

**Stakeholders Submission for the 6th session of the
Universal Periodic Review (UPR) Working Group**

Key Human Rights Problems in Cambodia



**Cambodian Human Rights and Development Association (ADHOC)*
Asian Forum for Human Rights and Development (FORUM-ASIA)****

14 April 2009

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* Cambodian Human Rights and Development Association (ADHOC), an independent, non-partisan, non-profit and non-governmental organization, was founded by a group of former political prisoners in December 1991 after the signing of the Paris Peace Agreements on 23 October 1991. ADHOC is tasked to address the absence of basic rights, freedoms and liberties in Cambodia by providing people with knowledge and understanding of human rights, law and democracy and of how to defend these rights and freedoms themselves. ADHOC has a unique national network of 24 offices across Cambodia and its Monitoring, Advocacy, and Women Sections are active in every province in the country. ADHOC is a member organization of FORUM-ASIA.

** Asian Forum for Human Rights and Development (FORUM-ASIA) is a membership-based regional human rights organisation committed to the promotion and protection of all human rights including the right to development. As a regional forum, FORUM-ASIA seeks to facilitate dialogue, capacity building, and networking, among human rights defenders, civil society actors and organisations in Asia. FORUM-ASIA, as an NGO in Consultative Status with the UN Economic and Social Council (ECOSOC), also promotes cooperation with governments, inter-governmental organisations and the UN for the betterment of people's lives and the full respect of human rights and human dignity. FORUM-ASIA has 42 member organisations in 16 countries in Asia.

I. Introduction: Overall Human Rights Situation in Cambodia

1. Cambodia continues to suffer from a wide range of grave human rights abuses and limitations of fundamental freedoms. Whilst there has been a marked decline in the political violence that was predominant in the 1990s, there has been a significant increase in human rights violations caused as a consequence of economic conflicts, following the end of the civil war. Many of these human rights violations are intrinsically linked with the political realm of the ruling party members and the state office holders, who are often in close relations with the rich and powerful elite that are party to conflicts with ordinary citizens over land and resources.
2. In addition to the key issues of land and resource conflicts, there are also other principal areas of concern. There has been a steady decline in the ability of citizens to enjoy their freedom of assembly, with the criminalisation of protest and dissent and the increasing threats to human rights defenders. Impunity for perpetrators has been widely noted, and gender-based violence remains a persistent and grave problem in Cambodia.

II. Disparity between Economic & Social Land Concessions

3. The Royal Government of Cambodia has stepped up its efforts to promote rapid economic growth, and central to this policy has been the provision of resources and economic opportunities to private companies. The Government provides economic land concessions to private companies without heed to the interests of the poorer sections of society. For example in 2008, the Government provided private companies with 222,539 hectares of land through its economic land concession strategy in contrast to the mere 2,075 hectares of land provided to poor and landless Cambodians through social land concessions¹. The extremely meagre provision of social land concessions demonstrates the failure of the Government to assist the estimated 63% of Cambodians living in rural areas (constituting 80-85% of the overall population), who have become landless or land poor².
4. Recommendations to the Royal Cambodian Government:
 - There should be a reduction or end to the practice of granting economic land concessions.
 - More land should be provided to poor individuals and communities in the form of social land concessions.

III. Forced Evictions & Land and Resource Disputes

5. Poor and economically vulnerable citizens have been losing their homes, property and land as a consequence of forced evictions and land grabbing by powerful individuals, private companies and state authorities. The Government has shown little regard for the interests of ordinary citizens affected by the implementation of economic land concession policy. Local citizens have been forcibly evicted from their land and homes to make way for the development projects of private companies that have been awarded concessions by the Government. Land grabbing by powerful individuals and companies exacerbated the existing

¹ ADHOC Cambodia Human Rights Situation Report 2008, page 39

² ADHOC Cambodia Human Rights Situation Report 2007, quoting research by Oxfam GB, page 3

serious problem of landlessness and resulted in poor families becoming landless or land poor as a direct consequence of having their land seized from them.

6. Poor citizens are not provided with adequate compensation for the loss of their land and/or property, and they are often moved to relocations sites that lack basic services such as water, electricity and sanitation. Such sites are often geographically remote from the places of work and economic opportunities. Development infrastructure projects initiated by provincial and municipal state authorities, such as road widening and “beautification” schemes, saw poor citizens lose homes and land again without proper compensation or suitable relocation sites being provided. Forced evictions took place before there was any formal resolution of land disputes, or following the adjudication influenced by corruption or intimidation.
7. From 2005 to March 2009, ADHOC received 1,631 complaints of land disputes and evictions which affected 36,204 families, or over 180,000 individuals³. Alarming, the instances of violence perpetrated against those affected citizens have increased even when there was a small temporary reduction in the total numbers of evictions and land disputes between 2007 and 2008 (due to the national elections in 2008). State security forces were responsible for the deaths of 8 people in 2008 compared to 2 deaths in 2007. Victims were killed from gunshot injuries during confrontations with security forces on the disputed land, such as the death of 2 people in *Preah Vihear* in 2007. Others have died due to beatings, torture and detention in inhumane conditions following arrest. Evictions often took place without notice and resulted in citizens being beaten, and their homes and property destroyed by state security forces. For example, approximately 300 homes were burnt down during a mass eviction in *Anlong Kraom* village, *Taken* commune, and *Chhuk* district of *Kampot* province in November 2008.
8. Recommendations to the Royal Cambodian Government:
 - There must be an immediate end to forced evictions.
 - Where land or property is reallocated for key infrastructure or development purposes, the original inhabitants and owners must be fairly compensated at market rates before relocation takes place.
 - Relocation sites should be suitable and in proximity to the original community sites as well as employment and economic opportunities. The sites should be well prepared with adequate sanitation and other essential services before relocation takes place.

IV. Flawed Mechanisms for Resolving Land Disputes

9. As discussed above, land disputes and the forcible seizure of land are currently one of the most significant human rights issue facing Cambodia. As a consequence of the limited level of development, the upheaval of the Khmer Rouge period, and the subsequent Vietnamese invasion and civil war, the ownership and title to land in Cambodia is often uncertain or subject to dispute. This leads to disputes among ordinary citizens over land but also between poor citizens and powerful individuals and private companies who wish to develop land for economic gain. As with other civil and criminal issues in Cambodia, the poor in society are at a great disadvantage when these disputes are legally adjudicated.

³ ADHOC complaints database, 6 April 2009

10. There are two mechanisms in Cambodia for resolving disputes over land. The first being the Cadastral Commission which has responsibility for resolving land disputes where the disputed land is not legally registered, the second is the national court system where disputes over the registered land are heard. These mechanisms should protect the rights of poor and vulnerable citizens; however, in reality they are often utilized by the rich elite and private companies to legitimize the seizure of land. The Cadastral Commission generally issues biased decisions that promote the interests of the wealthy when in dispute with the poor landholders. This is due to endemic corruption and the Commission's fear of being seen to act against the interests of the most powerful in society. The national court system has also failed to provide equitable justice to the poor parties to land disputes as a consequence of corruption in the judiciary enabling powerful individuals and companies to buy favorable decisions.
11. The wealthy and powerful parties to land disputes increasingly used the court system to criminalize their opponents, changing the character of these disputes from civil cases into criminal cases. Community members and representatives involved in land disputes are being arrested and prosecuted, or threatened with the same, as a means of intimidating poor communities and undermining their efforts to retain their land and property. In 2005, ADHOC looked into the cases of 25 people arrested who were in land disputes, and in subsequent years, this practice has become far more widespread with 30 people arrested in 2006, 149 in 2007, 150 in 2008, and 57 individuals in the first 3 months of 2009 alone⁴.
12. Recommendations to the Royal Cambodian Government:
 - The Cadastral Commission must be strengthened by enhancing the capacity and oversight of its staff and decision makers. Effective means to combat corruption and intimidation of decision makers must be implemented.
 - The judiciary and courts must be strengthened through the reform of the Supreme Council of the Magistracy (SCM), and effective means to combat corruption and intimidation of the judiciary need to be implemented as a matter of priority.
 - The criminalization of legitimate and peaceful protest in relation to land and resource disputes should be stopped immediately.

V. Failure to Address Indigenous Peoples Land Rights

13. Cambodia's 2001 Land Law goes some way in recognizing indigenous peoples' traditions of communal land ownership. However, only two village communities, both in the *Ratanakiri* province, have been granted communal land title until now. Indigenous peoples have experienced serious problems with powerful individuals and private companies seizing land, and natural resources.
14. Recommendations to the Royal Cambodian Government:
 - The 2001 Land Law must be fully implemented so that indigenous communities are provided with communal land title as a matter of urgency.

VI. Assault on Freedom of Assembly

⁴ ADHOC complaints database, 6 April 2009

15. There has been a steady erosion of citizen's rights to organize and take part in protests, with the Government authorities seeking to reduce the space for dissent. The authorities have increasingly refused or delayed responding to the requests for permission to hold peaceful demonstrations. Citizens coming to the cities from the countryside to protest found that they were barred from seeking shelter in public parks or in pagoda compounds as had previously been permitted. Human rights NGOs, such as ADHOC, who provide overnight shelter to demonstrators, are often subject to intimidation from the authorities. Of the 155 peaceful demonstrations and protests over land seizures as well as workers strikes in 2008, 108 were forcibly suppressed by the security forces.⁵

16. Recommendations to the Royal Cambodian Government:

- The freedom of expression and assembly as guaranteed by the Cambodian Constitution should be fully respected, and any attempts by the Government to limit the space for legitimate and peaceful protest should be stopped immediately.

VII. Threat to Human Rights Defenders

17. Human rights defenders such as community leaders and other advocates for community rights are subject to arrest and detention, particularly when involved in land and resources disputes. Release from the detention is often dependent upon the detainee agreeing to discontinue their activities. Human rights activists face intimidation and accusations of incitement from the Government authorities who consider them to be instigating community efforts to resist land grabs and other abuses. In 2005, ADHOC received 25 complaints of abuses against human rights defenders, and in every subsequent year, the numbers have increased; 37 complaints in 2006, 46 complaints in 2007, and 52 complaints in 2008.

18. Intimidation against human rights NGOs involved in land and resource disputes takes the form of black listing, letters of warning from the authorities and the refusal of cooperation by the provincial authorities. More serious intimidations have been in the form of threats to file criminal complaints of incitement with the courts as well as anonymous telephone death threats.

19. Recommendations to the Royal Cambodian Government:

- The Government should give public recognition to the important role of civil society organizations as useful contributors and partners in the development process in order to reduce threats and intimidation against human rights defenders.
- Perpetrators of harassment and violence against human rights defenders should be brought to rigorous investigation and the full extent of the law.

VIII. Gender-Based Violence

20. Serious violations of women's and children's rights are an increasing problem and a major social issue in Cambodia. Many women are the victims of domestic violence despite the law in force which prohibits domestic violence. One in four Cambodian suffers from domestic violence. Violence against women remains widespread and the level of violence is still high,

^{5 5} ADHOC Cambodia Human Rights Situation Report 2008, page 3

affecting approximately 20-25% of Cambodian women. Furthermore, some Government authorities are still of the view that domestic violence is a family matter thus do not provide timely interventions resulting in victims suffering from serious or fatal injury following years of abuse. Some local officials sought to settle criminal cases out with the courts as they often have social relations with those accused of domestic violence. Rape and other sexual assaults remains a serious problem with state authorities often seeking to resolve complaints through compensation rather than criminal prosecution. Whilst the Government has passed anti-trafficking laws, the progress has been patchy and inconsistent. Victims are often unable to bring civil claims against perpetrators due to the fees imposed by the courts.

21. Recommendations to the Royal Cambodian Government:

- Domestic violence laws should be strengthened and fully implemented with the passing of a sub-decree which would allow effective use of these laws in combating abuse.
- Article 61 of the Criminal Procedure Code must be suspended in order to lift the requirement for victims to make a payment before bringing a complaint before the courts.

IX. Impunity for Perpetrators of Human Rights Abuses

22. There is a deeply imbedded culture of impunity for the perpetrators of human rights abuses in Cambodia. In general terms, this culture of impunity has been fostered by the weakness of law enforcement and court system. A particular concern is the extent of impunity enjoyed by agents of the state, those who are perceived as acting in the interests of the state as well as wealthy and powerful individuals. State officials who had killed people in their private life or during the conduct of their duties rarely faced investigation or prosecution with their superiors stepping to protect them, a general reluctance amongst security forces and judiciary to intervene. Extensive corruption within the security forces, judiciary and the political interference increasingly insulates the majority of perpetrators from being brought to justice. For example, no one has been investigated and punished for the 15 killings of citizens involved in land disputes by security forces since 2005.⁶ Many other state officials and members of the security forces have escaped punishment despite their involvement in killings and violent assaults. The crimes were either not investigated, or victims and their families were often intimidated and others were persuaded to take financial compensation in return for not pursuing their right to legal recourse. Intimidation, violence and deadly force have been used against the communities in land disputes without police or judicial intervention.

23. Recommendations to the Royal Cambodian Government:

- The culture of impunity should be challenged by the reform of existing institutions such as the Supreme Council of the Magistracy (SCM), judiciary, and the offices of prosecutors in order to ensure that they are independent from any political or economic influence.
- An Anti-Corruption law should be adopted as a matter of priority, with its implementation to be supported by the establishment of an independent and non-partisan Anti-Corruption Commission.

⁶ ADHOC complaints database, 6 April 2009