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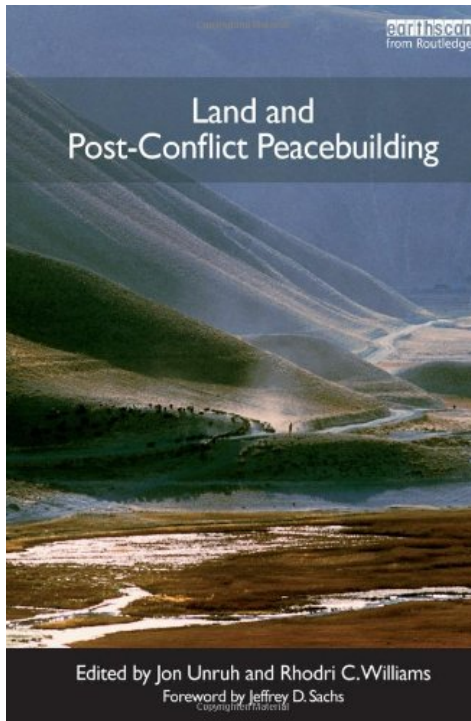
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Rhodri C. Williams

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Title through possession or position? Respect for housing, land, and property rights in Cambodia

Rhodri C. Williams

Two decades after the 1991 Paris Peace Agreements, widespread violations of housing, land, and property (HLP) rights represent a new threat to Cambodia's fledgling stability. Despite domestic and international efforts to protect HLP rights through legislative reform and institutional capacity building, respect for these rights has deteriorated during this period according to almost any indicator.

In the countryside, home to approximately 85 percent of the Cambodian population, landholdings are increasingly skewed, with hard-pressed subsistence farmers often forced to sell to urban speculators who hold large plots of arable land idle. Although rural land was relatively equitably distributed in the 1980s, landlessness subsequently mushroomed from 13 percent in the late 1990s to 20 percent in 2004. Meanwhile, programs meant to distribute land back to the rural poor have not been implemented. A prominent nongovernmental organization (NGO), the Cambodian Center for Human Rights, has seen land disputes rise to "human rights and social problem number one" for rural Cambodians participating in its regular public forums (Cambodian Center for Human Rights 2006a, 2).

Insecure rural tenure and landlessness have exacerbated encroachment on forest lands inhabited by Cambodia's indigenous population, much of these lands have already been devastated by years of unregulated logging and resource exploitation. The most visible result of rural impoverishment has been migration from the countryside to Cambodia's cities, and particularly to the capital, Phnom Penh. Rural migrants have swelled the ranks of the urban poor, creating a population of unskilled casual workers who live in informal settlements under unremittingly poor conditions and with precarious tenure. Although Cambodia has experienced sustained economic growth since the 1991 peace agreement, the benefits have accrued primarily to wealthier, urban segments of the population, and flight from the relatively stagnant countryside has intensified pressure on the urban settlements where migrants tend to congregate (World Bank 2006b).

Rhodri C. Williams is a human rights lawyer who specializes in land and forced-migration issues. An earlier version of this chapter appeared as a Center on Housing Rights and Evictions occasional paper in November 2008.

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Facing competition between the housing needs of urban residents and the development plans of large commercial interests, local authorities have consistently sided with the latter. As a result, many long-term residents of urban neighborhoods have faced relocation under legally dubious circumstances, ranging from inadequately compensated expropriations to violent forced evictions. In Phnom Penh, 11,000 families, or approximately 55,000 people, were evicted between 1998 and 2003, under circumstances that frequently violated their rights and impaired their standard of living (Asian Coalition for Housing Rights 2005). Today it is estimated that approximately 70,000 people are threatened with forced eviction in Phnom Penh, and at least 150,000 people live in fear of eviction from their homes and land nationwide. Increasing numbers of Cambodia's poor currently live under conditions perhaps most aptly described as internal displacement.

This chapter provides an overview of developments with regard to HLP rights in Cambodia, focusing on the last decade—a period during which international engagement with these issues has been both more intense and more controversial than during the immediate aftermath of Cambodia's political transition in the early 1990s (Williams 2008). An overview of the current political and legal context for implementing HLP rights is followed by a brief historical description of the lingering effects of collectivization, displacement, and privatization during the decades prior to the 1991 peace settlement. Next, the chapter provides an overview of more recent efforts by the Cambodian authorities, domestic NGOs, and international organizations to improve respect for HLP rights in contemporary Cambodia, as well as outstanding problems and obstacles. Finally, the chapter concludes with recommendations for international and domestic actors.

BACKGROUND: DEMOCRACY, PATRONAGE, AND HUMAN RIGHTS IN CAMBODIA

The problems of insecure tenure and inequitable access to HLP resources in Cambodia are exacerbated by structural factors such as demographic pressure, the lingering effects of decades of conflict, increasing urbanization, and persistent rural and urban poverty. However, much of the problem is also political. One of the main barriers to equitable HLP access, as well as the exercise of many other human rights, is the persistence of unaccountable and corrupt patronage-based networks that hold power at all levels of government.

Since the destruction of Cambodia's economy and the killing of much of its skilled workforce by the Khmer Rouge regime (1975–1979), successive Cambodian governments have struggled to staff and finance local administration and provide public services. In many cases, this was achieved through delegations of power to existing local authorities, which created layers of bureaucrats whom the government could not afford to pay. This in turn led to a revival of traditional Cambodian practices in which public servants buy their offices from more powerful patrons (Chandler 2000). In order to pay their debts—and make



ends meet—officials are then tacitly expected to skim public proceeds and impose unofficial fees for services.

The prevalence of corruption in contemporary Cambodia dictates that access to many essential public services, ranging from issuance of land title certificates to medical treatment and education, tends to be contingent on the payment of bribes that are often unaffordable to the poor (Nissen 2005). These conditions also undermine the rule of law, resulting in the selective and arbitrary application of legal protections by courts vulnerable to political pressure and bribery. Perhaps most significantly, economic liberalization has increased the value of housing, land, and natural resources, drawing them further into competition among ordinary Cambodians, who see them as prerequisites for subsistence, and the rich and powerful, who view them as commodities subject to speculation and trade. As a result, genuine progress in the protection of HLP rights is likely to require a confrontation with entrenched political practices and powerful vested interests.

Cambodia is currently governed by the Cambodian People’s Party (CPP), headed by long-standing prime minister Hun Sen. The CPP is the direct successor to the communist regime that ruled Cambodia from the fall of the Khmer Rouge in 1979 until the transition to multiparty democracy under the 1991 peace agreement. This agreement formally reconciled the CPP with opposition elements and led to UN-administered multiparty elections in 1993. Although the CPP failed to win a majority in the 1993 elections, it maintained *de facto* power through its control of local patronage networks and later resorted to intimidation and outright

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military attacks on its political opponents in order to regain and hold de jure power in the 1998, 2003, and 2008 elections. The CPP continues to dominate the political environment today. Despite the promises of the peace agreement and the nation-building efforts of the 1990s, the Cambodia of today has made little progress in adopting the rule of law and genuinely democratic governance.

The role of the international community

The record of the international community in discouraging human rights abuses in Cambodia has been mixed. On one hand, international observers have enjoyed largely unobstructed access to the country and cooperation with a vigorous NGO sector. International organizations have also had a great deal of leverage, not least by virtue of the fact that international aid continues to constitute as much as half of Cambodia's gross domestic product. Cambodia ratified many of the major multilateral human rights treaties as early as 1992, including the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. The UN transitional administration, set up to administer the first Cambodian elections, included a human rights component that was succeeded by an institutionalized Special Representative of the Secretary-General for Human Rights in Cambodia, as well as a local office of the UN High Commissioner for Human Rights.

Despite these promising conditions at the outset, international and domestic pressure has not succeeded in stemming human rights violations in Cambodia. The international community, comprising numerous international humanitarian and development agencies, NGOs, and bilateral donors, is vulnerable to criticism for at least two tendencies that have undermined its effectiveness in addressing HLP and other violations.

First, international organizations frequently appear to emphasize process over outcomes, with observation of the forms of human rights and democracy taken at face value. The most notorious example may be the 1997 coup de force in which the CPP unleashed a military assault on a rival political party, summarily executing much of its leadership and driving it underground (HRW 1997). Cambodia's application for membership in the Association of Southeast Asian Nations (ASEAN) was suspended as a result—but only until the next year's elections gave the CPP a fresh (albeit disputed) mandate. This approach gives rise to concern that elements of the international community have tacitly accepted the CPP's heretofore illiberal approach to democracy and human rights as the price to be paid for the fundamental stability it has brought to Cambodia after decades of conflict.

A second concern involves the tendency of the international community to focus on Cambodia's HLP issues from a development perspective, in a manner that can marginalize discussion of the government's human rights obligations. For example, the Consultative Group, an important annual meeting between the Cambodian government and bilateral donors, framed Cambodia's natural resources and land issues almost exclusively in terms of human development and governance

(World Bank 2006a). While pro-poor development is undoubtedly crucial, explicit reference to and recognition of the obligations to respect and comply with human rights duties is vital to ensuring that development is inclusive and occurs within a framework that prioritizes participation, citizen empowerment, and human dignity.

The legal framework for HLP rights in Cambodia

Concerns about respect for human rights are particularly salient with regard to housing rights, which have been, at best, tangentially covered in a developing legal framework that is primarily concerned with safeguarding property interests. Cambodia is obligated under the terms of the International Covenant on Economic, Social and Cultural Rights to protect the right to adequate housing by all appropriate means, including the adoption of legislation and the provision of judicial remedies. This treaty entails state obligations to affirmatively guarantee security of land tenure and facilitate access to housing that is affordable, habitable, accessible, culturally adequate, appropriately located, and provided with adequate services and infrastructure. According to the UN Committee on Economic, Social, and Cultural Rights, such measures to ensure equitable access to housing should also extend to land (UN CESCR 1991):¹

Within many States parties increasing access to land by landless or impoverished segments of the society should constitute a central policy goal. Discernible governmental obligations need to be developed aiming to substantiate the right of all to a secure place to live in peace and dignity, including access to land as an entitlement (UN CESCR 1991, art. 8(c)).

The most important protection guaranteed by the right to adequate housing is security of tenure, or legal protection against forced evictions, which have been defined as “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection” (UN CESCR 1997, 3). Under international law, evictions are lawful only under exceptional circumstances, in situations where they serve a compelling public interest and where all feasible alternatives have been explored in a process of genuine consultation with those affected. In cases where evictions are deemed justified, they must comply with the principle of proportionality and incorporate procedural protections, including adequate notice, the full disclosure of relevant information, ongoing consultation, and the availability of effective complaint procedures. Under no circumstances should excessive force be used.

¹ With regard to housing, the committee recommends that states “establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs” (UN CESCR 1991, art. 8(c)).

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Evictions must not render individuals homeless or vulnerable to the violation of other human rights. Therefore the government must ensure that adequate alternative housing and land is provided, in consultation with the affected families. Where these requirements are not met, victims of forced eviction are entitled to a legal remedy, even in cases where they did not enjoy full ownership rights to their homes (UNCHR 1993).²

Forced evictions that occur in the context of rapid development have been recognized as a growing threat to the exercise of housing rights in Cambodia and beyond (Kothari 2006a). Where such evictions affect large populations, as in Cambodia, it is necessary to inquire whether the state is contributing, through its actions or inaction, to human rights violations giving rise to the emergence of an internally displaced population.

To date in Cambodia, the international community has sought to address the effects of tenure insecurity and forced evictions primarily by sponsoring legislative and institutional measures to protect property rights. Since the 1993 elections, international donors have invested significant resources and efforts in drafting processes that resulted in a 2001 update of Cambodia's Land Law as well as numerous related regulations and decrees. On the basis of this legal regime, international organizations have supported an ambitious scheme to demarcate, register, and administer all of Cambodia's land. However, such efforts have often failed to recognize the complementarity of development goals and human rights standards. Meanwhile, the concrete impact of donor projects continues to be limited by the unaccountability of the politically connected beneficiaries of illegal land transfers. Without greater emphasis on human rights compliance, painstakingly drafted laws and standards will be bypassed, and forced evictions, expropriations, and concessions of land and other natural resources to powerful interests will continue.

Codification processes are undoubtedly a crucial first step in securing the observation of HLP rights in Cambodia. Domestic laws can, at the very least, force irregularities into the open and provide an important practical basis for ordinary citizens to understand and realize their rights. However, unless such legal drafting is accompanied by unified international insistence that legislative rules be applied consistently, impartially, and in the spirit of Cambodia's international obligations, donor-sponsored laws run the risk of becoming Potemkin villages, adopted to placate international critics but disappointing the expectations of ordinary Cambodians. The former Special Representative of the Secretary-General for Human Rights in Cambodia, Yash Ghai, provoked debate by advocating that international organizations in Cambodia begin more actively advocating respect for human rights:

² The UN Commission on Human Rights condemned the practice of forced evictions as a "gross violation of human rights" and urges governments to provide remedies to those forcibly evicted (UNCHR 1993, para. 1).

It is not sufficient to rely on technical assistance and capacity building. . . . Nor are new laws or suddenly created institutions the panacea, for the Government has disregarded laws or, through abuse, turned them to its own partisan advantage, and it has set up new institutions instead of making existing ones work (UNHRC 2006, 4).

HLP rights in Cambodia in historical perspective

Customary law governing land rights in Cambodia traditionally provided that legitimate possession followed the occupation and use of land. In a country dependent on rice farming, peasants were entitled to hold land they had cleared and cultivated, but they lost all claims to land they had stopped using. The French, who colonized Cambodia in the mid-nineteenth century, attempted to replace such use-based rights of possession with title-based rights of ownership, but were largely unsuccessful outside of the cities. Cambodia became independent after World War II and maintained a policy of nonalignment during the early years of the Cold War. However, by the early 1970s, Cambodia had allied itself with the U.S. war effort in neighboring Viet Nam and found itself facing an increasingly powerful domestic communist insurgency, the Khmer Rouge.

In 1975, Phnom Penh fell to the Khmer Rouge, which introduced a radical regime of collectivization, whereby Cambodia's cities and traditional institutions were abandoned and the entire population was forced to work the land. Within weeks, Cambodia's urban areas had been entirely evacuated. Educated Cambodians were singled out for summary execution, and the rest of the population was put to work under inhuman conditions on collective farms. All housing and land became the property of the state, and property records were systematically destroyed. During the five-year reign of the Khmer Rouge, an estimated 1 to 2 million people—as much as a fifth of the population—were murdered or died of overwork, starvation, and disease.

In 1979, Viet Nam responded to a series of border clashes with the Khmer Rouge by invading Cambodia. The Khmer Rouge leadership was driven across Cambodia's western border into Thailand and replaced by a Vietnamese-backed communist regime, the People's Republic of Kampuchea (PRK). Although the PRK promised to allow those displaced by the Khmer Rouge to return to their homes, they did not renounce the collectivization of land, and they initially blocked return to the cities, confiscating prime urban real estate for their own high officials. In response to this and other PRK policies, many educated former urban dwellers also fled to Thailand, forming an alliance of necessity with the remnants of the regime that had sought to exterminate them. During the 1980s, Cambodia became one of the Cold War's last proxy conflicts, with the PRK (backed by Viet Nam and the Soviet Union) locked in a military stalemate with rebel elements in Thailand (backed by China and, tacitly, the United States).

Beginning in the mid-1980s, the PRK undertook pragmatic reforms, including decollectivization of land and property and the granting of concessions to exploit

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natural resources. The administration of these tasks was delegated to local functionaries, resulting in haphazard implementation. Land distribution in particular tended to be skewed by patronage ties but nevertheless resulted in a broadly equitable distribution of land, from which most rural households benefited. Exploitation of timber and other resources fell under the control of local military units that enjoyed unrestricted access to wilderness areas.

In 1989, the PRK began a transition from communism that began with changing the country's name to the State of Cambodia (SOC) and renaming the ruling communist party the Cambodian People's Party (CPP). The authorities also privatized housing and land, a reform carried out with the implicit intent of cutting off claims by the 360,000 Cambodians then in exile by vesting title in whoever happened to be occupying their former homes or lands at the time. The introduction of a formal market in land came as a shock to a society where decades of conflict had inhibited the gradual transition from customary use-based land tenure to title-based ownership rights that had been seen in other developing countries (CDRI 2001). As a result, privatization was often a free-for-all, with title issuance in both urban and rural contexts contingent on bribes and political influence, and many smallholders dispossessed or forced into debt.

By the late 1990s, fewer than 15 percent of the estimated 4 to 5 million applications for registration dating from this time had been processed, in part because of widespread refusal to pay unofficial fees up to one hundred times greater than the official price of registration (CDRI 2001). The resulting legal ambiguity left many small farmers exposed to outright land grabbing or subject to distress sales of their property at low prices. Meanwhile, the lack of other attractive domestic investment opportunities in Cambodia encouraged land speculation by the wealthy, which rendered idle large agricultural plots in the midst of increasing rural landlessness. The situation was aggravated by a nearly unregulated program of land concessions for the purpose of commercial exploitation by private enterprises. At their height, such concessions took up over one third of Cambodia's most productive land, and they continue to restrict access to a large proportion of the country's arable fields (Leuprecht 2004).³

Meanwhile, the end of the Cold War led to a political transition in Cambodia in the form of the 1991 Paris Peace Agreements. This treaty ended the war between the CPP and opposition factions based in Thailand and set out a framework for UN-administered elections. Although the agreement called for the repatriation of the 360,000 Cambodian refugees from camps in Thailand, no specific provision was made for the restitution of their homes, lands, and properties. In fact, although repatriation was successfully carried out, attempts merely to provide returnees with land for farming were frustrated by uncooperative local authorities and widespread landmine contamination. These factors contributed in turn to the present problem of rural landlessness. In 1992, the SOC formalized its

³ Much of the land held under concession has yet to be developed or exploited by the beneficiary firms.

reallocation of property rights by passing a land law extinguishing all pre-1979 rights to land.

Control of HLP resources has been an important factor in the exercise of political power in post-conflict Cambodia. By locking in control over the ownership and allocation of land and homes before the Paris Peace Agreements, the CPP not only denied these assets to its political opponents but also rewarded the functionaries within its own patronage network. The political nature of the CPP's allocation and privatization programs dictated that HLP resources were diverted away from ordinary citizens and farmers to the benefit of the political elite. The way in which land distribution and privatization programs were implemented emphasized the primacy of political connections, rather than possession or need, in securing and defending rights to HLP resources. The effect was to decrease access to land rather than to increase it.

The long-term results of this approach to HLP resources have been negative. Tenure insecurity has increased inequality, both between the stagnant countryside and the relatively prosperous cities, and between subsistence farmers whose informal landholdings are under constant threat and urban speculators whose acquisitions are recognized and protected by the state. As a result, the World Bank has noted that Cambodia's post-conflict economic growth has been accompanied by an unusually marked rise in inequality, and that failure to achieve more equitable growth could hinder both further economic progress and the achievement of Cambodia's Millennium Development Goals (World Bank 2006b).

THE 2001 LAND LAW REGIME AND OBSTACLES TO ITS IMPLEMENTATION

The Land Law of 1992 included a prospective mechanism for acquisition of land by prescription. This provision allowed those who peacefully used land for five years to apply for a title, but the extent to which the provision was effective in increasing access to land is unclear (EWMI 2003).⁴ Meanwhile, human rights observers noted that general protection of HLP rights continued to deteriorate after the 1993 elections and the departure of the UN transitional authority. Large-scale land acquisitions (often referred to as land grabbing), forced evictions, and unregulated concessions of land and other natural resources for exploitation contributed to a general perception that high-ranking political and business interests were conspiring to "eat the kingdom" (Leuprecht 2004, 36).

In the late 1990s, international donors encouraged the drafting of new legislation to better regulate land issues. The resulting 2001 Land Law created a legal framework that went a long way, on paper, toward securing rights to land and housing. It recognized acquisitive possession by those who had begun their occupation at least five years prior to its passage, but stipulated that future land

⁴ Lack of awareness of an application requirement limited the effectiveness of this provision.

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distribution was meant to take place through a more organized system of officially administered “social land concessions” rather than individual self-help. It also protected existing property rights by conditioning expropriation on public-interest grounds, legal process, and “fair and just compensation.” In one of its most innovative provisions, the law also recognized indigenous groups’ collective ownership rights to their traditional lands. Over the long term, all of these rights are to be protected by a comprehensive titling and demarcation regime in which all of Cambodia’s land is to be registered and mapped.

The drafting process for the 2001 Land Law set a Cambodian precedent in terms of transparency and consultation of affected groups, but it was initiated primarily by international organizations—including the Asian Development Bank, which had imposed economic conditionality measures—and it had an uncertain level of commitment from the Cambodian government (Simbolon 2002). Moreover, even at the time of its promulgation, the 2001 Land Law was viewed only as “a blueprint for reform” that would require the passage of at least fifteen government regulations (“sub-decrees” in Cambodian legal parlance) in order to be fully operational (EWMI 2001, 1). As a result, the process of drafting and approval of sub-decrees has caused significant delay in the application of the 2001 Land Law (World Bank 2004).

The justification for the 2001 Land Law was framed almost exclusively in terms of the need to implement the protection of property set out in the 1993 constitution, completing the transition from collective socialist tenure forms to market-compatible ownership rights (EWMI 2001). However, the law also has serious implications in terms of the Cambodian authorities’ general constitutional obligation to respect their subjects’ human rights “as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, and the covenants and conventions related to human rights.”⁵ Nevertheless, where the Land Law could facilitate an increased degree of respect for property rights if fully implemented, its provisions on their own would not be sufficient to ensure full respect for broader HLP rights, and particularly the right to adequate housing.

A further challenge to full implementation of the Land Law and broader protection of HLP rights is the ongoing lack of capacity and resources at the central level. De facto or even de jure control over complicated HLP issues is often delegated to local authorities without sufficient guidance or oversight, reinforcing their tendency to exercise power in unaccountable and corrupt ways. While the Cambodian government routinely condemns official corruption and malfeasance, it takes few concrete steps to actually prevent or remedy such practices. As a result, although domestic NGOs have brought abuses to light and international donors have supported legal drafting processes to address them, the Cambodian authorities have largely failed to fulfill their corresponding responsibility: enforcement of the law in light of their human rights obligations. This failure is manifested in a number of interrelated problems, including lack of

⁵ Constitution of the Kingdom of Cambodia, ch. III, art. 31.

accountability for violations of HLP rights, failure to act in accordance with the law, lack of demarcation of land, irregular expropriations, urban forced evictions, failure to secure access to rural land and urban housing, and failure to secure the HLP rights of vulnerable groups.

Lack of accountability for past and ongoing violations of HLP rights

Many of Cambodia's most powerful civilian and military officials have been credibly accused of abusing their authority in order to acquire land and other natural resources for their personal enrichment (Global Witness 2007, 2009). Accusations of land grabbing and irregular allocations run throughout the political spectrum and extend from the central authorities in Phnom Penh down to local political bosses. Some holders of dubiously acquired land have allegedly granted it in the form of economic concessions to domestic enterprises or foreign investors, while others exploit it themselves or simply engage in speculation, indefinitely excluding poor subsistence farmers from large swaths of Cambodia's increasingly scarce productive land.

The prevalence of such practices undermines the rule of law and aggravates rural poverty and landlessness. Without the return of much or all of the land that has been lawlessly appropriated since the early 1990s, the government's plans for land distribution to the poor and vulnerable are likely to fail. Furthermore, local authorities responsible for identifying land currently available for distribution in the form of social land concessions have tended to point out unproductive and inaccessible plots rather than risk exposing more productive tracts that are lying fallow as a result of their own or others' illegal claims (World Bank 2004).

The 2001 Land Law framework includes a number of mechanisms for freeing up arable land for social concessions. The most obvious source of land for distribution is degraded forest, but sole reliance on this category would create additional pressure on Cambodia's remaining healthy forest areas, many of which are already threatened by logging and agro-industry concerns. Another potential source of land is a mechanism in the Land Law for reviewing pre-2001 economic concessions that would allow territory granted in excess of a set maximum size to be taken back, or for concessions to be revoked where no development has taken place within set time limits.⁶ However, there has been little progress so far in the process, as strict enforcement would involve challenging the powerful interests, often close to the government, that allocated and received the concessions.

The third available mechanism for recouping land for distribution involves a review process for land disputes that would allow the identification and redemption

⁶ Chapter 5 of the 2001 Land Law sets out conditions for economic land concessions, including a maximum size of ten thousand hectares and a requirement that each concession be exploited in the manner agreed within twelve months of its issuance. Failure to comply with these conditions can render a concession null and void under article 18, requiring the concessionaire to vacate the property under article 19.

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of illegal confiscations and transfers. As with review of economic concessions, this process represents an acid test of the political establishment's commitment to the rule of law, given that it has benefited at virtually all levels from irregular transactions in land. In practice, the formal review mechanism under the Land Law is widely viewed as having failed. A system of cadastral commissions set up in support of the broader titling process under the 2001 Land Law has made some headway in resolving local boundary disputes, but has proved unable to resolve more than a fraction of the hundreds of pending complaints involving land grabbing by powerful people.

In light of this limited progress, both the international community and domestic NGOs were taken by surprise by a February 2006 royal decree on the formation of a new National Authority for Land Dispute Resolution. A subsequent decree appointed a membership for the new body that was a compendium of CPP powerbrokers and, in the words of one observer, a "who's-who of the regime's biggest land-grabbers."⁷ Although the new National Authority appeared to have the political clout to tackle many of the most controversial cases, concerns remain about the potential for its members to abuse their position to protect their own past transgressions from scrutiny. However, given that the National Authority was announced just days prior to the 2006 Consultative Group, observers speculate that the initiative may have simply been meant to deflect international criticism of the failure of the cadastral commissions to resolve high-profile disputes.

Failure to act in accordance with law

Cambodian authorities often proceed without reference to the Land Law and other relevant regulations in carrying out important actions affecting HLP rights. While this may be in part because of unfamiliarity with the legal regime, many observers infer that the authorities simply wish to be able to continue to act as they see fit without having their hands tied by rules. The government's demonstrated disregard for the law has undermined public confidence in the new Land Law regime, which was built up through painstaking efforts to consult affected parties and proceed transparently (Adler, Porter, and Woolcock 2008).

Some of the most drastic examples of the failure of Cambodian authorities to act within the law have been provided in the context of urban evictions. For instance, in 2004 and 2005, the municipal authorities in Phnom Penh sought the eviction of residents of Koh Pich Island who claimed to have acquired valid legal interests to their lands through possession, in accordance with the 2001 Land Law. Despite the fact that the cadastral commissions have exclusive jurisdiction over cases involving such unregistered property rights, the authorities sought and won a judicial eviction order, bypassing the 2001 Land Law entirely (Kothari 2006b).

⁷ Sub-decree on the Composition of the National Authority for Land Dispute Resolution, Ref. No. 168, March 16, 2006.

The Cambodian authorities have also flouted the Land Law regime by selling prime urban land occupied by public institutions to private investors through land exchanges or swaps. Although such public institutions are, by definition, located on inalienable state public land, they have been sold to private investors in exchange for a promise to rebuild them elsewhere. Technically, public properties that have lost their public-interest use can be converted to state private property by special legislation and sold.⁸ However, cases have involved functioning police stations, hospitals, and university campuses where, in some cases, hundreds of employees and their families had lived for decades (Kothari 2006b). Alienation of such manifestly public-interest institutions is not only illegal under the Land Law but has led to numerous forced evictions, in violation of Cambodia's international obligations.

Even ostensibly protective actions such as the provision of alternative land to persons evicted from informal settlements take place without reference to law. In June 2006, some 1,200 families were forcibly relocated from settlements near the Bassac River in central Phnom Penh to undeveloped land in villages twenty kilometers away without receiving even minimal information about who owned the land they were to occupy, whether or how the authorities acquired it, how long they were entitled to remain, whether public services and utilities would be provided, and whether they would eventually be eligible to receive title (Cambodian Center for Human Rights 2006b). The families continue to live on the resettlement land in dire circumstances, without access to potable water, sanitation, health facilities, or other basic services and infrastructure.

Lack of demarcation

One of the fundamental challenges to protecting property interests of all kinds in Cambodia is the lack of demarcation of land. Under the Land Law regime, virtually all rights and obligations adhering to land and property depend on its classification in one of four broad categories: individually owned property, collectively owned indigenous land, state-owned property available for sale or concession ("state private land"), or inalienable state-owned property ("state public land"). State private land is meant to be available for both economic land concessions to business interests and social land concessions for the poor and vulnerable.

Although previous registration programs were initiated under the French and the SOC, they were never fully implemented. Until its discontinuation in September 2009, an internationally sponsored Land Management and Administration Project (LMAP) worked together with the domestic authorities on an ambitious agenda of legal drafting, capacity building, dispute resolution, land management, and, crucially, land titling and registration. The titling program had focused on the main agricultural areas in Cambodia, where the bulk of the population lives.

⁸ Cambodia Land Law of 2001, arts. 15–16.

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Using trained teams of Cambodian surveyors, LMAP proceeded on the basis of on-site work in communes and issued nearly 1.24 million titles by the time the program was discontinued (World Bank 2011). However, the process had been expected to take ten to fifteen years with estimates of unregistered titles in Cambodia initially running as high as 8 million.

The LMAP program's primary focus on privately owned agricultural property meant that urban poor communities with legal rights to apply for title under the 2001 Land Law remained vulnerable to urban land grabbing. The failure to address sensitive urban demarcation issues was ultimately LMAP's undoing. As described in a 2009 NGO report, World Bank officials on a June 2008 supervision mission failed to question government LMAP officials' classification of the entire Phnom Penh neighborhood of Boeung Kak as state land (Grimsditch and Henderson 2009). When the Bank reacted to this criticism by seeking to extend greater measures of social and economic protection to LMAP land adjudication in "disputed urban areas," the government of Cambodia withdrew its support for the project (World Bank 2009). The resulting forced evictions led to the case being referred to the World Bank Inspection Panel as an alleged violation of the World Bank's resettlement policy (Bugalski 2010). The panel eventually found that significant violations of the policy had occurred (World Bank 2011).

In the wake of LMAP, a number of other contested categories of rural land, such as inalienable state public land and protected indigenous areas, are likely to indefinitely remain without dispositive boundaries. This issue is of particular significance for households occupying land in the expectation that their occupation will result in title, in accordance with the system for land acquisition that was carried over from the 1992 Land Law. According to some estimates, as many as one-third of such families may ultimately find themselves occupying state public land (World Bank 2006b). This is likely to lead to situations in which some households are recognized as titleholders, while neighbors who held land under identical circumstances face eviction without compensation and even legal sanctions.⁹

Others likely to suffer as a result of the delay include indigenous minorities and other groups that practice shifting agriculture. Studies have shown that one of the most common forms of land grabbing has been the acquisition of lands that were within the known domain of subsistence farming communities but lying fallow and thus apparently unused at the time (CDRI 2001). Because of their political marginalization and limited understanding of the law and their rights, indigenous

⁹ Such severe potential consequences of unlucky squatting derive from the fact that such squatters effectively fall under provisions of the Land Law meant to hold land grabbers and illegal concessionaires to account. Under article 18 of the 2001 Land Law, "any entering into possession of public properties of the State" is null and void "irrespective of the date of the creation of possession." Article 19 of the 2001 Land Law provides for uncompensated eviction in such cases as well as penalties for "intentional and fraudulent" acquisition of state public property.

groups have been one of the easiest targets for land grabbers. This gives rise to concerns that “there will be little land left to title” by the time registration programs arrive in Cambodia’s highlands and forests (Leuprecht 2004, 24).

Lack of demarcation of alienable state private land also undercuts the reliability of past and current transactions involving state land. A series of government orders and sub-decrees in 2005 sought to address these problems by setting up a system of provisional classification of state land by local working groups as a basis for allowing such transactions pending final registration.¹⁰ However, demarcation under these regulations is explicitly preliminary, and significant legal uncertainty is likely to attend all public and private investment in Cambodia’s large expanses of unmapped land for years to come.

Irregular expropriations

Urban land in Cambodia has come under enormous pressure, particularly in the capital, Phnom Penh. Insecure tenure and landlessness has led many rural families to migrate to urban areas, where they congregate in informal settlements in order to access wage labor markets. While some of the earlier urban migrants may have claims under the Land Law to urban plots they have occupied since before 2001, the more recent arrivals are typically only able to find space as tenants.

Faced with these mounting residential needs, the municipal authorities of cities such as Phnom Penh are also presiding over a real estate boom, in which large investors are eager to develop high-end housing, hotels, and retail space. In Phnom Penh, as in many other developing cities, “the main political and economic actors are also the main land and [real] estate speculators” (Kothari 2006b, 15). It is therefore unsurprising that the government has regularly supported development over low-income housing, singling out the poorest and most vulnerable urban residents for eviction.

As mentioned above, evictions of urban residents with legal claims to title over properties they have occupied for years often involve apparent and even blatant violations of the 2001 Land Law. For instance, the 2005 clearance of Koh Pich Island in Phnom Penh affected many long-term residents presumptively entitled under the Land Law to register ownership of the plots they had lawfully possessed for years. However, rather than formally expropriating these rights or even challenging their existence through appropriate legal channels, the government harassed residents, insisted that they had to leave, and, when pressed, offered ad hoc compensation worth one-tenth of the land’s estimated market value (CLEC-PILAP 2005).

Significant legal questions regarding expropriation remain unresolved. First, pending demarcation, claims of rights based on possession depend on a disputable assertion that the land involved is either private land or state private land, which

¹⁰ Sub-decree on State Land Management, No. 118 ANK/BK, October 7, 2005.

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can be alienated, rather than belonging to one of the categories of state public land, which cannot.¹¹ Second, the provisions of the 2001 Land Law regulating expropriation are vague and formally require the passage of enabling legislation or regulations.¹² However, pending the completion of the legislative and regulatory framework, Cambodia remains bound by its broader international law obligations to ensure that its citizens are neither arbitrarily deprived of their property and possessions nor subjected to forced eviction and associated violations of the right to adequate housing. Any regulations or policies regarding expropriation must accord in full with these obligations under international human rights law.

Urban forced evictions

Cambodian authorities' failure to respect international obligations is even more pointed where no domestic law exists. This is currently the case with regard to urban communities that do not have arguable claims to title over the land they occupy. Under international law, even tenants in informal settlements enjoy the right to adequate housing, which entails the right to consultation and process, appeal against removal from their homes, remedies for forced evictions, and an expectation that the government will take steps to regularize their tenure and provide adequate infrastructure, services, and utilities in their neighborhoods. However, although the Cambodian authorities have adopted policies reflecting these obligations, they clearly do not view themselves as bound by them in practice.

Cambodia's national commitment to housing rights began in 2001 with the formulation of a National Housing Policy, which was subsequently adopted and includes provisions on financing and construction of low-income housing (Kothari 2006b). However, the extent to which this policy will shape urban planning in Cambodia is unclear. For instance, although the policy provides that housing programs should be included as an element of urban master plans, a master plan for Phnom Penh has been developed in a contemporaneous process that has suffered from a near complete lack of transparency or consultation with affected groups (Kothari 2006b).

In a move more immediately relevant to jeopardized urban settlements, on the eve of the July 2003 national elections, Prime Minister Hun Sen announced a policy of upgrading 100 poor communities every year for five years. This policy has been implemented in a few isolated cases where slum communities were provided assistance in improving their residential situations. However, it is generally deemed a failure, with implementation falling far short of the "systematic, large-scale programme to tackle slum upgrading" that would signify a real commitment to meeting Cambodia's adequate-housing obligations (Kothari 2006b, 15). Meanwhile evictions of urban poor communities have continued unabated, particularly in

¹¹ A list of categories of state public land is given in article 15 of the 2001 Land Law.

¹² Cambodian Land Law of 2001, art. 5: "An ownership deprivation shall be carried out in accordance with the forms and procedures provided by law and regulations."

Phnom Penh. In a particularly sad irony, in 2006 the Phnom Penh authorities evicted 168 families who had received UN-HABITAT support in upgrading their own community in 1991. Their homes on the grounds of the Monivong Hospital were traded away in a dubious land swap (COHRE 2006).

Local and international scrutiny of forced evictions in Phnom Penh sharpened in 2006 with the violent forced eviction of the Sambok Chab community, who were living near the Bassac River waterfront (De Launey 2006). Although this community had existed since the 1990s, the land they occupied was claimed by a private company. Immediately prior to the eviction date, a Phnom Penh city official stated that an organized relocation was to take place and that title to plots of land and subsidized water would be provided to Bassac residents at peri-urban locations (Chhoeurn 2006).

In an interview, a representative of the Bassac community voiced concerns, noting that those who rented space instead of owning shacks—up to 80 percent of the population—were categorically excluded from relocation benefits.¹³ The new land plots were believed to be completely bereft of services and utilities and were so far outside the city center that commuting costs would amount to twice the average daily income of local residents. The community leader feared violence in the short term, noting that with only five days to go most of the community remained unaware of the impending evictions. Over the long term she predicted that those relocated would sell their land plots to speculators and drift back to other urban slums, while the rest would be rendered at least temporarily homeless.

Some 1,200 families, comprising 6,000 people, were forcibly relocated to a site, Andoung, more than twenty kilometers from central Phnom Penh by early June 2006. The eviction itself involved intimidation and force, and additional concerns were raised by the conditions at the resettlement site. Both domestic and international observers referred to the situation as a humanitarian emergency (Kothari and Jilani 2006):

One household occupies less than five by five meters. Most families take shelter under plastic sheets or other makeshift materials, not sufficient to provide privacy and dignity. Only a few families have received tarpaulins. Muddy water standing in pools created by heavy rainfalls is used for washing and cleaning. The municipality provides only two or three trucks of drinkable water a day. There are not enough provisional toilets. Public health service is not available on a regular basis. Medicine is distributed by some NGOs only. Located more than 20 kilometers from their former homes, most people have lost their meager income making opportunities and many are already starving. There is no administration of this site and security is not guaranteed: People do not leave their small huts for fear that others will take their few belongings. The most vulnerable groups, including women, infants and children, older people, disabled people and people living with

¹³ The information in this paragraph was derived from an interview with a community leader of the Tonle Bassac community conducted by the author, April 27, 2006.

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HIV/AIDS are already affected by this precarious situation and their condition is at high risk of worsening (Cambodian Center for Human Rights 2006c).

Forced evictions and relocations, such as those inflicted on the Sambok Chab community, constitute unambiguous breaches of Cambodia's international obligations. Although Cambodia should pass and implement laws necessary to prevent such violations in future, it is also under a current obligation to provide remedies to those it has already harmed. Numerous observers have also recommended an immediate moratorium on urban evictions and relocations as the only way to ensure that Cambodia abides by its obligations pending the drafting of binding rules.

The situation of the Bassac evictees has quickly deteriorated, with many children suffering from malnutrition and preventable diseases. In a move described by an expert as "rubbing salt in the wound," adults have not been allowed to register locally, so they are unable to access services and exercise other rights. In the words of one observer of conditions at the resettlement site:

Not only have the adults and children . . . lost access to basic healthcare and education services to which they are entitled, they have effectively been disenfranchised . . . they can't register to vote, even children can't register at schools as they have no fixed address. . . . They have effectively become noncitizens, non-people (Barton 2006).

Still formally citizens of Cambodia, yet vulnerable and disenfranchised as a result of their displacement, the former Bassac residents increasingly fit the definition of internally displaced persons; this underscores the obligation of the authorities to provide them with assistance and to protect their legal rights (UNCHR 1998).

The Cambodian authorities are not the only ones to blame for the problem, however. Although international lending institutions such as the World Bank and the Asian Development Bank have insisted on the application of protective resettlement guidelines in development projects in Cambodia, these guidelines often go unimplemented or are poorly implemented in practice, and many bilateral donors do not formally require resettlement safeguards to be a part of the development projects they fund.¹⁴ According to experts, large-scale investors such as China and Viet Nam have never imposed any resettlement conditions, while it was not until 2005 that the Japan International Cooperation Agency, one of the biggest donors in Cambodia, adopted standards requiring some degree of compensation to those displaced by resettlement. Even when resettlement policies are required by donors, however, this does not relieve the Cambodian government

¹⁴ For a positive example of resettlement guidelines, see Asian Development Bank (1995, 2011). In Cambodia, these guidelines are often not properly implemented for Asian Development Bank-funded projects, such as the National Highway 1 project.

of its obligation to codify resettlement standards in a legislative framework that would bind both domestic and international investors and donors.

Failure to secure access to rural land and urban housing

Cambodia has received a great deal of criticism for violating HLP rights by failing to respect existing tenure, whether through rural land grabbing or urban forced evictions. The government's failings also include a persistent inability to prospectively make adequate land and housing accessible to Cambodia's most impoverished and vulnerable groups. So far, efforts to secure such affirmative rights to housing and land have focused almost exclusively on the countryside.

The primary means envisioned for delivering land to the poor under the 2001 Land Law is the granting of social land concessions. The purpose of these concessions is defined vaguely in the Land Law as to "allow beneficiaries to build residential constructions and/or to cultivate lands belonging to the State for their subsistence" (art. 49). A March 2003 sub-decree provided a good deal more detail, setting out a number of goals, including the provision of "land for residential purposes to poor homeless families" and agricultural land "to poor families for family farming."¹⁵ The sub-decree also provided for considerable decentralization of the selection and administration processes for such concessions. Concerns about the capacity of local officials to distribute land effectively motivated a World Bank project to analyze the potential impact of land reform and to identify ways to increase the effectiveness of social concessions (World Bank 2004).

This evaluation process has delayed the actual granting of social concessions but is meant to ensure that once implementation begins, it will significantly benefit the rural poor and landless. It remains unclear why the anticipated impact of social concessions is likely to remain limited to the countryside. The World Bank has justified the exclusively rural focus of social-concession implementation by referring to the role of land as a crucial safety net for Cambodia's still overwhelmingly rural population:

In the long term, . . . only improved non-farm income can meet the country's employment demand. Those opportunities are not yet available in sufficient quantity, which means that land access still matters, particularly for the most vulnerable. Demography will put increasing pressure on cities to plan growth. The development of the housing policy and pilot projects in planning and settlement upgrading point the way to improved urban land management (World Bank 2004, 2).

To the extent that the country can be said to have an unofficial housing policy for the poor, precedent suggests that it consists of removing them from

¹⁵ Sub-decree on Social Land Concessions, No. 19 ANK/BK, March 19, 2003, art. 3.

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central urban land of interest to developers and leaving them to their own devices on unimproved plots so distant from their former work sites that they will eventually find their way back to other urban slums. As the World Bank has noted elsewhere, the populations of urban informal settlements are probably already undercounted, and the problem is likely to be exacerbated as the country continues to urbanize. These circumstances justify the creation of “specific policies and programs for the urban poor, to a significant degree distinct from those designed for the rural poor” (World Bank 2006b, 48). Indeed, the failure of the LMAP to prioritize urban housing issues is seen as one of the key factors in its 2009 termination (World Bank 2011). While there may be grounds for prioritizing the needs of the rural landless in the overall planning of social land concessions, this should not entail excluding the urban poor entirely. If social land concessions are not an appropriate device for meeting prospective urban housing needs, this should be clearly established, and alternative policies with a meaningful chance of having an impact should be identified.

Failure to secure the HLP rights of vulnerable groups

Two specific groups within Cambodian society are particularly vulnerable to violations of their HLP rights. The first is female-headed households. In a broad sense, women are seen as having relatively equal rights to men in Cambodian society (World Bank 2006b). Although the mass murder under the Khmer Rouge regime created a high proportion of potentially vulnerable female-headed households in the 1970s, women appear to have been allocated land on an equal basis during the PRK reforms of the 1980s, and to date they have by and large retained this land. Early results from the LMAP titling program gave some credence to the idea that the property of married couples is more likely to be formally owned by women than men (LMAP 2005).¹⁶

On the other hand, there is evidence that female heads of household own smaller plots of land than men, have fewer opportunities to increase the amount of land they hold, and are at greater risk of becoming landless (CDRI 2001). Women have a lower likelihood of receiving a basic education and are under-represented in many vocational areas. Although poor women often do take on significant income-generating activities outside the home, they tend to receive less pay than men and are still expected to take responsibility for most domestic tasks (World Bank 2006b). These factors seem to translate into a general lack of bargaining power for women, vis-à-vis men, in negotiating crucial HLP matters such as land purchases, loans, access to basic services, and terms of relocation (Kothari 2006b).

¹⁶ According to a 2005 report, 70 percent of the nearly 300,000 properties registered at the time were jointly owned by married couples, while a further 18 percent were registered in the wife’s name and only 6 percent in the husband’s name (LMAP 2005).

A second vulnerable group in Cambodia is indigenous people—a small minority population that primarily inhabits the country's forested northeastern highlands. The 2001 Land Law explicitly recognizes indigenous groups' collective rights to the lands they have traditionally occupied, but these provisions cut very much against the grain of Cambodia's historical approach to its indigenous communities, which have faced repression, forcible relocation, and predatory resource exploitation on their lands since before independence. Likewise, although the Land Law specifically protects indigenous rights to shifting (or swidden) agricultural practices, the tendency throughout the region had previously been to outlaw such practices on the pretext that they lead to environmental damage (Simbolon 2002).¹⁷

During the 1990s, the Cambodian military presided over such extensive and uncontrolled logging of the country's forests that concerns arose about complete deforestation and environmental devastation. As a result, moratoria on logging in forest concessions and transportation of logs were imposed in 2002. However, allegations of illegal logging continue, and timber clearing is still allowed on economic land concessions. Grants of profoundly oversized concessions in the country's northeast appear to represent another attempt to bypass Cambodia's forest management controls and impinge further on indigenous land (Leuprecht 2004). Indigenous groups are also vulnerable to fraud and to being intimidated into selling or giving away title to land. Despite the fact that individual sales of collectively held land are illegal under the Land Law, courts in northeastern Cambodia have upheld ostensible sales of such land that are based on outright deception and bribery (HRW 2001).¹⁸

Perhaps most threatening, rural poverty in other parts of Cambodia has led an increasing number of landless farmers to settle in the northeast, where they seek jobs in concession areas and clear forests for farming. The presence of such settlers is tacitly approved by the Cambodian government, which despite its rhetoric about indigenous rights, appears to view development and colonization of the northeast as important goals.

Misunderstanding of swidden farming systems also creates the risk of local authorities classifying indigenous lands as degraded forest suitable for distribution through social land concessions, which encourages more migration and creates greater pressure on the few remaining indigenous areas. Local unwillingness to enforce the Land Law has been exacerbated by delays in the preliminary demarcation of indigenous land and the promulgation of an implementing sub-decree related to indigenous land (Kothari 2006b).

¹⁷ Swidden agriculture was outlawed in neighboring Laos and Viet Nam after being blamed for erosion that more likely occurred as a result of logging and agricultural settlement.

¹⁸ One case involved the purchase of 1,200 hectares of indigenous land by a general who bribed district officials to steal the property from villagers by pressuring them to thumbprint title documents they had not read and by offering gifts such as bags of salt in exchange (HRW 2001).

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Most observers agree that social land concessions, which assume eventual distribution to individual farmers, would not be an appropriate response to the loss of land collectively held by indigenous people. However, unless the Cambodian authorities are prepared to begin rigorously enforcing the provisions of the Land Law barring illegal acquisition of land and invalidating individual sales of indigenous land outside the community, indigenous people will face increasing dispossession and displacement. Many displaced indigenous people are likely to migrate to urban centers, swelling the ranks of indigent migrants there. As most indigenous people cannot speak the language of the Khmer majority in Cambodia, they are likely to suffer from extreme marginalization and associated social problems. Simply put, "If not addressed as a matter of priority, the land alienation problem is likely to result in the destruction of indigenous culture" (NGO Forum on Cambodia 2004, 6).

CONCLUSIONS

Many of Cambodia's HLP rights abuses are related to its relatively recent transition to peace, democratic government, and a market economy. The sudden exposure of Cambodia's largely rural population to globalized markets in land and other natural resources after two decades of conflict and international isolation have radically destabilized local understandings of how HLP resources are to be valued and legitimately held (CDRI 2001). Although considerable progress has been made, the polarizing effects of insecure tenure remain a threat to Cambodia's political stability and to its people's welfare and livelihoods.

The government of Cambodia has cooperated with the international community in developing policies, legislation, and institutions meant to safeguard HLP rights and ensure equitable access to HLP resources. However, it has failed to give effect to this new framework, and it has responded to domestic and international criticism with a blend of conciliatory public gestures, occasional intimidation, and precious little action (LICADHO 2006). Although a process of titling and registration of property interests was initiated, its abrupt cancellation in September 2009 denied its benefits to those most in need, such as Cambodia's embattled urban slum dwellers and indigenous minorities. Moreover, registration and dispute resolution efforts to date have failed to redress land grabbing by the rich and powerful.

In sum, a basic framework now exists for redressing the worst HLP violations of the past twenty years and for working toward protection of the rights of the country's poorest and most vulnerable citizens. Both domestic and international organizations should insist on the completion and implementation of this framework in the spirit of Cambodia's human rights obligations. Giving effect to these standards will require the government to confront powerful vested interests and ubiquitous patronage practices, but failing to do so will further undermine the broader effort to establish the rule of law in Cambodia.

In light of these realities, the highest priority of the government of Cambodia should be to arrest the most socially destructive HLP practices that are occurring

now. A crucial first step would be to place a moratorium on transfers of land traditionally occupied or used by indigenous people until all regulatory and institutional preconditions have been met for the administration of indigenous land in accordance with the 2001 Land Law and Cambodia's international obligations. Ideally, such measures would include a review of recent transactions in order to determine their compatibility with the law.

Another urgent measure that should be undertaken is suspension of evictions from and clearances of informal settlements, whether by official or private actors, until the regulatory and institutional preconditions have clearly been met for relocation processes to be decided on and implemented in a manner that will avoid human rights violations in the form of forced evictions and arbitrary displacement.

In all cases where forced evictions or other human rights violations have resulted in the involuntary displacement of Cambodians from their homes or places of habitual residence, those affected should presumptively be treated as internally displaced persons in the sense of the UN's 1998 Guiding Principles on Internal Displacement. Specifically, such persons should not be discriminated against in the exercise of any of their rights and freedoms as a result of their displacement. They should also receive protection and humanitarian assistance from the authorities of Cambodia in order to both mitigate their specific vulnerabilities during displacement and to bring about an end to their displacement through voluntary return or resettlement and reintegration.

Likewise, in cases in which land or property has been illegally appropriated, held in concession, or diverted from its lawful possessors or users, the primary concern of the Cambodian authorities should be to bring about the immediate disgorgement of such land or property in order to return it to its lawful possessors or users or make it available to socially vulnerable groups in the form of social land concessions. The work of institutions mandated to resolve disputes should be supported in order to ensure uniform application of the law in all cases. While those responsible for illegal appropriations and diversions of land should be held legally accountable, care should be taken to avoid either politicization of such processes or undue delay in the return of land determined to have been illegally acquired or held.

Steps should also be taken to ensure equitable prospective access to HLP resources for the poor, landless, and socially vulnerable. The social land concession provisions of the 2001 Land Law should be activated as soon as procedures have been put in place to ensure their effective and transparent implementation. Prospective measures should not be limited to rural areas. Cambodia is obliged to take concrete measures to provide the urban poor with adequate housing, whether through social concessions, upgrading, or other means.

While the government of Cambodia bears the primary responsibility for ensuring respect for rights to land and housing, international organizations in Cambodia should do more to support the development of effective domestic land management and dispute resolution institutions. The credibility of the laws and institutions that the international community has invested in to date will continue

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to be undermined unless these begin to function consistently, transparently, and in the spirit of Cambodia's human rights obligations. In particular, future registration and titling programs should be implemented in a manner that prioritizes the provision of secure tenure to those urban and rural communities currently most vulnerable to forced evictions.

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