia Office of the High Commissioner for Human Rights, Economic land concessions in Cambodia: A human rights perspective, June 2007

<sup>14</sup> 'Oknha' is a title given to 'any generous person' who contributes \$100,000 to the State, either in cash or materials. The title is bestowed by the King, at the request of the Royal Government of Cambodia



land) are given over to ELCs (with almost as much designated to mining concessions which are also a huge concern). Encroachment on agricultural and grazing land, and resulting loss of livelihoods, is the most commonly-voiced issue of concern for communities, and arises in relation to almost all active concessions<sup>15</sup>.



PHOTO ARCHIVE

### Weak implementation of land law fails the most vulnerable

The Land Law passed in 2001 is the legislation most relevant to this discussion. Most households have traditionally relied on various documents issued by local authorities (sometimes called “soft title”) to prove their claims to the property. Prior to 2001 a small number of land owners did have formal or “hard title” to their land, but this was not widespread. The 2001 Land Law provided for much more widespread granting of individual and collective titles to land, introducing a cadastral system whereby land titles are centrally registered and confirm that people who occupied land for at least five years prior to 31 August 2001, and meet a number of other conditions, have rights which can be transferred to full ownership.

Such “possession rights” formed the legal basis of the land titling and registration program that commenced in the following year, which should protect legal possessors from eviction until their land rights are determined through an adjudication process and full ownership is conferred (the 2001 Land Law stipulates that expropriation may only be carried out by the State in the public interest after fair and just compensation has been paid). However, the implementation of this and other provisions of the 2001 Land Law has been fraught with difficulties and has not, on the whole, resulted in favourable outcomes for the poor.<sup>16</sup>

The 2001 Land Law also authorises the granting of land concessions responding to either social or economic purposes. Other kinds of concessions, including mining, fishing, industrial development and port concessions, do not fall within its scope but do also contribute to land grabbing. ELCs must be based on a specific legal document issued by the competent authority prior to the occupation of the land, and must be registered with the Ministry of Land Management, Urban Planning and Construction. ELCs can only be granted over state private land for a maximum duration of 99 years. They do not establish ownership rights over land, but concessionaires are vested with most rights associated with ownership during the term of the contract.

ELCs are not supposed to exceed 10,000 hectares, and concessions granted prior to the passage of the Land Law are supposed to be reduced to comply with this limit, although an exemption may be granted if the reduction will compromise exploitation in progress. The grant of concessions in several locations, jointly exceeding the 10,000 hectare size limit, in favour of the same person(s) or different legal entities controlled by the same person(s) is not allowed by law but, as the following case study shows, it happens anyway.

The Sub-Decree on Economic Land Concessions, adopted in December 2005, was an important advance in establishing the legal and regulatory framework

<sup>15</sup> United Nations Cambodia Office of the High Commissioner for Human Rights, *Economic land concessions in Cambodia: A human rights perspective*, June 2007

<sup>16</sup> *Land Titling in Cambodia: Lessons from the Formalizing Inequality*, Natalie Bugalski and David Pred, 2010

for the granting and management of ELCs. It includes requirements to conduct public consultations and environmental and social impact assessments. However, these provisions have not been properly implemented and enforced; existing concessions have not been reviewed; and economic land concessions have continued to be granted over forested areas and indigenous land, in violation of the law. The multi-donor-supported Land Management and Administration Project (LMAP) ran from 2002 until 2009 as the first phase of the government's land reform program. Over the project's duration key parts of the legal framework were developed, the technical capacity of Land Ministry staff was strengthened, and an estimated 1.3 million titles were issued. However, some analysts have raised concerns that the project failed to address fundamental inequities in the control and management of land, with the result that it did not improve tenure security for those most vulnerable to displacement.<sup>17</sup>

The key problems identified included:

- Areas “likely to be disputed” or of “unclear status” were excluded, but these terms were not defined in the project design documents, allowing sub-national authorities in charge of selecting adjudication zones to arbitrarily exclude areas sought after by powerful domestic actors and foreign investors. Some of these authorities have also played a significant role in land grabbing and forced evictions.
- The selection of adjudication areas largely occurred in an opaque manner, without information about the process being made available to the public, nor consultations with affected persons. As a result, many thousands of households that lie within portions of land excluded from the land titling system have been evicted without their tenure status ever being assessed.
- A parallel process of State land classification and mapping has not succeeded in establishing a coordinated and transparent land management system. In the absence of a transparent State

### CAMBODIAN LAND LAW 2001

There are two broad categories of land:

1. “State Property”, which includes “State Public Property”, such as forests which are supposed to be protected from commercial exploitation, and “State Private Property” designated for economic and social development (including redistribution for social purposes)
2. “Private Property”, which includes land that can be owned by individuals and communities or which is legally possessed by individuals under the Land Law of 2001

land classification, attempts to register private land through legal process are easily thwarted. People are routinely accused of being illegally settled on state land, yet these claims are being made outside the legal framework. At the same time, authorities are able to arbitrarily and improperly classify land to serve private interests.

- A Resettlement Policy Framework was to be applied in the event of eviction from state land resulting from the LMAP adjudication process. The policy required that evictions should be avoided whenever possible, and in cases in which they are unavoidable, proper compensation and resettlement options must be offered to affected persons in order to ensure that, at a minimum, their living standards are maintained. However, the policy is rarely, if ever, applied properly.

These problems have facilitated commercial development projects, including the granting of large scale economic land concessions, and have led to forced displacement, land alienation, and the loss of residential land; and they have deepened structural inequality in land tenure and administration in Cambodia.

### Expropriation and evictions

The Cambodian legal framework for land expropriation includes the 1993 Constitution which provides

<sup>17</sup> Land Titling In Cambodia: Lessons from the Land Management and Administration Project, Dr Natalie Bugalski, Marck Grimsditch and David Pred, 2011. See also UNCDF: Local Development Outlook. Cambodia, April 2010

that the state may expropriate private property “only in the public interest.” The 2001 Land Law reiterates this requirement as follows: “No person shall be deprived of his ownership, unless it is in the public interest.” Both set a standard of “fair and just compensation” for state expropriation, and both explicitly require compensation to be made before expropriation starts. Despite these safeguards, there has been a longstanding lack of clarity in relation to who is entitled to compensation, what compensation is made, when the compensation is paid, and what determines the amount of compensation, leading to highly unsatisfactory outcomes.<sup>18</sup> A Law on Expropriation was passed in 2010 and this provides for “fair and just deprivation of legal rights to private property” to “serve the national and public interest” and “develop physical infrastructures”. This law also provides for compensation in advance of expropriation/ eviction and in theory should ensure that expropriation of land only takes place if it is considered to be in the “public interest”, and then only if adequate compensation is paid.

In practice, compensation is rarely adequate. It generally does not reflect the true market value of expropriated land, and is often paid late, if at all. As an alternative, displaced communities are often offered poor quality land which cannot be farmed. Sometimes they are merely evicted and left displaced. The Law on Expropriation has also been used to justify evictions even when there is no genuine public interest at stake.

Access to justice and impartial dispute resolution mechanisms for the poor affected by land grabbing is extremely limited. According to the Cambodian NGO Forum Land Information Centre, 70 percent of land conflicts documented in 2009 remained unresolved. The two main mechanisms for resolving land disputes are the courts and the Cadastral Commission (depending on the status of the land in question).

However, NGO Forum reports that people make their complaints through a wide variety of different channels (including provincial authorities and even the Royal Palace).<sup>19</sup>

People often settle for a partial resolution achieved with the intervention of local authorities rather than go to court, since the courts generally settle complaints about land grabbing on behalf of the defendants. Lack of accountability towards the poor combined with the prevalence of corrupt practices in relation to land deals has benefited a powerful minority while alienating the poor and contributing to growing inequality. In a number of cases, criminal charges have been filed against community activists who have been organising their communities and protesting against the impact of concessions. Yet the judicial system has not been used to uphold the rights of communities, and companies who infringe the law have not been held accountable for their actions.<sup>20</sup>

### Widespread and serious human rights abuses

The Royal Government of Cambodia is a party to key human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and International Convention on the Elimination of All Forms of Racial Discrimination. These treaties, together with the Universal Declaration on Human Rights, guarantee the rights to own property and not be arbitrarily deprived of property; to an adequate standard of living, including food and housing; to self-determination and not to be deprived of one’s means of subsistence; to freedoms of expression and assembly; to equality before the law and equal protection of the law; and to an effective remedy.

The Constitution<sup>21</sup> of the Kingdom of Cambodia incorporates into domestic law the human rights guar-

<sup>18</sup> Expropriation Laws and Practices: Cambodia, published by the Asian Development Bank ([www.adb.org/Documents/Reports/Capacity-Building.../chap4.pdf](http://www.adb.org/Documents/Reports/Capacity-Building.../chap4.pdf))

<sup>19</sup> Statistical Analysis of Land Disputes Occurring in Cambodia, 2009 Land Information Centre of the NGO Forum, 2010

<sup>20</sup> United Nations Cambodia Office of the High Commissioner for Human Rights, Economic land concessions in Cambodia: A human rights perspective, June 2007

<sup>21</sup> [http://www.bigpond.com.kh/Council\\_of\\_jurists/Constit/cons001g.htm](http://www.bigpond.com.kh/Council_of_jurists/Constit/cons001g.htm)

antees contained in the Universal Declaration of Human Rights and key human rights treaties, and specifically protects Cambodian citizens' rights to own land and freedoms of expression and assembly. Despite these commitments and recent progress in the passage of legislative measures to uphold rights to land and protect natural resources, Cambodia's poor continue to be forced from land which is legally theirs. The UN Special Representative for Human

Rights in Cambodia has concluded that widespread and serious human rights abuses have been committed in connection with economic land concessions in Cambodia, including those for sugarcane plantations<sup>22</sup>. The abuses described in the case study below constitute violations of rights to self-determination, including the right not to be deprived of one's means of subsistence; the right to work; the right to food; and the right to adequate housing.

## STAKEHOLDERS

There are numerous stakeholders who are directly and indirectly involved in the land grabbing issue in Cambodia. Below is a list of primary stakeholders, which include international donors such as the European Union.

### Local communities and civil society organisations

The people most vulnerable to land grabbing are those without formal title to their land. Formal title does give people some security and legal claim in the courts, although even people with land titles can be evicted. Communities with no formal title often become vulnerable to land grabbing when infrastructure (particularly roads) makes their land more attractive to commercial investors.

**CAMBODIAN LEAGUE FOR THE PROMOTION AND DEFENSE OF HUMAN RIGHTS (LICADHO):** a Cambodian human rights NGO which documents land rights violations and provides practical and legal support to affected communities. In partnership with Bridges Across Borders Cambodia, the Community Peace-building Network, and Community Legal Education Center (CLEC), it has launched the Cambodian Clean Sugar Campaign, working on the European Union's "Everything But Arms" trade policy and its relevant human rights safeguards in response to the issues created by Cambodian sugar exports.

**ADHOC:** another Cambodian human rights NGO with a strong presence in communities affected by land grabbing. It works with local authorities where possible to try to advocate for economic land concessions to be implemented in accordance with the law and with genuine citizens' participation in the process. ADHOC tries to launch a community-based response as soon as information is available about an economic land concession.

**NGO FORUM ON CAMBODIA:** a NGO network working to influence the policies and practices of governments, donors, investors and relevant stakeholders to ensure that land rights and tenure security of the poor and vulnerable groups are recognised and respected. NGO Forum operates a Land Information Centre (LIC) to collect information related to land and natural resources issues, along with the documentation of land and forest cases, in response to the lack of data and information being collected nationally about land disputes and resolution processes, and in order to advance understanding of trends. The NGO Forum coordinates, along with the Cooperation Committee for Cambodia and MEDICAM (other NGO networks in Cambodia), the production of NGO position papers on the Cambodia Development Cooperation Forum (CDCF) Joint Monitoring Indicators, through which the Royal Government of Cambodia's progress in a number of key areas including land reform is monitored.

<sup>22</sup> Economic Land Concessions in Cambodia, A Human Rights Perspective, the Office of the United Nations High Commissioner for Human Rights (OHCHR), Special Representative of the Secretary-General for human rights in Cambodia, June 2007

**LAND AND HOUSING WORKING GROUP:** this Cambodia-based NGO task force is composed of Borderlands Co-operative, Bridges Across Borders South East Asia (BABSEA), Cambodian League for the Promotion and Defense of Human Rights (LICADHO), Centre for Housing Rights and Evictions, Community Legal Education Centre (CLEC), Housing Rights Task Force (HRTF), Sahmakum Teang Tnaut (STT), and the NGO Forum in Cambodia. Its focus has been on the struggles of communities affected by eviction in Phnom Penh.

**HOUSING RIGHTS TASK FORCE:** a coalition of 13 NGOs created in 2003 working to prevent forced evictions and promote housing rights in Cambodia.

**THE CAMBODIAN HUMAN RIGHTS ACTION COMMITTEE (CHRAC):** a coalition of 21 NGOs working for the promotion and the respect of human rights, democracy and rule of law.

**BRIDGES ACROSS BORDERS CAMBODIA (BABC):** BABC has been very active on land rights issues and particularly in monitoring the resettlement of up to 4000 families who are likely to be displaced by the ADB-financed Railways Rehabilitation Project.

### Government institutions

**THE CAMBODIAN GOVERNMENT TECHNICAL WORKING GROUP (TWG):** TWG brings together government and donor governments and has focused on technical issues of land management, such as the multi-donor supported Land Management and Administration Project (LMAP), the Land Allocation for Social and Economic Development (LASE D) programme, the development of the Sub-Decree on State Land Management and the Sub-Decree on Economic Land Concessions. According to some analysts, this group never addresses land conflicts or violations of indigenous community rights.

**MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES (MAFF):** MAFF leads on policy-making, development planning and implementation for the agricultural sector, and on land use, and is tasked

with improving living standards; ensuring the stability of the ecological system with respect to agriculture; developing technical skills and knowledge in relation to efficient use of resources; coordination and cooperation with the sector, NGOs and other organisations; contributing to attracting investment and developing exports; and contributing to pricing policy. The Forestry and Fisheries Administrations also come under MAFF responsibilities.

**MINISTRY OF LAND MANAGEMENT, URBAN PLANNING AND CONSTRUCTION (MLMUPC):** MLMUPC is responsible for land management and cadastral affairs, the development of land policy, land registration, distribution and administration of land titles, and it also has the oversight of the granting of Social Land Concessions. It includes the Cadastral Commission – responsible for demarcation and registration of land and for the resolution of land disputes – under which Provincial and Municipal Cadastral Offices conduct surveys in coordination with other local authorities and maintain the Land Registers. There is also a Council for Land Policy – a group of Ministries working on new legislation being monitored by the NGO Forum – and some donors.

**NATIONAL AUTHORITY FOR LAND DISPUTE RESOLUTION:** this authority was created in 2006 by the Royal Decree and is supposed to have jurisdiction over cases which are beyond the jurisdiction of the Cadastral Commissions. However, analysts argue that according to the law there are no cases beyond the jurisdiction of the Cadastral Commission or the courts.

**TECHNICAL SECRETARIAT FOR ECONOMIC LAND CONCESSIONS:** the sub-decree on economic land concessions (ELCs) created a Technical Secretariat, to be composed of representatives of eight Ministries and Government institutions, which is responsible for maintaining a logbook to monitor the granting and implementation of ELCs. Contracting authorities are required to review existing economic land concessions with the support of the Technical Secretariat, including a review of contractual compliance,

land use fees and other revenue from contracts; a public consultation to solicit comments on concession activities within communes where concessions are located; a request for land regularisation; and a request for the voluntary reduction of economic land concessions exceeding 10,000 hectares.

### International donors

About 50 percent of Cambodia's national budget comes from international aid, and there are numerous foreign governments that provide bilateral aid to Cambodia's state institutions. The Asia Development Bank, the IMF and the World Bank also provide large sums of official development assistance and loans to the Cambodian government mainly for private sector, institutional and infra-structural development.

**THE WORLD BANK (WB):** supported the multi-donor supported Land Management and Administration Project (LMAP) between 2002 and 2009, including around the Boeung Kak lake area of Phnom Penh, which was classified as state land in a flawed adjudication process, effectively categorising longstanding local residents with unarguable possession rights as illegal squatters, and excluding them from the land titling process. In August 2009, prompted by lobbying from land rights activists, the World Bank requested a moratorium on eviction of these residents. A subsequent World Bank Inspection Panel, called for by activists on behalf of the lake residents, confirmed that residents had been denied both proper adjudication of their land rights and their entitlement to protection under the LMAP resettlement policy. The Panel's investigation report, released in March 2011, highlighted the inadequacies of LMAPs implementation, including how land titling had been limited to those areas where land is less contested.<sup>23</sup> Subsequent protests by residents, supported by lobbying by NGOs and other actors, seemed in August 2011 to have succeeded

in winning some concessions from the Cambodian Government in the form of land set aside for residents.

Land titling in Cambodia is continuing with reduced funding from the governments of Germany, Canada and Finland.<sup>24</sup>

**THE EUROPEAN UNION (EU):** the EU is Cambodia's biggest development partner in terms of grant aid, and in recent years it has funded a number of project focusing on land rights.<sup>25</sup> Also, one of the key strategies of the EU is to promote international trade with Cambodia, for example, through the Everything But Arms (EBA) initiative which grants duty-free access to imports of all products, except arms and ammunitions, from some of the world's "least developed countries". The objectives of the EBA trade preferences include "the promotion of sustainable development and good governance in the developing countries". Preferences can be temporarily withdrawn if there are "serious and systematic violations" of international conventions on human and labour rights, the environment or good governance.

However, despite the EBA's objectives, the initiative has also fuelled land grabbing in Cambodia because, as this report demonstrates in the following case from Koh Kong, private companies can illegally obtain large swathes of community arable land (in contravention of the 2001 Land Law) and forcibly evict residents in order to profit from sugar exported to the EU. Nearly 90,000 hectares have been doled out in concessions for sugar over the past two years – primarily to firms connected to ruling party senator Ly Yong Phat – to take advantage of the European market.

LICADHO and BAB C are among the NG Os based in Cambodia that are very concerned that the European Commission has demonstrated little accountability or willingness to abide by its safeguards in relation to the EBA.

<sup>23</sup> Investigation Panel Report, Cambodia LMAP Project, World Bank 2010

<sup>24</sup> Land Titling in Cambodia: Lessons from the Land Management and Administration Project, Bugalski, Grimsditch and Pred, 2011

<sup>25</sup> [http://cdc.khmer.biz/projectlist/project\\_list\\_updated.asp?OtherDonor=6&status=0&UpdateFrom=1/1/2011&updateTo=5/16/2011](http://cdc.khmer.biz/projectlist/project_list_updated.asp?OtherDonor=6&status=0&UpdateFrom=1/1/2011&updateTo=5/16/2011)

**UNITED NATIONS:** UN Committee on Economic, Social and Cultural Rights (UNCESCR) in Cambodia has a Land and Livelihoods Programme, which aims to promote the implementation of the laws protecting people's rights to land and housing, in cooperation with the government, local communities, civil society, businesses and international actors. It pays special attention to monitoring and protecting the land and livelihood rights of the poorest and most vulnerable people, in both urban and rural areas, including indigenous populations.

**DANIDA:** the Danish development agency DANIDA has, like other bilateral donors, supported develop-

ment projects in Cambodia that have been negatively affected by the increasing land grabbing issues. Sites of development programmes have been given to economic land concessions by the Cambodian government. These include forestland that is protected by law. Danida has been supporting environmental and natural resource management in Cambodia since 1994. In 2007, Danida began supporting the development of a National Forest Programme which aimed to promote conservation and sustainable management of forest resources in Cambodia.



# CASE STUDY

## KOH KONG SUGAR PLANTATIONS<sup>26</sup>

### Introduction

At least 459 families and over 5000 hectares of community land in Sre Ambel and Botumsakor Districts of Koh Kong province in Cambodia's south-western corner have been affected by a sugar plantation producing sugar for export to the European Union. In August 2006, contracts were signed for two Economic Land Concessions in the Botumsakor and Sre Ambel

districts. The concessions were granted to Koh Kong Plantation Co. Ltd and the Koh Kong Sugar Co. Ltd. respectively. The two concessions are in fact a single plantation from which sugar is exported to the European Union under the Everything But Arms initiative (EBA). These concessions have involved widespread violations of national and international law and have

<sup>26</sup> This section is mostly taken from Bittersweet: A Briefing Paper on Industrial Sugar Plantation, Trade and Human Rights in Cambodia, Bridges Across Borders Cambodia, 2010

increased food insecurity for the local farmers who owned and farmed the land.

Villagers have tried lodging complaints with commune chiefs, district and provincial authorities, the National Authority for Land Dispute Resolution, and even the National Assembly, but to no avail. NGOs have also tried to lobby the European Commission to live up to its human rights safeguards in relation to the Everything But Arms (EBA) trade initiative, but the response has so far been negative.

### Impact on local communities

The immediate impacts of the sugar plantation on local communities were documented in the publication *Losing Ground*<sup>27</sup>, by the Cambodian Human Rights Action Committee (CHRA C), as well as in media reports which describe how the lives of affected villagers in Sre Ambel District were disrupted on 19 May 2006 when bulldozers began clearing farmland in Chikhor Leu commune. The affected villagers, who lacked formal land titles but had possession rights under the 2001 Land Law, say they were unaware of their rights under the 2001 Land Law. Armed guards have since denied the community access to the land claimed by Senator Ly Yong Phat and have shot cattle that strayed too close to the contested land. By usurping farms and killing cattle, the concession has increased rural poverty and decreased food security of some of Cambodia's most impoverished rural communities.

In September 2006, community members resisting eviction were assaulted by military police accompanying demolition crews, who also fired shots near the crowd. Several protestors were wounded during the incident.<sup>28</sup> When NGOs attempted to investigate, heavily armed police prevented them accessing the villages.<sup>29</sup>

The serious nature of human rights violations connected to these concessions was documented by the United Nations Office of the High Commissioner for Human Rights in its 2007 report which confirmed that

the concessions in Sre Ambel were "granted without public consultation" and that: "The clearing of rice fields and orchards belonging to villagers in Sre Ambel district has affected over 400 families; some have little or no land remaining for farming, and are surviving on last year's rice harvest. The concession has also restricted the availability of grazing land for villagers' livestock, and company security guards have reportedly seized or shot cattle straying into the concession area. Villagers are now reported to be facing difficulties in repaying loans taken out under micro-credit schemes, due to the loss of sources of income. Both companies have expanded their activities despite efforts to resolve the dispute, including the establishment of a provincial working group and an agreement that further bulldozing activity would be suspended until the dispute was resolved."

Testimonies gathered from affected people reveal the following impacts from these concessions:

- Food insecurity has increased as farmers have lost valuable farmland, grazing land and access to the forest. Affected farmers can no longer grow enough food to sustain their families. Many have sold their cows because they have nowhere for them to graze.
- Chemical waste from the plantation has poisoned local water sources and killed fish, which is the main source of protein for surrounding communities.
- Children have been pulled out of school in order to work and raise money for their struggling families.
- Some people who lost all their land have had no choice but to work on the plantations. The pay is low and the work is irregular. Before they can work for the company, people must also agree to drop any claims for compensation.
- Many outspoken community members fear for their security because of their activism.
- Many affected families report impoverishment as a result of the loss of their land and livelihoods,

<sup>27</sup> Quoted in *Losing Ground, Forced Evictions and Intimidation in Cambodia*, CHRA C, 2006 (<http://www.chrac.org/eng/CHRA%20Statement%20in%202009/Losing%20Ground%20FINAL.compressed.pdf>)

<sup>28</sup> Cambodian military police mobilised to protect concession of ruling part Senator, LICADHO, 02.08.2007 ([www.licadho-cambodia.org/articles/20010201%2000:00:00/51/index.html](http://www.licadho-cambodia.org/articles/20010201%2000:00:00/51/index.html))

<sup>29</sup> Farmers fear worst in dispute with CPP Senator, Cheang Sokha, Phnom Penh Post, March 2, 2007



## DETAILS OF CONCESSIONS IN SRE AMBEL AND BOTOMSAKOR DISTRICT, KOH KONG PROVINCE

**KOH KONG PLANTATION CO. LTD. IN SRE AMBEL DISTRICT** 9,400 hectares leased for 70 years for sugar cane production **DIRECTOR** Mr. Ly Yong Phat | Council of Ministers approved the concession in principal on 20 March 2006 | Company signed a concession contract with MAFF on 2 August 2006.

**KOH KONG SUGAR CO. LTD. IN BOTOMSAKOR DISTRICT** 9,700 hectares leased for 70 years for sugar cane production **DIRECTOR** Mr. Chamroon Chinthammit (CEO of Kohn Kaen Sugar) | Council of Ministers approved the concession in principal on 20 March 2006 | Company signed a concession contract with MAFF on 2 August 2006.

**OWNERSHIP** The two companies have separate concessions, which are both listed on the Ministry of Agriculture, Forests and Fisheries' (MAFF) website. Although the two concessions are legally separate, in reality they are a single plantation controlled by three parties in a joint venture:

- Khon Kaen Sugar (Thai company holding a 50% share);
- Vewong (Taiwanese partner, holding 30%); and
- Ly Yong Phat (holding 20%), one of Cambodia's most influential businessmen and a senator from the ruling Cambodian People's party.

An examination of official documentation reveals that the two companies owning the respective concessions both occupy the same office and applied for the concession, received approval, and signed the concession contracts on exactly the same days. This is clearly an attempt to circumvent the legal limit of 10,000 hectares per concessionaire for Economic Land Concessions.

which is having an impact on their mental and physical health. A more recent report has provided an update of the situation in Sre Ambel.<sup>30</sup> People continue to protest by hanging banners outside their homes. One reads "Good leaders will make people wealthy, while those who are greedy will make people become needy". One protestor, Ann Inn, was hacked to death by an unknown assailant after he tried to take photographs of bulldozers razing villagers' land.

### Where is the sugar going?

The sugar is being exported to Europe under the European Union's Everything But Arms Initiative, which grants tariff and quota free access to the European market and a guaranteed minimum price for sugar to Least Developed Countries (LDC's) including Cambodia. According to EU trade statistics Europe imported 10,100 tonnes of sugar from Cambodia in 2010<sup>31</sup>.

The President and CEO of Khon Kaen Sugar stated in an interview with the Phnom Penh Post that the priority was to produce sugar for export, not for the local market: "We plan to produce raw sugar for export to the EU market under the EBA quota first, after that we will consider producing white sugar to serve domestic demand in Cambodia."<sup>32</sup>

### Violations of Law and Human Rights

The Koh Kong Plantation Co.Ltd. and the Koh Kong Sugar Co. Ltd. concessions violate numerous provisions of Cambodian law:

- The land had been occupied by the villagers prior to the 2001 Land Law under which they had possession rights and the right to continue to use the land until their claims had been assessed.
- Article 58 of the 2001 Land Law stipulates that economic land concessions can only be granted on lands that have already been registered as the private property of the State.<sup>33</sup> The land at issue

<sup>30</sup> Still Losing Ground, Forced Evictions and Intimidation in Cambodia, The Cambodian Human Rights Action Committee (CHRAC), 2010

<sup>31</sup> Eurostat/Comext 18/03/2011. Product Description: (1701) Cane or beet sugar and chemically pure sucrose, in solid form. UK imports value from Cambodia in 2010: 10, 000 tonnes. Total EU 27 imports from Cambodia 10,100 tonnes

<sup>32</sup> Phnom Penh Post. Getting Cambodia Milling Again, 28 January, 2010

<sup>33</sup> 2001 Land Law, Art. 58; See also 2005 Sub-Decree on ELCs, Art. 4.a ("An economic land concession may be granted only on a land that meets all of the following five criteria.... The land has been registered and classified as state private land..."; 2005 Sub-Decree on State Land Management, Art. 3 ("State land can be granted for social land concessions, economic land concessions or other concessions if the land has been registered in the land registered as state public or state private land in accordance with the legal procedure.")

was neither registered as state private land when bulldozers began clearing the land on 19 May 2006, nor when the contract was signed on 2 August 2006.<sup>34</sup>

- Article 59 of the 2001 Land Law prohibits concessions from being over 10,000 hectares and prohibits any one person or legal entity from being the beneficiary of multiple concessions if their aggregated total is greater than 10,000 hectares.<sup>35</sup> It appears that the two concessions are in compliance with Article 59. However, statements in the media make it clear that the two plantations are operating as a single concession. Including the Koh Kong plantations, Senator Ly Yong Phat has an interest in at least 63,000 hectares of concession land, a clear violation of the 2001 Land Law.
- Article 4c of the 2005 Sub-Decree on Economic Land Concessions requires environmental and social impact assessments to be conducted prior to grant and operation.<sup>36</sup> These assessments have not occurred.<sup>37</sup>
- Article 4d of the 2005 Sub-Decree on Economic Land Concessions prohibits any involuntary resettlement for purposes of a concession and requires respect for access to private land.<sup>38</sup> These concessions have led to the forcible clearing of the villagers' farm land and armed guards currently patrol the usurped villagers' land. Beyond the illegality of seizing farm and crop land from the affected community, the loss of agricultural area is having a dramatic impact on the food security of many families; consequently, they may have no choice but to abandon their property in order to secure basic sustenance – resulting in dramatically reduced economic and educational opportunities for their children. Thus, the concessions have encroached upon individual property and may lead to further displacement and destruction of the community's livelihoods.

- Articles 4e and 35 of the 2005 Sub-Decree on Economic Land Concessions require public consultations prior to the granting and operation of the concessions.<sup>39</sup> This has not occurred.

### The villagers' demands

The villagers' primary goal is to re-establish their livelihood and a return to the peace and security they previously knew. Many of the families whose land was taken settled with the company for a few hundred dollars, but their land could be worth 10 times the level of compensation they received. The remaining families either want fair compensation so they can buy other land to replant and graze their livestock, or a total cessation of concession operations with a return of all usurped land and fair and just compensation for damage to personal property including land and livestock.

In 2007, the villagers and their lawyers filed complaints with the Koh Kong Municipal court for cancellation of the concession and to demand fair compensation. However, between 2007 and 2010 the case was ignored and not proceeded according to law. Since 2010 there has been some progress in the form of preparatory hearings, but justice remains a long way off.

### Responses from the EU

Cambodian community networks and NGOs have launched the Cambodian Clean Sugar Campaign which is calling on the European Union to act on its commitment to upholding core human rights principles in its foreign and trade policy in Cambodia and to conduct a thorough investigation of the rights abuses associated with the Cambodian sugar industry. Moreover, the EU should require that the Cambodian Government take measures to end these abuses and redress past abuses in accordance with human rights commitments in European trade law

<sup>34</sup> Legal Officer, NGO Forum Land and Livelihoods Programme

<sup>35</sup> 2001 Land Law, Art. 59

<sup>36</sup> 2005 Sub-Decree on ELCSs, Art. 4.c.

<sup>37</sup> See also Law on Natural Resource Management, Arts. 6 & 7

<sup>38</sup> 2005 Sub-Decree on ELCSs, Art. 4.d.

<sup>39</sup> 2005 Sub-Decree on ELCSs, Arts. 4.e & 35.

and cooperation agreements. The benefits for Cambodian sugar under the Everything But Arms' preferential trade scheme should be suspended if the industry does not clean up its act.<sup>40</sup>

On 7 January 2011 LICADHO, Bridges Across Borders Cambodia, the Community Peace-building Network and Community Legal Education Center (CLEC) sent an official letter to the European Commissioner for Trade regarding the Everything But Arms (EBA) initiative and serious and systematic human rights abuses in Cambodia. The NGOs called for an independent investigation into these human rights abuses, which they believe justify a temporary withdrawal of preferential arrangements from certain Cambodian products in accordance with Article 15 of the GSP Regulation (EC) 732/2008.

The European Commission's Directorate-General for Trade replied to the letter on 9 February 2011. It explained that the issue had been addressed with the Cambodian government and that the EU had "underlined the need for stronger action to protect the rights of the most vulnerable populations, especially in these cases where the rights and livelihoods of many rural communities could have been negatively affected through the gravity of economic land concessions."<sup>41</sup> The issue is being further discussed between the European Commission, the European External Action Services and EU Member States in the Council but needs to be addressed in a wider context of land evictions, rule of law and human rights abuses.

The response from the European Commission's Directorate-General for Trade is reflecting that the European Commissioner for Trade does not want to initiate an independent investigation, or even inform the Generalised Preference Committee and request consultations, even though it is a requirement under Article 17 (1) of the Generalised System of Preference.<sup>42</sup>

The Association of World Council of Churches related Development Organisations in Europe (APRODEV) followed up the Cambodian NG Os' requests in July 2011. In a letter to the European Commissioner for Trade APRODEV urged the European Commission to comply with its obligation to inform the Generalised Preference Committee of the human rights violations and to launch an investigation into the matter within a month. The European Commissioner for Trade replied on 4 August 2011, recalling that "the GSP scheme, and in particular Everything But Arms (EBA), was created as an incentive based tool to support development purposes."<sup>43</sup> Moreover, he states that there is a consensus among Member States that the issue should be looked at from a broader government perspective: "The situation should be tackled robustly but trade measures would certainly not be the first option."

Some Members of the European Parliament, especially the Subcommittee on Human Rights, have spoken out against land grabbing. Cecilia Wikström, an European Parliamentarian from Sweden, brought the debate to the fore recently when she met with affected communities in Kampong Speu and Koh Kong provinces and called for a suspension of preferences for sugar on the grounds that these fuel land grabbing, forced evictions and other human rights abuses: "I think we need, in the European Parliament... to look into the details and the provisions put in place in the EBA concerning human rights. In my view, they have been violated."<sup>44</sup>

Meetings between the EU and the Cambodian government on the issue are ongoing, but so far they have not lead to any results for the 459 families in Sre Ambel and Botumsakor Districts of Koh Kong province in Cambodia who have lost their livelihoods because of an illegally acquired sugar plantation producing sugar for export to the European Union.

<sup>40</sup> For the full set of recommendations, including those made to the Cambodian Government, see *Bittersweet: A Briefing Paper on Industrial Sugar Production, Trade and Human Rights in Cambodia*, Bridges Across Borders Cambodia September 2010.

<sup>41</sup> Letter from the European Commission Directorate-General for Trade to Bridges Across Borders Cambodia, February 9, 2011

<sup>42</sup> Article 17 (1) of the Generalised System of Preference states that "where the Commission or a Member State receives information that may justify temporary withdrawal and where the Commission or a Member State considers that there are sufficient grounds for an investigation, it shall inform the Generalized Preference Committee and request consultations. The consultations shall take place within one month."

<sup>43</sup> Letter from Karel de Gucht, the European Commissioner for Trade, to APRODEV, August 4, 2011

<sup>44</sup> [http://www.scandasia.com/viewNews.php?coun\\_code=kh&news\\_id=8858](http://www.scandasia.com/viewNews.php?coun_code=kh&news_id=8858)

## Conclusion

The above case illustrates how measures designed to promote economic development (in this case, the EBA) can, in a context of weak governance, have undesirable effects. In this case the trade preferences for sugar has made land grabbing for sugar plantations more profitable, while the regulations that should protect the land rights of the poor and limit the amount by which any single individual can profit from economic land concessions have apparently been circumvented.

The benefits of the sugar trade are clearly being captured by the wealthy elite keen to enter emerging markets, generally to the detriment of the poor, and often illegally and with disregard for human rights. It is therefore the responsibility of the European Union Member States and the European Commission to address the incoherence of its trade policy with other policy measures (such as the EU Food Security Policy Framework) which aim to support and promote the resilience of smallholder farmers.



PHOTOS LICADHO



PHOTOS: DAN CHURCH AID

# I HOPE I CAN GET BACK MY LAND

BY MALENE HAAKANSSON

Chou Sok shows his visitors what is left of his 7.5 hectare field. Behind his family's wooden house he has four rows of sugar cane, a small fish pond and a couple of chilli bushes.

On the other side of the hedge that surrounds his small plot he has a magnificent view of a huge sugar plantation. Rows of green are spread out on a 20,000 hectare field covering two districts: Sre Ambel and Botumsakor in Koh Kong Province in Cambodia's south-western corner.

The owner of the sugar plantation is Cambodian senator Ly Young Pat, who, against Cambodia's own laws, has required the big chunk of land which once fed 459 farmer families. Ly Young Pat exports the sugar to the EU through the EBA agreement.

## A long struggle

It has been five years since the farmers lost their land. Poverty has risen in the area because the farmers have no more or little land left to cultivate. 62-year-old Chou Sok used to feed his nine-member family with rice, vegetables and products from his domestic animals. Today he struggles to have at least some food on the table. He lost all of his land and his main income comes from making baskets, which he sells at the market.

On an outdoor bed two of his grand children are playing with a small animal they have found in the bushes. They are smiling despite an unknown future. Before the sugar company came to bulldoze the land, Chou Sok's six grandchildren went to school, but now they can only afford to send one child.

The affected farmers have organized themselves, and after 1½ years of struggle with Ly Young Pat's sugar company, the farmers were offered a small compensation. The company only wanted to pay for the loss of crops and not the value of the land, since the owner Ly Young Pat has made an agreement with the Cambodian authorities about the use of the land.

More than half of the farmers have declined the compensation and have decided to continue their struggle – just like Chou Sok.

“I still hope that I can get back my land. The compensation we are offered is too small,” says the frail man who looks much older than his age.

### Food insecurity rises

The farmers who agreed to take the compensation were not aware of the Cambodian land law, and if they were, they did not believe that they could win a case against the government, explains Kong Song, one of the village representatives.

“They regret that they accepted the compensation, but they were either threatened to agree or were promised to get a job at the sugar plantation, which very few got.”

Kong Song earned about 671 euro a year by growing watermelons in his own fields. When working at the Ly Young Pat’s sugar plantation he can earn 1.7 euro per day, but he will only have work 3-4 months a year, which equals between 142.8 and 190.4 euro per year.

### Violation of Cambodian law

According to Cambodia’s Land Law from 2001, the government is only allowed to expropriate land if it is in the public’s interest and after a fair and just compensation has been paid. If the piece of land has been used by the same family for at least five years, the family has earned rights which can be translated into full ownership. Furthermore, to avoid land grabbing, the size of land concessions is limited to 10,000 hectares, and this prohibits an individual from controlling an interest in a separate concessions over a surface greater than 10,000 hectares of land. But although all of these provisions have been violated, Ly Young Pat has been able to carry on his sugar venture because he is a senator and belongs to the inner circle of the ruling Cambodian People’s Party.

“We are running court cases in the provincial courts, but the cases are stuck because the local authorities are afraid of Ly. This is why we have to lobby international organisations, donors and the shareholders of the sugar plantation in order to put pressure on the Cambodian government to follow its own laws,” says Mathieu Pellerin, Monitoring Consultant for the Cambodian Human Rights Organisation LICADHO.

The president and founder of LICADHO worries about the consequences if the outside world does not hear the Cambodian people’s outcry:

“Without land my people will die. Our government was supposed to bring democracy and development, but instead they have put Cambodia up for sale because they are greedy. This government does not fight poverty but increases poverty,” says Kek Pung, president of LICADHO.

## LESSONS LEARNT

The development of fair and sustainable land distribution and land use policies and practices requires long term commitment and engagement by national and international stakeholders at all levels. For NGOs and others working in Cambodia the following actions are central to ensuring that sustainable changes are achieved:

- Consultation with, and support to, communities and poor people affected by land grabbing. In addition to material support (health, education, food and livelihood support) and legal assistance (including investigation and case representation) for displaced families, communities often need support to help them to understand their rights and represent themselves.
- Mechanisms for coordinated advocacy and dialogue with the government for fair and transparent implementation of legislation and policies relating to land and natural resources.
- Promoting engagement and response from international donors and other relevant international actors for fair and transparent implementation of legislation and policies relating to land and natural resources. NGO's in Cambodia have highlighted that land conflicts are often sensitive and beyond their capacities to address, and therefore also require a response from the international community.
- Assistance to overcome the barriers most people face in obtaining security of land tenure. Obtaining formal land titling can be a complex and costly process.
- Knowledge sharing and strengthened coordination among a broad spectrum of civil society organisations working on land-related issues.
- Building the capacities of responsible local government officials who frequently have only limited understanding of the law and its correct implementation.
- Research and documentation to highlight the impacts of land insecurity and displacement on other sectors and issues such as agriculture, poverty reduction, disaster preparedness and resilience, and wide dissemination of these among government departments and donors. Data collection in relation to land deals, classification of land, and company records, is also needed to help overcome difficulties in finding accurate and up to date data and information concerning who is involved in ELCs and land grabbing.
- Strengthening mechanisms for promoting accountable governance and monitoring of implementation of development policies and laws relating to land and natural resources.

### **APRODEV** – Association of WCC related Development Organisations in Europe

APRODEV is the Brussels-based association of European development and humanitarian aid organisations that work closely with the World Council of Churches (WCC). Its members are : Bread for All, Bread for the World, Christian Aid, Church of Sweden, Cimade, DanChurchAid, Diakonia, EAEZ, EED, FinnChurchAid, Kerki-nactie Global Ministries, HEKS/EPER, Hungarian Interchurch Aid, ICCO, Icelandic Church Aid and Norwegian Church Aid. Observers are the World Council of Churches, the Lutheran World Federation and ACT.

[www.aprodev.eu](http://www.aprodev.eu)