

act:onaid

RESIST, ENGAGE, CHANGE

Rural communities in Cambodia bravely stand up for their rights
against the impacts of forced evictions and corporate abuse.



SEPTEMBER 2020

5 YEARS

ActionAid's Fair, Green
and Global programme:
highlights and lessons
learned from 8 countries

‘WHY CORPORATE
ACCOUNTABILITY
MATTERS FOR HUMAN
RIGHTS AND WOMEN’S
LIVES EVERYWHERE’

Bangladesh • **Cambodia** • Kenya • Mozambique • Netherlands • Uganda • Zambia • Zimbabwe



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MAGAZINE

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INTRODUCTION

In the last decade there has been increased attention for the adverse impact of global trade and corporate conduct on the full realisation of human rights, gender equality and the Sustainable Development Goals.

For many people around the world, global trade and the influx of foreign interest and investment in their countries has meant displacement from their lands, pollution of water and air and human rights abuses. The imbalance of power between communities living in poverty and the multinational corporations taking their land and polluting their water is often stark. Governments oftentimes stand powerless against the might and riches of these corporations. A lack of international legislation to regulate increasingly complex supply chains means these human rights violations by corporations are met with absolute impunity, as they hide behind complex company structures to avoid the consequences for their actions.

The adverse economic and social consequences of the current global economic system are felt, first and foremost, by those who are most marginalised. In particular, they disproportionately affect women. When land is grabbed and families are displaced, for example to make room for a sugarcane plantation or mining activities as we will see in later chapters, it is women who bear the responsibility of sustaining their families and themselves. When tax revenue in developing countries is siphoned off by multinationals' aggressive tax planning and the lenient tax structures of tax havens, leaving less government income available for public services, it is women who take on invisible unpaid care and domestic work.

Governments around the world have made strong commitments to the 2030 Sustainable Development Goals agenda, and to upholding human rights and gender equality. International and national efforts have been made to better regulate corporate conduct and gain insights into corporates' complex and opaque value chains. These efforts have led to the unanimous adoption of standards such as the United Nation's Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, clarifying the role of governments to protect human rights and those of businesses to respect human rights.



FOR MILLIONS OF PEOPLE, HUMAN RIGHTS VIOLATIONS REMAIN EVERYDAY ISSUES THAT REQUIRE STRUCTURAL SOLUTIONS.

However, for millions of people around the world, corporate human rights violations remain tangible, everyday issues that require structural, long-term solutions. Therefore, the need of communities to be able to resist remains as urgent as ever. In order to realise the Sustainable Development Goals, a strong, international regulatory framework is needed to bridge the governance gap and grant those affected an instrument to finally hold corporations to account and demand justice from their governments.



BY STRENGTHENING COMMUNITIES' CAPACITY AND KNOWLEDGE ON THEIR SOCIO-ECONOMIC RIGHTS, THEY GAIN THE RESILIENCE TO DEMAND A BETTER PRESENT AND EVEN BETTER FUTURE.

ActionAid has seen, over the last 10 years of being part of the Fair, Green and Global Alliance, that when women and communities take matters into their own hands, they can make great gains towards improved corporate conduct and the protection of human rights. By strengthening communities' capacity and knowledge on their socio-economic rights, they gain the resilience to demand a better present and even better future. By supporting communities with obtaining the tools and backing they need to engage in lobby and advocacy strategies, affected communities can fight injustices by holding governments and corporations accountable. The support of the Dutch Ministry of Foreign Affairs to fund and partner on this essential work has been an important asset, to ActionAid and to the communities we serve.

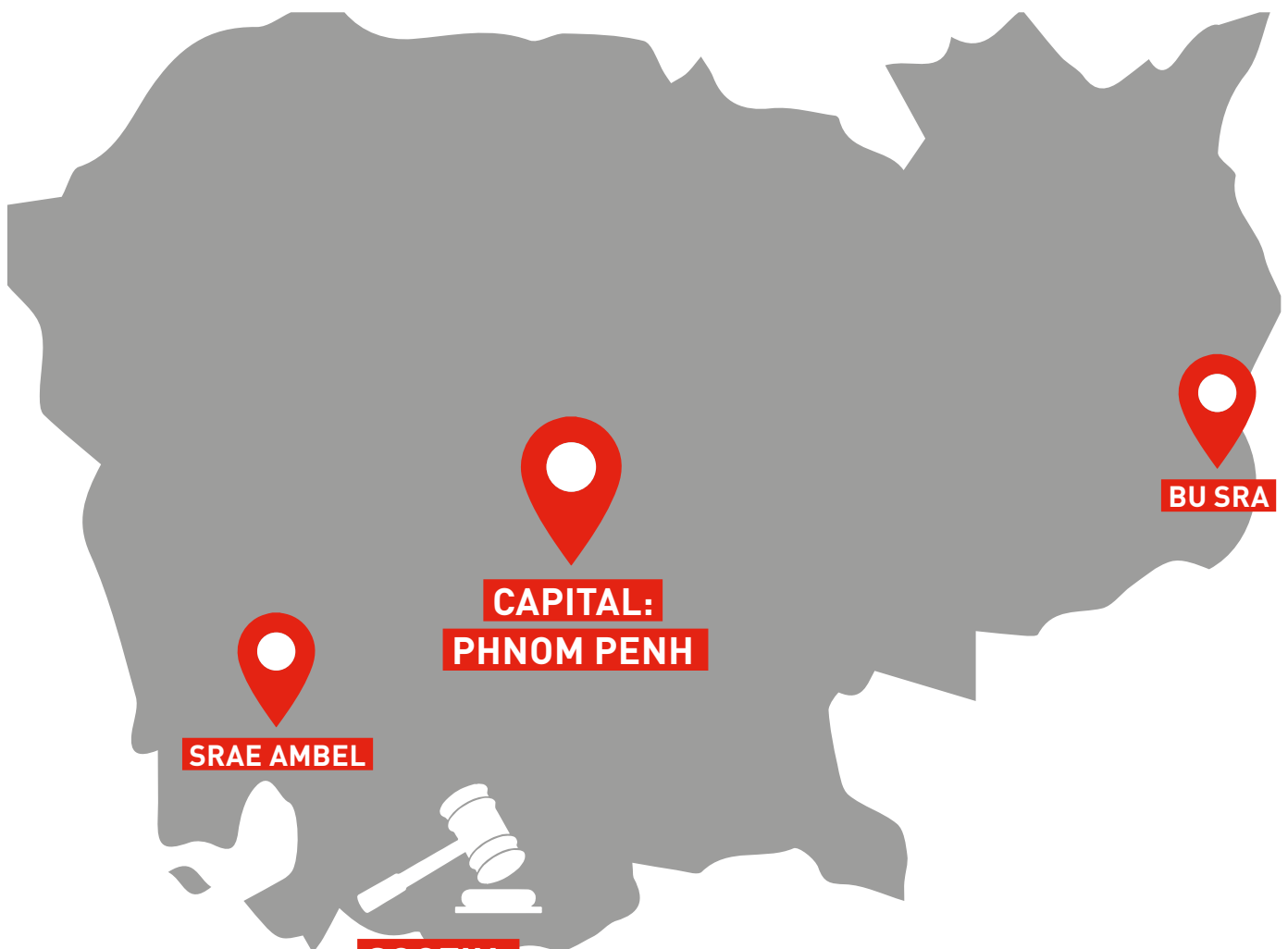
The following pages focus on Cambodia, one of the eight countries in which ActionAid has implemented the Fair, Green and Global programme. The report delves into two case studies that portray the ways in which women and their communities, supported by ActionAid and its partner organisations, have addressed corporate human rights violations.

BOX 1: THE FAIR, GREEN AND GLOBAL ALLIANCE: DIALOGUE AND DISSENT PARTNERSHIP WITH THE DUTCH MINISTRY OF FOREIGN AFFAIRS

Since 2010, ActionAid has been one of six member organisations of the Fair, Green and Global Alliance. ActionAid works together with more than 300 CSOs all over the world to build socially just, inclusive and environmentally sustainable societies. Women's rights are central to all our work. In January 2016, ActionAid began its second five-year programme under the 'Dialogue and Dissent' framework, a strategic partnership with the Dutch Ministry of Foreign Affairs. Within this framework, ActionAid and the other members have worked relentlessly to increase the voice of civil society and strengthen the resilience of communities, their organisations and movements. When addressing poverty and inequality, the Fair, Green and Global Alliance focuses on three interlinked areas of work: **1.** Improved corporate conduct **2.** Improved trade and investment and **3.** Improved tax and financial systems. Corporate accountability plays a pivotal role at the core of these three areas of work.

CAMBODIA

The systematic violation of land rights is one of the most prevalent human rights issues in modern Cambodia. In 2019 alone, out of 176 public gatherings recorded as a part of the Cambodian Center on Human Rights' Fundamental Freedoms Monitoring Project, 52% were related to land rights: protests concerned illegal land grabs, forced evictions, the judicial harassment of land rights activists and petitioning the government to resolve disputes.



**SOCFIN:
MEDIATION WITH INDEPENDENT
AUTHORITY, INTERNATIONAL
LITIGATION**

**KOH KONG SUGAR INDUSTRY:
LOBBY & ADVOCACY TOWARDS
LOCAL, NATIONAL AND
INTERNATIONAL POLICY MAKERS**

One factor driving this trend is the government's practice of allowing very large areas of land to be leased for commercial interests through the granting of Economic Land Concessions, in a bid to foster rapid economic development.⁴ In this way, approximately two million hectares of land have been granted to foreign and domestic companies – and to the political elite – for industrial/agricultural activities.⁵ This reallocation of land, along with insecurity of land tenure due to a lack of formal titles and land laws, and the now-halted EU Everything but Arms agreement, has resulted in a wave of land grabs and forced evictions. At least 5% of Cambodia's total land area is subject to a land conflict, or has been in the last four years, and 223 land disputes have been reported in the public domain since 2007.⁶ Women are particularly vulnerable to the land grabs, due to their lack of formal land titles.⁷

Cambodia has also witnessed a severe curtailment of civic space and a general deterioration in respect for human rights, as part of the government's drive to consolidate power. Leading up to the July 2018 elections, the government implemented a wide political crackdown where many independent media outlets were closed, civil society organisations faced increased harassment and numerous restrictive laws were passed seeking to limit civic space and public participation. The chilling effects of this crackdown have continued to this day, and civic space in Cambodia has not yet recovered. Fundamental freedoms of individuals and associations are frequently encroached upon and regularly result in judicial action or harassment for human rights defenders, community representatives and activists. Incidents of intimidation and harassment of CSOs are common.

In this context, the Cambodian Center for Human Rights, in partnership with ActionAid, has been working to strengthen the capacity of CSOs and victims of land rights abuses to hold the private sector and local authorities to account. The following case studies unfold in this context, and both concern the impact of Economic Land Concessions on small rural communities in Cambodia.



**AT LEAST 5% OF CAMBODIA'S TOTAL
LAND AREA IS SUBJECT TO A LAND
CONFLICT.**



SOCFIN **RUBBER COMPANY**

More than 800 families are forcibly evicted and have their homes destroyed. The community embarks on an international litigation strategy in order to access justice.

FACTS & FIGURES

- **Number of people affected:** 800+ families
- **Impact:** loss of land, food production and income, police threats
- **Type of company/sector:** rubber company, manufacturing sector
- **Strategy applied:** community capacity-strengthening, direct engagement with companies, direct engagement with local, national and international policymakers, international litigation
- **Current status:** ongoing

WHAT HAPPENED AND WHY?

In 2008 the rubber company Socfin-KCD, at the time a joint venture between the Cambodian Khaou Chuly Development Co and Luxembourg-registered Socfinasia,⁹ obtained an Economic Land Concession from the government of 2,386 hectares in Bu Sra Commune for rubber tree plantations and production of other industrial crops, for a period of 70 years. Soon afterwards, the company started to clear the land to make room for the rubber plantations.

More than 800 families from six villages, many of them from the Pu Nong indigenous community, had traditionally been using this land for farming and harvesting forest produce. They were now forcibly evicted and had their properties destroyed with no prior notice. When the families protested these human rights violations, many faced threats from both the company and the authorities. Despite corporate social responsibility promises since relayed by the company, the situation remains stagnant. Twelve years after the land grab, hundreds of families are still waiting for resolution.

IMPACT ON THE COMMUNITY

The land grab by Socfin-KCD has had many impacts on communities' land rights, economic rights, access to clean water, women's care burden and gender-based violence.

- Community members lost their livelihoods, as they relied on the forest for sustenance, to earn an income, to graze animals and to source medicines. One community member reported that before the company's arrival,



the community was self-sufficient. Since being displaced, community members are unable to practice traditional farming and had to find alternate forms of income, as they were no longer able to grow enough to sustain themselves.

- This was exacerbated by the deforestation carried out by the rubber plantations, which caused fluctuations in weather that strongly affected crop yields.
- Women were impacted severely by the loss of land as they were the primary users, due to the fact they are disproportionately held responsible for growing and preparing food.
- An increase in tension within households has led to an increase in domestic violence.
- Pollution of the local streams means community members could no longer fish, drink from or bathe in the water.
- Communities suffered health issues such as headaches, difficulty breathing and pregnancy-related issues, which they believe to be related to the pollution and strong smell emulated by the company's activities.
- Women have been at the forefront of addressing the human rights violations by the company. However, due to existing gender inequality and patriarchal norms in Cambodia, it is not acceptable for women to speak out, and as a result they have been subject to increased gender-based violence.

STRATEGY AND RESULTS

The Cambodian Center for Human Rights, in partnership with ActionAid, has supported communities affected by the Socfin-KCD land grab through mutual capacity development on lobbying and advocacy, legal support and the facilitation of advocacy towards (international) policymakers, the media and general public. Different strategies were followed to reach a resolution for those affected, namely: mediation with the company, advocacy towards local, national and international policymakers, and an international litigation strategy to secure access to justice for the communities. Through the Cambodian Center for Human Rights, ActionAid has been able to provide support to the community to engage directly with the government and corporate actors to advocate for their land rights on an ongoing basis.

- The Fair, Green and Global Alliance has funded the Cambodian Center for Human Rights' work on business and human rights in Cambodia. The Center conducted 'training of trainers' events where community representatives and partner organisations could be supported in their advocacy efforts. After having trained community leaders, the Center facilitated their forward training with community members.
- They also produced several FM radio talk shows with community representatives to reach a wider audience and influence Cambodian public opinion.
- Working with communities, the Center has documented the land rights situation and completed research projects and media monitoring, launching publications and factsheets on land rights abuses and communities' stories.



- Twelve years after the rights violations, hundreds of families are still awaiting justice. Due to continued pressure, some successes have mitigated some of the worst impacts. Socfin-KCD has started to mitigate some of the environmental impacts. The company has built two lagoons adjacent to their factory through which their water waste is processed with a natural filtering system. This water has not been released back into local streams. Socfin-KCD conducts water-testing every six months and receives regular audits from the local authorities and ministries to verify compliance against national environmental laws.
- After the community complained about the adverse health impacts to the local administrative office, the complaint was taken up with the company.
- As a result of this targeted advocacy strategy, in November 2016 the Independent Mediation Organization began a mediation process, in which nearly 100 individuals participated. As a result of this targeted advocacy strategy, in November 2016 the Independent Mediation Organization¹⁰ began a mediation process, in which nearly 100 individuals participate through representatives elected by their community. In 2019, the community reported a lack of transparency in the with regard to the process and raised concerns on its excessive length. Socfin-KCD reports that the delay is due to the situation's complexity, as the mediation must deal with competing claims, demarcation of land and recognition of ownership. When the provincial authorities were interviewed, they stated the dispute was already resolved prior to mediation.
- In addition to the mediation, in 2015, 51 plaintiffs filed a civil liability lawsuit in France against Socfin-KCD shareholders, the French Bolloré Group and Compagnie du Cambodge. The applicants are requesting the return of their land, as well as €65,000 in compensation for material and moral damages.¹¹ There are presently 97 plaintiffs. The first hearing was conducted on 1 October 2019, and nine villagers travelled to France to attend.
- Five applicants who travelled to France were interviewed by the Cambodian Center for Human Rights, and when asked if they felt hopeful of securing a just remedy through the French courts, they noted every effort in Cambodia had been futile. Interviewees expressed confidence in the French courts and consistently referred to its independence. Explaining they lacked faith in the domestic judicial system, they described the process of the hearing, and highlighted the stark differences to court proceedings in Cambodia. The community was surprised media could attend, that the prosecutor and defence were given equal time for submissions, and that they felt welcome. These elements gave them confidence in a better outcome, and the litigation was clearly important to them.



HER STORY



Srong Prou, 44, has lived in Lames Village since 1992. She is a farmer and a traditional music teacher, from the Pu Nong indigenous tribe.

The sole provider for her family, Srong Prou used to grow rice on her land and was able to produce 60-70 sacks per year. On her current land, nestled between the Dakac (a Vietnamese Rubber Plantation Company) and Socfin-KCD rubber plantations, she can now only produce 10 sacks a year – the economic impact of which has been immense for her family. Similarly, before the dispute she owned 20 cows; since losing her land she has nowhere to graze them and can no longer keep livestock.

Srong Prou lost her land when Socfin-KCD began clearing land for the rubber plantation in 2008. She decided to join other community members to protest. As a result, she was charged with destroying company property and provoking a fight, and summoned to appear in court in February 2009, and again in August 2017 – eight years after the fact. Despite her continued harassment by the authorities, Srong Prou continues to be active in the fight for her land and feels she has no choice – “my activism is from my heart.”



**WE HAVEN'T
JUST LOST OUR
LAND, WE LOST
SO MUCH MORE.
OUR CHILDREN'S
EDUCATION AND
OUR CHILDREN'S
FUTURE.**

TIMELINE

2008

April

Socfin-KCD rubber company begins to clear land near Bu Sra, prior to undertaking any **Environmental Impact Assessment** and without the participation of affected villagers. Villagers sign a contract, however, many report being unable to read it as it was not in the local indigenous language and they report being coerced to sign.

2015

July

51 plaintiffs file a **civil liability lawsuit** in France against two major Socfin-KCD shareholders regarding human rights violations and environmental damage.

2016

November

A **mediation process**

is conducted by the Independent Mediation Organization, supported by the UN High Commissioner for Human Rights Cambodia. Approximately 100 individuals participate through elected representatives.

2019

May

Information gathered by the **Cambodian Center for Human Rights** shows that individuals participating in the mediation process are not being kept properly informed by representatives, who fear breaching the mediation's confidentiality agreement. Many people are left in the dark about the process.

2009-2012

Socfin-KCD reports they have reached agreement with all families for **compensation**, including options for keeping their original land, relocations, family plantations and financial compensation. The company also reaches an agreement with the community regarding protecting sacred forests and lands.

2019

January

Several community members plan to travel to France to **attend the hearing**, however their visas are denied by the French embassy.⁸ The hearing is rescheduled to 1 October as a result of the absence of some plaintiffs.

2019

October

Nine plaintiffs attend a procedural **hearing in Paris** on 1 October.



KOH KONG SUGAR INDUSTRY LIMITED

175 Cambodian families are violently removed from their land under gunfire after a land grab by sugarcane plantations. They are finally awarded financial compensation and reclaim their land.

FACTS & FIGURES

- **Number of people affected:** 2,000 families
- **Impact:** loss of land, means of sustenance and livelihoods, police violence towards community members
- **Type of company/sector:** sugarcane company, agro-industrial sector
- **Strategy applied:** community capacity-strengthening, direct engagement with companies, direct engagement with local, national and international policymakers
- **Current status:** almost resolved (promised infrastructure is still missing) for the 175 families supported by the Fair, Green and Global Alliance, while the remaining ones are still seeking a resolution.

WHAT HAPPENED AND WHY?

In 2006, the Thai and Taiwanese co-owned companies Koh Kong Plantation Company and Koh Kong Sugar Industry Company were awarded two Economic Land Concessions in Koh Kong province by the Cambodian government. Immediately, the two companies started clearing land to make room for a sugarcane factory and plantations. The fact that 2,000 families across six communes were already living on this land was not considered. In fact, communities were only given notice of the land deal and subsequent clearing of the land a few days before by the company and the authorities. They were violently removed from the land under gunfire, leaving one person permanently disabled after being shot and their properties destroyed. Fifteen years later, the Everything But Arms¹⁴ trade deal between the EU and Cambodia, which enabled the land concessions, has been put on hold. The sugarcane plantations and factory have been abandoned and the land lies unused, with many families still having no hope of a resolution. The dispute resolution process initiated after the land grab was paved with obstacles. The Cambodian Center for Human Rights, ActionAid's partner in Cambodia, has supported 175 families in their struggle for justice.



IMPACT ON THE COMMUNITY

- The loss of land has significantly affected the community. Land is incredibly important to the families, as it is both their home and source of income. As community representative Phav Nhieng recognised, “land equals income in Cambodia”.
- People lost not only their property and possessions, they also lost their ability to farm, grow crops, raise animals and sell produce.
- The dispute resolution process, having taken over a decade, has greatly affected people’s lives. The continuous travel to the capital Phnom Penh, where the relevant government ministries are based, has been a major disruption, impacting on people’s ability to earn an income, as well as their children’s lives and education.
- The community has faced significant reprisals for speaking out, which they cite as being one of their largest challenges. Phav Nhieng, for example, has experienced heavy police surveillance and is currently the subject of a defamation lawsuit. Another community member, Chet Bun, has been detained since August 2019 for ‘environmental offences’, with no update reported.

STRATEGY AND RESULTS

The Cambodian Center for Human Rights has supported communities affected by the land grabs by exchanging knowledge on lobby and advocacy and facilitating their engagement with national and international policymakers, media and wider public. To assure resolution, the Cambodian Center for Human Rights and ActionAid have implemented several strategies with the communities: lobby and advocacy efforts directed towards government and policymakers, and engagement with government’s ministries and departments as well as international actors, such as the EU Ambassador to Cambodia. To assure resolution, the Cambodian Center for Human Rights and ActionAid have implemented several strategies together with the communities: lobby and advocacy efforts directed towards government and policymakers, and engagement with government’s ministries and departments as well as international actors, such as the EU Ambassador to Cambodia.

- After the initial land clearing, the community did not protest because they were afraid. However, when other community groups spoke out in defense of their lands, the community became inspired to claim their land back. So, in 2014 and 2015, the 175 families supported by the Cambodian Center for Human Rights submitted many petitions and complaints to local, district and provincial authorities. After receiving little response from the authorities, the families travelled to Phnom Penh to protest and defend their rights.
- In August 2016, the community submitted petitions to the Ministries of Land Management, Urban Planning and Construction, Environment, Agriculture and Interior, the National Assembly, the Prime Minister’s Cabinet, and the EU Ambassador for Cambodia.
- They travelled to Phnom Penh in late 2016 and January 2017 to follow up.



- No solutions were offered by the decision-makers addressed, so the community embarked on daily advocacy towards these actors, for many months in Phnom Penh.
- Finally, after a meeting between the families, a senator, representatives from the companies and relevant officials from the different ministries, under supervision of the EU Ambassador and civil society on 20 March 2018 the families accepted an offer of three hectares of compensation land and financial compensation of USD\$2,500 each.¹⁴ The government also pledged to improve the infrastructure in the area.

Whilst the families are grateful for the compensation, they do not feel it is just, as many received far less than what they lost. Some families report having had up to 10 hectares of land, and they had to fight for three. The government has not improved infrastructure in the area as promised. The compensation land the community received is isolated without sealed roads, is far from the main road, and lacks electricity, drainage systems, a local school and medical centre.

Many more communities in the area are affected by land grabbing by the same companies. This includes 200 families from Chi Kha Leu Commune. These families are currently in the process of seeking redress from British company Tate & Lyle, a purchaser of the sugar from the plantations. In March 2018, they received land compensation of 1.5 hectares but no monetary compensation. Another 1,825 families are in varying stages of the resolution process and have yet to receive compensation. Although the 175 families supported by the Center for Human Rights and the Fair, Green and Global programme do not consider their compensation fair, other communities have demanded the same remedy, and have not received any resolution. Although the 175 families supported by the Cambodian Center for Human Rights and the Fair, Green and Global programme do not consider their compensation fair, other communities have demanded the same remedy, and have not received any resolution. The community credits this resolution to the commitment and solidarity of the families throughout the dispute.



TIMELINE

2006
August

The Cambodian government grants **two Economic Land Concessions** of 10,000 hectares to Koh Kong Plantation Company and 9,700 hectares to Koh Kong Sugar Industry Company. The companies begin clearing the land in Srae Ambel district.¹³

2014

The community mobilises and 175 families elect **Phav Nhieng** (see case study) as their community representative.

2017
January

Community members travel to **Phnom Penh** for three months to advocate for a resolution.

2018
March

Community members travel to Phnom Penh again to protest the lack of resolution and enter negotiations with the Ministry of Land Management, Urban Planning and Construction, and others. The Ministry of Land Management announces a resolution had been reached between the parties, offering **three hectares of land and US\$2500 in compensation** to the 175 families, who directly receive the money.

2006-2010

Communities begin **protesting** and **advocating** to local authorities for their land.

2016
August

The 175-family community group **submit petitions** to the government and the EU Ambassador.

April 2019

The 175 families receive the three hectares of land each. Local infrastructure, promised by the government, is still not built including electricity, drainage systems, schools and healthcare. The **community continues to advocate** for this.



HER STORY



Phav Nhieng, 44, has lived in Srae Ambel district since 1995. Ms. Nhieng was elected as community representative for the 175-family group in 2014 because of her active role in protesting since the initial land clearing, such as the protest she led in 2007 saving three of six community houses from demolition.¹⁶ Ms. Nhieng has taken on writing petitions, complaints, following up on the resolution process and planning protests. She explains this role has changed her life, as she went from being an ordinary community member to an activist and human rights defender.

Ms. Nhieng reports feeling unsafe as she faces constant intimidation from the authorities, and fears what will happen in the future. In August 2019, a permanent police post was placed in front of her house for constant surveillance. Charges were filed against her in January 2020 covering defamation, insult and incitement, and as a result she was summoned to court on 17 March 2020. Hundreds of supporters from affected communities showed up to support her at her hearing.

Having not received a response to the land complaint at the national level, Ms. Nhieng led protests in Phnom Penh demanding a resolution, one of which lasted over three months. When they were called for a meeting to negotiate a resolution, she negotiated three hectares of land instead of the originally proposed 1.5 hectares, and US\$2,500 per family as compensation. Ms. Nhieng is proud of her achievements for her community, and the near completion of the dispute resolution process.

LESSONS LEARNED

ActionAid understands that community solidarity and a commitment to working together is fundamental for the successful resolution of land complaints. The communities in both land disputes outlined above worked together through countless petitions, complaints and resolution processes, and this solidarity has been key to their success.

Despite the centrality of community solidarity, the journey towards resolution was slowed by some setbacks, including a lack of commitment from the authorities and companies involved. The government has been systematically slow in fulfilling promises, such as improving infrastructure in the case of Koh Kong.

Our strategy of upholding principled, open engagement and developing relationships with companies who are receptive to having dialogue with the affected communities has been valuable and must be maintained. This allows us to accurately complete research, advocate directly to companies, and monitor their engagement with the dispute resolution processes.

There is also a lack of transparency regarding company ownership. In the case of the sugar plantation, not one of the provincial, district or local authorities interviewed in March 2020 could identify the current owners, making resolution increasingly difficult. At the same time, government ministries are not transparent in handling land disputes, and do not provide information or updates to communities on the process.

The government's granting of Economic Land Concessions has also been problematic, giving rise to many of the land disputes ActionAid sees today. Government and companies alike must work with communities to reach a resolution prior to a land dispute occurring, respect their rights to the lands they live on, and follow through on promised solutions. The government must be transparent about the process of when and how they allocate land and grant Economic Land Concessions.

We have seen that scrutiny of the behaviour of businesses internationally and locally has a significant impact. In the Koh Kong case study, the two sugar companies were subject to significant criticism for their human rights violations and received many calls to reach a resolution with communities and cease and prevent human rights violations.¹⁷ Locals were quick to associate the companies with 'blood sugar', and the companies have not financially benefited from their sugarcane operation and lost a significant amount of capital. This serves as a crucial reminder that there are very real commercial consequences from operating without respect for human rights, or following the UN Guiding Principles on Business and Human Rights.

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- 28** Transparantiebenchmark (2019) www.transparantiebenchmark.nl/scores#/survey/10
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