

# **Cambodia: the struggle for tenure**

**Graeme Bristol**

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Graeme Bristol is a Canadian architect and director of the Centre for Architecture and Human Rights. He teaches architecture at King Mongkut's University of Technology Thonburi (KMUTT) in Thailand where he works with students on issues of community design/development, human rights and professional ethics. He is currently writing a book on human rights in the practice of architecture and planning. Comments may be sent to the author by e-mail: [gbristol@gmail.com](mailto:gbristol@gmail.com).

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## **Cambodia: the struggle for tenure**

*Graeme Bristol*

In October 2006 the Australian television network, ABC, aired a piece in their program, Foreign Correspondent<sup>1</sup> on the mass evictions occurring in Phnom Penh and throughout Cambodia. In this half-hour documentary, reporter Eric Campbell recorded this observation from the US Ambassador to Cambodia, Joseph Müssomeli:<sup>2</sup>

*“There’s too many land disputes, too many rich people, greedy companies. Property is really the key to prosperity and freedom and once people are not secure in what they own, everything else falls apart.”*

Müssomeli neatly summarizes an ongoing and compelling injustice in the country. Prosperity and freedom may seem distant goals in this political environment, but the struggle for basic tenure rights is an immediate concern and evidenced by any number of press releases and urgent appeals for action from non-governmental organizations (NGOs) working in Cambodia. That struggle, though, is part of a larger picture of corruption throughout the social and political fabric of modern Cambodian society. As outlined below, people being evicted from their own land have no recourse to any part of the political or judicial structure of the country. What, then, are they to do? To whom do they turn for support? In attempting to address this question, this case study will focus on the following:

- What is happening? Is there a pattern to these land grabs?
- How have agencies and funders responded to these acts?
- To whom have the victims turned?
- In the face of these conditions, what strategies are available?

In the end, these stories of loss and injustice for the poor are stories of the failure of governance and particularly of greed and corruption. The Center for Social Development in Phnom Penh,<sup>3</sup> Transparency International, The World Bank,<sup>4</sup> USAID,<sup>5</sup> the Global Organization of Parliamentarians Against Corruption<sup>6</sup> and many other agencies have addressed this fundamental issue of corruption and governance, clearly without much success. One of its effects, though, is on the security of tenure of the poor.

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1. See Foreign Correspondent, “Cambodia Evictions”, Series 16, Episode, 15. The transcript and video are available at <http://www.abc.net.au/foreign/content/2006/s1754763.htm>.

2. See also [http://phnompenh.usembassy.gov/sp\\_092806.html](http://phnompenh.usembassy.gov/sp_092806.html) for his speech of 28 SEP06 at the anti-corruption conference in Phnom Penh.

3. See [http://www.csdcambodia.org/en\\_index.html](http://www.csdcambodia.org/en_index.html) and in particular, Christine Nissan’s report, “Living Under the Rule of Corruption: An Analysis of Everyday Forms of Corrupt Practices in Cambodia” (available at the Transparency International website: <http://admin.corisweb.org/files/LivingUndertheRuleofCorruption1119969510.pdf>).

4. See, for example, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/CAMBODIAEXTN/0,,contentMDK:21210790~menuPK:293861~pagePK:2865066~piPK:2865079~theSitePK:293856,00.html>. The World Bank recently lifted the suspension of work on 3 of its projects because Hun Sen’s ruling CPP agreed to adopt “Good Governance Frameworks” for these projects.

5. See [http://www.usaid.gov/kh/democracy\\_and\\_governance/documents/Cambodian\\_Corruption\\_Assessment.pdf](http://www.usaid.gov/kh/democracy_and_governance/documents/Cambodian_Corruption_Assessment.pdf) about what they term ‘A corruption-ridden state apparatus’.

6. See [http://www.gopacnetwork.org/chapters/SEAPAC\\_chapter.htm](http://www.gopacnetwork.org/chapters/SEAPAC_chapter.htm). Their Southeast Asian Chapter has done a report entitled ‘Corruption: Case in Cambodia’.

## Land law

It is important to preface any discussion of security of tenure with the status of current law governing land title in Cambodia. While the Khmer Rouge was in power, all records of land title were destroyed and all private property rights were abolished. After the collapse of Pol Pot's regime, everyone returning to Phnom Penh, as ACHR put it, was a squatter:

*"In 1979, when people first began to emerge from the jungle into an empty, dilapidated city, they camped out in empty buildings and lit open fires to cook their rice. When all the houses and flats had been occupied, newcomers built shelters wherever they could find space, along river banks and railway tracks, on streets, in the areas between buildings and on rooftops."*<sup>7</sup>

By 1992, as the political climate settled, a land law<sup>8</sup> was passed that allowed for use and possession of land. In 2001<sup>9</sup> revisions were made that clarified possession:

*Article 30: Any person who, for no less than five years prior to the promulgation of this law, enjoyed peaceful, uncontested possession of immovable property that can lawfully be privately possessed, has the right to request a definitive title of ownership.*<sup>10</sup>

However, having the right to request a definitive title and actually getting title are two quite different things. Further, many residents — particularly the poor — may qualify for title under the law but are unaware both of their status and of the procedures for requesting title. While the Community Legal Education Center (CLEC)<sup>11</sup> and other organizations have been working to increase that awareness, they don't have the resources to reach all of the country's families facing eviction. Even for those who are aware of their rights to possession and who can make a claim, there are further obstructions:

*"Corruption has also made land titles difficult to obtain; an application for a land title can cost from US\$200 to \$700 in informal payments to government officials, a cost that is prohibitive for many."*<sup>12</sup>

Then, as is often the case, where they are aware of their rights, have made their claim, and have received title, that does not mean, as indicated in the examples that follow, they have any security of tenure.<sup>13</sup>

## Recent evictions

The Community Legal Education Center (CLEC) and the Cambodian Center for Human Rights (CCHR)<sup>14</sup> along with the Asian Human Rights Commission (AHRC) and a number of other organizations are documenting and supporting villagers in their efforts to resist eviction. Their documentation of evictions reveals an important but not surprising pattern. While the

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7. ACHR, 2001, p. 66.

8. See [http://www.bigpond.com.kh/council\\_of\\_jurists/Foncier/fon001g.htm](http://www.bigpond.com.kh/council_of_jurists/Foncier/fon001g.htm).

9. See <http://www.gocambodia.com/laws/pdf/LAW-01-Land%20Law-E.pdf> for the 2001 Land Law.

10. Available at: <http://cb2.mofcom.gov.cn/aarticle/laws/sofhostcountry/investmenthost/200612/20061203917903.html>.

11. See <http://www.bigpond.com.kh/users/usfpp/>.

12. Pawlowski, 2005.

13. See also "Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari", E/CN.4/2006/41/Add.3, 21 March 2006, at <http://daccessdds.un.org/doc/undoc/gen/g06/119/37/pdf/g0611937.pdf?OpenElement>.

14. See <http://www.cchr-cambodia.org/>.

focus is on urban evictions, it is important to see the general attributes of the evictions throughout the country to be able to see the significant differences in the urban areas of Phnom Penh and Sihanouk Ville.

### Rural evictions

**Kandal Province**<sup>15</sup> Kompong Lournng commune: In December of 2006 armed soldiers provided protection to a bulldozer hired by the Phanimex Co. to clear seven hectares of land. The company is owned by Yeay Phan and allegedly backed by Hun Mana (Hun Sen's daughter).<sup>16</sup> When the family whose land was being invaded resisted their efforts with the help of other villagers, the soldiers tied up six of the villagers and seriously injured another. The district police chief has promised to arrest the perpetrators, though that had not yet happened in early January 2007. CCHR is in the process of submitting this case to the provincial police.

**Koh Kong province**<sup>17</sup> Chi Khor Leu Commune: In September 2006, companies owned by CPP Senator Ly Yong Phat used the police to forcibly evict 250 families and clear 20,000 hectares of land.

*“The police destroyed the villagers' crops and houses with a bulldozer and brutally attacked the villagers who resisted the eviction. Five villagers were reportedly injured during the assault and two others were wounded by police gunfire.”*<sup>18</sup>

The companies supposedly given concession permits for a sugar plantation include: Resort International Co. Ltd., Duty Free Shop, the Koh Kong Sugar Company and the Koh Kong Plantation Company,<sup>19</sup> all of which are owned by the Senator. The land was previously under the control of the environmental NGO, WildAid,<sup>20</sup> who passed the responsibility on to the Ministry of Agriculture at the completion of one of their community agriculture projects. The Ministry then passed the land concession over to the Senator and his companies. The two companies — Koh Kong Sugar and Koh Kong Plantation — were formed to circumvent the law that disallows concessions on land over 10,000 hectares. The Sugar Co. has a concession on 9,700 hectares and the Plantation Co. on 9,400 hectares.

In November 2006, an agreement was signed between the villagers and the Senator's company “*which guarantees that local residents can no longer be forced from their land.*”<sup>21</sup> Despite that agreement, on 16 December 2006, in the ongoing protests, the

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15. See [http://www.cchr-cambodia.org/display\\_en.php?action=showarticle&art\\_id=613&needback=1](http://www.cchr-cambodia.org/display_en.php?action=showarticle&art_id=613&needback=1) for further details.

16. See <http://cambodiamirror.wordpress.com/2007/01/13/vol-11-no-490-saturday-1312007/>.

17. See [http://www.cchr-cambodia.org/display\\_en.php?action=showarticle&art\\_id=464&needback=1](http://www.cchr-cambodia.org/display_en.php?action=showarticle&art_id=464&needback=1) for more details.

18. See Asian Human Rights Commission (AHRC) Urgent Appeal UP-212-2006 <http://www.ahrchk.net/ua/mainfile.php/2006/2085/>.

19. The plantation company “is responsible for 9,400 hectares of land based in Botum Sakor district” according to the Asian Human Rights Commission Urgent Appeal UP-017-2007 (see <http://www.ahrchk.net/ua/mainfile.php/2007/2212/>). The Botom Sakor District is also home to Botom Sakor National Park in which WildAid is currently working on a conservation project (see <http://www.wildaid.org/index.asp?CID=75&PID=193&SUBID=196>).

20. See <http://www.wildaid.org/index.asp?CID=75> for their current projects in Koh Kong Province.

21. See AHRC Urgent Appeal UP-212-2006.

violence escalated when one of the villagers was murdered. The police have accused fellow villagers and protesters with the murder. The Asian Human Rights Commission suspects that the motivation behind this accusation by the police is to weaken the protest by implicating the protesters in the escalating violence. In late January 2007,

*“[T]he Koh Kong provincial military police allegedly hired security guards at the sugarcane plantation of Senator Ly Yong Phat to kill the domestic animals of the affected villagers in Chi Khor Leu commune. In Cambodia, the villagers heavily depend on domestic animals for their agricultural work and therefore loss of their animals severely affects the villagers’ livelihood.”<sup>22</sup>*

A mediation meeting was held on the 7 February 2007 at which the Senator reportedly rejected any deals with the villagers and said:

*“I am here to develop the economy,” Ly Yong Phat declared while ridiculing the villagers’ “watermelon plantations,” he also called on the villagers to become workers for his sugar cane company.<sup>23</sup>*

He not only has the support of the Ministry of Agriculture but the military police in effectively starving out the villagers and leaving them with little option but to take the offer of work.

In both of these examples, government ministries, the police, the army under the direction of prominent and well-connected politicians use the law and the force of the state to take land from people who, if they knew the law and had the support of the legal structure, have a valid claim to the land on which they have been living. Further, the villagers are often stripped of their livelihood as well through the destruction of crops and livestock. Having no other means of survival they become more willing employees of the companies that are set up on this land by politicians and their friends.

### **Urban evictions**

The key element that distinguishes urban evictions from the examples above is the additional layer of law regulating urban land use. Often this is realized in the development of Master Plans for urban areas. This was true of Phnom Penh. In addition, then, to the pattern described above — the involvement of prominent politicians, the police and the army and business interests — in Phnom Penh there is a beautification plan that can support these business interests and their development plans. Added to this is the much more intense pressure of land costs and the competition for the use of land. In Sihanouk Ville the development pressure is mainly focused on tourism.<sup>24</sup> In Phnom Penh there are additional pressures.

**Group 78, Phnom Penh:** This is one of the communities featured in the ABC Foreign Correspondent documentary which aired in October 2006.

*“At 04:00 A.M. on 6 June 2006, about 700 armed police, armed with rifles, batons, shields and teargas, evicted more than one thousand families living near Group 78 in the Bassac area. The police trucked families to a barren field more than 20 km from the centre of Phnom Penh. Municipal officials claimed these*

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22. See AHRC Urgent Appeal UP-017-2007.

23. See <http://ki-media.blogspot.com/2007/02/cpp-tycoon-senator-ly-yong-phat-owner.html>.

24. AHRC Urgent Appeal, UA-026-2007 at: <http://www.ahrchk.net/ua/mainfile.php/2007/2185/> and AHRC Urgent Appeal UP-010-2007 at: <http://www.ahrchk.net/ua/mainfile.php/2007/2186/>.

*families were living on land owned by Sour Srun Company, but assured Group 78 members that they would be spared eviction.”<sup>25</sup>*

In their eviction of the people of the Sambok Chap community, the workers of the Sour Srun Co. encroached onto the adjacent Group 78 land by as much as 20 metres. The Group 78 villagers protested that they had been there since the mid 1980s and had proof of their continuous “*peaceful and uncontested possession*” of the land. In many cases they have documents issued by the local authorities recognizing their legal occupation of the land. They clearly met the requirements of the Land Law, though inexplicably they had been refused title by the authorities when they applied for it in 2004.<sup>26</sup> They lodged their case to the National Cadastral Commission and the National Authority on Land Dispute Resolution. In late June 2006 the Chamarmorn District Office informed them that they would have to move to a resettlement area on the outskirts of the city. This land was needed to “*contribute to city beautification and development.*” Article 44.3 of the Constitution allows for the expropriation of land:

*“The right to confiscate possessions from any person shall be exercised only in the public interest as provided for under law and shall required fair and just*

**Figure 1. Group 78, Phnom Penh. Aerial view showing affected communities**



Note: The undeveloped land between the National Assembly and Group 78 is the site for the Australian Embassy.

Source: CLEC, 2006.

25. See Choike.org “Urgent Appeal Against Evictions in Cambodia” [http://www.choike.org/nuevo\\_eng/informes/4649.html](http://www.choike.org/nuevo_eng/informes/4649.html).

26. After that refusal by the commune authorities, the residents filed a complaint with the Ministry of Land Management, Urban Planning and Construction. The Ministry ordered an investigation but there is no evidence to date that any investigation has begun.

*compensation in advance.*”<sup>27</sup>

While both the Constitution and the Land Law (Article 5) provide for rightful expropriation for the public interest, as CLEC put it:

*“... it is doubtful whether the purported reason of ‘beautification’ could fulfil this requirement. If acceptable, such vague wording would render the public interest test meaningless.”*<sup>28</sup>

The Municipality, then, in its proposed eviction has not met its requirements of the Land Law under:

- Article 30 (see Section 2 above): they had lived on this land, uncontested for more than 5 years.
- Article 31 (para. 2): *“A competent authority that improperly refuses an authorization to extend the time is personally liable.”* The authorities often fail to authorize this uncontested occupation of the land. Typically, they don’t refuse, they just don’t act.
- Article 35: *“If the eviction ordered by a court is likely to give rise to instability or to have serious social repercussions, the competent authorities may request a temporary suspension of the execution of the order.”* It is clear that serious social repercussions are occurring in each of these cases (including loss of livelihood and death).
- Article 38: *“In order to transform into ownership of immovable property, the possession shall be unambiguous, non-violent, notorious to the public, continuous and in good faith.”* The residents had clearly met these conditions, while the perpetrators had not.

In addition to these Articles, and its obligations under the Constitution of Cambodia, the government has failed to meet its obligations under international law, particularly as it relates to human rights and evictions.<sup>29</sup>

Patterns emerge from these examples and too many other cases. Two issues in particular should be noted:

- Rate of evictions: It is interesting to note that in the ‘NGO Statement to the 2001 Consultative Group Meeting on Cambodia’<sup>30</sup> it was pointed out that *“forced evictions have become less frequent in Phnom Penh as a result of increased dialogue between municipal authorities, NGOs and urban poor communities”*. That certainly would not be the case in 2006. Furthermore, as development and investment opportunities increase, so too will the evictions, whether this is in the cities and coastal areas where land values are rapidly increasing and tourism potential can be exploited or in the rural areas where resources such as timber can be exploited or where land can be used for the development of plantations for sugar or other export crops.
- Violations of law: While the laws protecting tenure are there, the lawmakers themselves are the most frequent and egregious violators of these laws. In these acts of greed and corruption, they are supported by the state apparatus of enforcement — the military and the police, and often the courts and Ministries of the Government.

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27. See <http://www.constitution.org/cons/cambodia.htm>.

28. CLEC Memorandum, August 6, 2006.

29. *“As a State Party to the International Covenant on Economic, Social and Cultural Rights, Cambodia and its political subdivisions are legally obligated to respect, protect and fulfil the right to adequate housing, including the prohibition on forced evictions, as guaranteed under Article 11(1).”* See COHRE letter to Phnom Penh Governor ([http://www.cohre.org/store/attachments/AP\\_TE\\_Cambodia\\_Group78\\_PL\\_21Jul06.pdf](http://www.cohre.org/store/attachments/AP_TE_Cambodia_Group78_PL_21Jul06.pdf)). See also Human Rights Watch (<http://hrw.org/english/docs/2006/08/02/cambod13889.htm>).

30. [http://www.ngoforum.org.kh/Development/Docs/ngo\\_statement\\_2001/urban\\_poor.htm](http://www.ngoforum.org.kh/Development/Docs/ngo_statement_2001/urban_poor.htm).

Under such circumstances, there is no security of tenure for the poor. Given that their appeals for justice are falling on the barren soil of the State, to whom do they turn?

## Support

Aside from the State itself, there are many organizations working in Cambodia — particularly in the capital, Phnom Penh — that have a stake in stabilizing the political and social environment of Cambodia. Arif Hasan proposed a trinity of players involved in development: politicians, planners and the people.<sup>31</sup> This could be further divided into six broad sectors: the communities themselves, various NGOs, governments and associated agencies, the private sector, educational institutions and professions.<sup>32</sup> It is helpful to understand where these threatened communities can find support, where they meet opposition, and where they might have support if they sought it.<sup>33</sup>

Unlike the experience in Pom Mahakan in Bangkok where educational institutions, NGOs, communities and different government agencies worked successfully together,<sup>34</sup> in Phnom Penh there is still little support for or even amongst these communities. The private sector companies are often owned by government officials and involved directly in the evictions process. The architectural, engineering and planning professions — all of which are involved in the development projects and beautification projects that precipitate these evictions — have little representation and no institutional presence in Cambodia. The educational institutions that could be supporting communities with data collection, alternative planning and so on, are not organized to do so. There are, however, other levels of government and both local and international NGOs that can and do provide support.

## Government

As noted above, since members of the national government of Cambodia are directly involved in the evictions along with the support of the police and the armed forces of the state as well as, often, the courts, there is little support from any level of the Cambodian government. Indeed, while the Governor of Phnom Penh, Kep Chuktema, was one of the finalists for the 2006 ‘World Mayor Awards’,<sup>35</sup> this appeared to have more to do with his approach to commercial development and beautification than it did with resistance to evictions in the city.

Despite the lack of support by the national or local governments in Cambodia, these are not the only levels of government that can or do provide support to these threatened residents. As noted in the introduction, the US Ambassador to Cambodia, Joseph Mussomeli, made a very strong statement, denouncing this pattern of evictions. The Australian government, as noted in the documentary aired on Foreign Correspondent in October 2006, was not so forthcoming. The site for the new Australian embassy is immediately adjacent to the Group 78 community. Eric Campbell, the ABC reporter, asked the embassy officials for their reaction to the

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31. See <http://www.urckarachi.org/URC%20Vision.htm> for more information.

32. See also Bristol, G., “Strategies for Survival: Security of Tenure in Bangkok”, another case study prepared for the Global Report on Human Settlements 2007.

33. See “Next steps”, following this section.

34. Bristol, G., “Strategies for Survival: Security of Tenure in Bangkok”, another case study prepared for the Global Report on Human Settlements 2007. See also <http://www.architecture-humanrights.org/pdf/Papers/Community%20Design%20and%20Human%20Rights-illus.pdf>

35. See [http://www.worldmayor.com/comments06/phnompenh\\_comment06.html](http://www.worldmayor.com/comments06/phnompenh_comment06.html).

impending eviction of their neighbours. “Embassy staff declined to be interviewed, issuing a statement that they had no responsibility for any land around the site.”<sup>36</sup>

Also at the international level, the United Nations, particularly the High Commission for Human Rights has issued a number of statements to the Government of Cambodia concerning human rights and evictions. The UN Special Rapporteur on adequate housing, Miloon Kothari, issued a press release in June after Group 78 evictions.

*“We strongly condemn the forced evictions targeting poor and vulnerable people, carried out with total disregard to Cambodia's human rights obligations, as well as the denial of access by, and help from, non governmental organizations to the victims.”<sup>37</sup>*

In previous years the Office of the High Commission for Human Rights and the Commission on Human Rights has issued a number of resolutions that call for the Cambodian government to resolve “*equitably and expeditiously land ownership issues in a fair and open manner*”.<sup>38</sup> At the time of the eviction, though, the police refused access to any outsiders, including UN representatives and representatives of local human rights organizations such as CLEC and CCHR. Unfortunately, the weight of such condemnations (see also Human Rights Watch) is proportional to the seriousness with which the government takes these obligations. Can they be shamed into honouring their own laws and international obligations? While these condemnations are important in the broader context, for the communities facing eviction, there is little these statements can do to protect their security of tenure. There is no enforcement mechanism available.

On the other hand, with approximately 12 per cent of the GDP of the country comes from aid,<sup>39</sup> perhaps some agencies would have the leverage to insist that the many levels of government in Cambodia follow the local, national and international laws to which they have agreed over the last 15 years. The World Bank has a number of projects underway in the country one of which — the Cambodia Land Management and Administration Project approved in 2002 — is directed towards the resolution of land disputes and to assist in land titling.

*“By securing land tenure rights, the project will help to promote social stability, contribute to poverty reduction, and stimulate economic growth,” says World Bank Task Manager for the project Wael Zakout. ‘All Cambodians will benefit from these improvements.’<sup>40</sup>*

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36. From “Cambodia Evictions”. See footnote 1.

37. See <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/C9FEDB586D9A189EC125719C00596D3D?opendocument> for the press release of 29 June 2006 concerning Group 78. Prior to that Kothari presented to the UN Commission on Human Rights on 21 March 2006 his report “Mission to Cambodia” which expressed grave concerns about forced evictions and about the housing situation generally. See <http://daccessdds.un.org/doc/UNDOC/GEN/G06/119/37/PDF/G0611937.pdf?OpenElement>

38. From Human Rights Resolution 2005/77. See [http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN\\_4-RES-2005-77.doc](http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-77.doc) and [http://ap.ohchr.org/documents/e/chr/resolutions/E-CN\\_4-RES-2004-79.doc](http://ap.ohchr.org/documents/e/chr/resolutions/E-CN_4-RES-2004-79.doc).

39. See IMF report “CAMBODIA Concluding Statement for the 2004 Article IV Consultation Discussions July 15, 2004” (<http://www.imf.org/external/np/ms/2004/071504.htm>). At a conference held in Bangkok in early 2002, Innes-Brown pointed out that in 2001 that figure was as high as 50 per cent (see <http://blake.montclair.edu/~cibconf/conference/DATA/Theme1/Australia1.pdf>). As the Cambodian economy improves the leverage that donor agencies and countries have will certainly weaken.

40. See <http://siteresources.worldbank.org/INTCAMBODIA/Resources/293755-1139523419190/Chapter7.pdf> on problems of governance and corruption exacerbating poverty. Since 2002, the World Bank has had an ongoing project on land management (see <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/CAMBODIAEXTN/0,,contentMDK:20043963~menuPK:293875~pagePK:141137~p>

The intentions were there but by 2006, despite the support of the World Bank and other governments (Germany and Finland in this project), evictions increased dramatically. While economic growth was certainly occurring, it was often at the expense of the poor.

On 6 June 2006 the World Bank issued a press release announcing the suspension of disbursements on this and two other projects as a result of an investigation on the misappropriation of funds through fraud and corruption. On that same morning at 4am approximately 600 police and soldiers descended on the Sambok Chap village just south of the National Assembly (see Figure 1) and violently evicted the last of the 1500 families that were living there. The people of Sambok Chap have something of a visceral awareness of the fraud and corruption the World Bank eventually recognized in the project books.

On 7 February 2007 the World Bank issued another press release regarding these projects. The suspension was lifted and the disbursements resumed on the three projects.

*“We are very pleased that the Government has adopted Good Governance Frameworks for these three projects and has started developing similar frameworks for all ongoing and future projects funded by the World Bank” said Ian Porter, Country Director for Cambodia. ‘Implementation of these frameworks should reduce the fiduciary risks associated with World Bank financed projects and ensure that the funds are being used for their intended purposes.’”<sup>41</sup>*

While the Government of Cambodia was able to assure the World Bank that they had adopted ‘Good Governance Frameworks’, one of the government’s senators — Ly Yong Phat — had ordered, the week before, security guards to kill the livestock of the villagers in the Chi Khor Leu commune in his continuing efforts to drive the people from the land he wants to use for his sugar plantation.<sup>42</sup> The villagers had evidence that those assurances of ‘Good Governance Frameworks’ were themselves in suspension.

## NGOs

Along with CLEC, CCHR and, internationally, AHRC and COHRE, Human Rights Watch has issued a condemnation of this ongoing affront to security of tenure and other human rights.<sup>43</sup> In its ‘Urgent Appeals’, AHRC, in an approach similar to Amnesty International, also provides the option for the reader to ‘send an appeal letter’. As above, with the UN condemnations, the weight of such appeals is proportional to the seriousness with which the receiving government treats these rights.

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iPK:141127~theSitePK:293856,00.html) which is intended, in part, to establish land titles and to strengthen local government capacity in land management and the development of policies and regulations on land. However, this appears not to have been addressed in any of the cases that CCHR has documented.

41. See “World Bank Lifts suspension of Projects”, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/CAMBODIAEXTN/0,,contentMDK:21210790~menuPK:293861~pagePK:2865066~piPK:2865079~theSitePK:293856,00.html>.

42. See the Asian Human Rights Commission, Urgent Appeal, UA-017-2007 (<http://www.ahrchk.net/ua/mainfile.php/2007/2212/>).

43. See “Cambodia: Phnom Penh’s Poor Face Forced Evictions”, 1 August 2006 at: <http://hrw.org/english/docs/2006/08/02/cambod13889.htm>.

In addition to these ongoing urgent appeals, though, Human Rights Watch, in February 2006, also issued an appeal, together with a number of other signatories,<sup>44</sup> to donors regarding ‘benchmarks for international assistance’.

*“Economic development, good governance, and respect for the human rights of Cambodia’s people are inextricably linked. The failure of the government to live up to its promises and the recent repressive acts raise questions about whether the Cambodian government is an effective development partner. “*

Here, they placed some responsibility on the donor agencies and countries to demand responsible governance from their ‘development partner.’ Human Rights Watch noted in their letter to the Consultative Group:

*“The international community sends the Cambodian government very mixed signals when development agencies praise government initiatives in the justice field and related sectors, even as the government is using the justice system to jail and repress independent voices. . . . The [Consultative Group] and development agencies should publicly express the strongest possible concern over threats to civil, political, economic, social and cultural rights by the government.”*

Among the corrective measures they proposed were:

- Support for civil society: in effect, bypassing an ineffective government in funding human rights, development, press freedom, anti-corruption and the rule of law.
- Aid: that continued aid must be contingent on meeting joint monitoring indicators and on the Cambodian government addressing the human rights and development issues.

It is clear, then, that the poor of Cambodia, whose security of tenure is now under siege, have few places to turn in the international arena. However, as with the Human Rights Watch proposals, there are steps that can be taken to improve security of tenure.

## Next steps

The urgent question, in the face of state obstacles, indifference, and terror, is what course of action can these citizens take to regain some security of tenure?

There have been some successes in the past and there are a number of initiatives developing. Prior to this recent failure of the state to protect security of tenure, this question was addressed in a different way than it can be now.

**City Development Strategy:**<sup>45</sup> Between 2001 and 2003 the Asian Coalition for Housing Rights, together with the Municipality of Phnom Penh, Solidarity for Urban Poor Federation and the Urban Resource Centre, brought “*various groups in the city’s urban development process together to explore ways of managing processes more effectively and equitably.*”<sup>46</sup> This began with information-gathering on the development process and the factors affecting it. This included information on relocations,<sup>47</sup> on the availability of land in the urban area, and on development plans for the city itself. Of course, mapping the location of available land would affect the development plans for

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44. Anselmo Lee, Executive Director, FORUM-ASIA, Basil Fernando, Executive Director, Asian Human Rights Commission, Patrick Alley, Director, Global Witness and Sidiki Kaba, President, International Federation for Human Rights. See <http://hrw.org/english/docs/2006/02/22/cambod12702.htm>.

45. See [http://www.achr.net/cds\\_pp.htm](http://www.achr.net/cds_pp.htm), and also “Negotiating the Right to Stay in the City” (ACHR, 2004).

46. ACHR, 2004, p 9.

47. At that point, under the direction of the Urban Poor Development Fund, the only option available for communities facing eviction was relocation.

the city as well. With this information available to all it was possible to better understand development and the strategies for it. Because this information was democratized, it was possible for more people to be involved in establishing the strategy for future development, particularly the poor who were most often damaged by development decisions.

Out of this process, three communities were chosen as pilot projects for community mapping, analysis, and upgrading planning. Out of this pilot project a number of key changes were realized: the creation of a city-wide vision; government policy change to create more inclusive planning; and the democratization of information.

Unfortunately, current conditions and actions make it clear that all the lessons learned in this laudable project have been abandoned by all levels of government. While the lessons that came out of the ACHR work are valuable and, one hopes, should be revived, in the immediate situation that is not going to be an option.

There are, though, a number of other action points that can be addressed:

**Information:** In meetings as recently as October 2006, information seemed to be in very short supply. People didn't know what the city was planning.<sup>48</sup> They knew nothing of the plans of private companies which had bought up property. They didn't know their rights under the Land Law or the Constitution and they didn't know the procedures for registering land or to whom they could direct their appeals. Beyond that need for information on procedures, regulations and law, they didn't know what they could do to organize. Clearly, when the ACHR project was operating more and better information was available. Some information, particularly about legal rights, is available locally from CCHR and CLEC, but information about physical planning, about land purchases and the availability of land is no longer available.

These two streams run in parallel — law on the one hand and land use development on the other. For the former, although there is information available, many legal appeals by the poor often fall on deaf ears. They are invisible before the courts and mute without money. For the latter, information is very difficult to come by because the access to that information is what generates profits, particularly in property and the development of it. It is that information, though, that helps communities predict future actions and to negotiate change through the development of alternative plans by the communities themselves. A great deal of that information can be collected through community mapping — an activity in which the ACHR project successfully engaged.

**Planning alternatives:** At present there are no alternatives to the plans made by companies or the Phnom Penh Municipality itself. Without an alternative there is only the one vision of the future and that, most often, involves eviction. Alternative plans can be developed by the threatened communities. Again, as with the law, that depends on someone actually caring to consider alternatives but if an alternative exists (as they do not now), there is a potential negotiating position that is a number of steps removed from simply

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48. The Phnom Penh Municipality City Development Strategy 2005-2015 is available online at: [http://www.phnompenh.gov.kh/english/vision15/vision15\\_en.pdf](http://www.phnompenh.gov.kh/english/vision15/vision15_en.pdf). This is not a city Master Plan but more a vision statement. For example, the vision for land use and housing is that Phnom Penh is a city with “accurate land use law, master plan, well managed and splendid beauty. The people understand and respect the law leading to decrease in land conflict and every citizen has access to comfortable housing.” In 2006 the city made a rapid retreat from that vision.

accepting relocation to the outskirts of the city — a prospect that amounts to an admission of failure about meeting the needs of the poor.<sup>49</sup>

In Bangkok, the development of planning alternatives by the community was used effectively in conjunction with the support of a number of local and international organizations.<sup>50</sup> However, in the Bangkok context, the conditions were decidedly better. The community there had the rule of law, a National Human Rights Commission to whom they could appeal, the courts that would hear them, strong and inventive community leadership, and coordinated local, national and international support. Such is not the case for the communities in Phnom Penh.

**Housing Rights Task Force:** While established in 2003, the Housing Rights Task Force does not yet have the resources to effectively fulfil its role of coordinating a variety of activities of local as well as international NGOs in working with communities, government, and other relevant stakeholders to promote respect for housing rights. This is accomplished through formulating and lobbying for fair housing rights policy and legislation, providing coordination among organizations working on housing rights, strengthening affected communities, and documentation. To these activities could also be added some of the functions that were formerly done by the Urban Resources Centre.<sup>51</sup> This too could be coordinated with a broader education program in the schools including architecture, planning and engineering.

**International:** Based on the very positive response by Australian viewers to the ABC Foreign Correspondent documentary, “Cambodia: The Great Land Scam” that aired on Tuesday evening, 10 October 2006, there is an opportunity to leverage that and similar publicity into encouraging at least the Australian government to join with the US Ambassador in more direct condemnation of these evictions.

Where international organizations have purchased land,<sup>52</sup> there is an important opportunity to lobby these companies through their embassies<sup>53</sup> and through encouraging company membership in the UN Global Compact.<sup>54</sup>

There is also an opportunity to establish joint international projects and exchanges at the grassroots level. These are important in maintaining some level of international monitoring that functions not at the government level (like the World Bank or IMF monitoring) but at the local village level.

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49. Payne (2005) echoes a point made by John F.C. Turner many years ago that the poor “*need to live close to locations where they can earn a living. . . . [T]his is more important than having permanent security of tenure or formal credit.*”

50. See Graeme Bristol, “Pom Mahakan: Community Design and Human Rights”, available at: <http://www.architecture-humanrights.org/pdf/Papers/Community%20Design%20and%20Human%20Rights-illus.pdf>.

51. This is modelled on the URC in Karachi that was set up in 1989 to gather and disseminate planning information to Karachi’s poorest residents, most of whom at some point were threatened with eviction. See “Brief Introduction to URC” at their website: <http://www.urckarachi.org/home.htm>.

52. Land in Boung Kok in Phnom Penh was purchased in 2006 by a Korean company. The local residents have heard rumours about its purchase but they did not know the name of the company or what its intentions were for the land.

53. COHRE did this effectively in the Pom Mahakan case in Bangkok when they regularly lobbied the Thai Embassy officials in Switzerland (where both OHCHR and COHRE are based).

54. See <http://www.unglobalcompact.org/>. Set up in 1999, it urges “*business leaders to join an international initiative – the Global Compact – that would bring companies together with UN agencies, labour and civil society to support universal environmental and social principles . . . in the areas of human rights, labour, the environment and anti-corruption.*”

Such exchanges and joint projects should also work at the professional level, not only as a way of monitoring but as a way of supporting the development of professions. This has already started with the legal profession. CLEC, for example, established in 1997, is one such joint project that has supported the development of the legal profession in Cambodia. The same could and should be done with development professionals — architects, planners and engineers.

## Conclusion

Security of tenure continues to deteriorate in Phnom Penh and throughout the country and does so largely because of land grabs motivated by development pressures, gentrification and beautification — most of which are motivated by money. Greed cannot be shamed by calling on international standards and law. It can, perhaps, be tempered by reducing those development pressures and by reducing corruption. Development pressures have often been reduced by removing land from speculation. That, of course, requires changes in policy and law. And that, in turn, requires the enforcement of policy and law. The Cambodian government has, in that respect, failed its citizens, or certainly those who are poor. Under such conditions, if the poor are to gain any security of tenure they must continue to lobby the government for change, but, more importantly, they must find support in international investors, developers, companies, agencies and countries. They already have the support of the under-resourced local NGOs. They also have the support of the international NGOs such as AHRC, Human Rights Watch and COHRE as well as the support of the UN agencies and other governments. Although the communities and the local NGOs lack resources, they cannot wait for the government to change. One of the most urgent activities they can undertake in a coordinated way is the collection of information. Even the act of collecting data about one's own community is an act of solidarity and an organizational strategy. This has been done successfully before with the ACHR/City Development Strategy. It is more needed now.

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