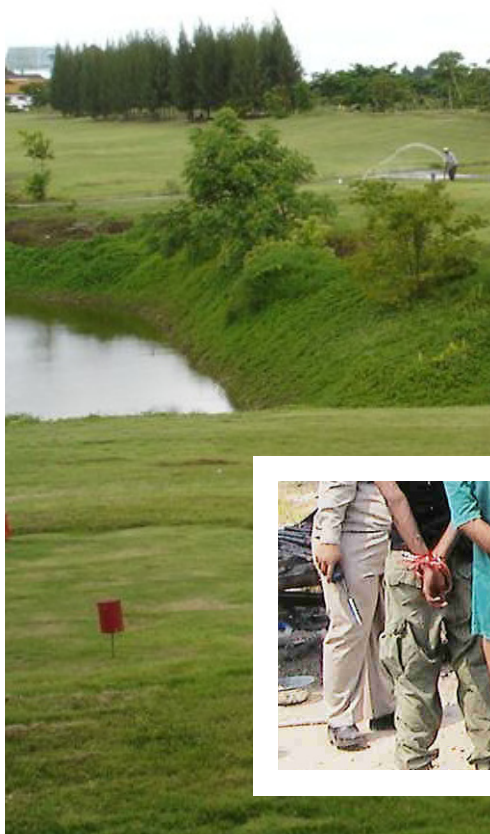


High Price of Land: The Deadly Eviction of Kbal Spean

Report by:
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A Coalition of 18 NGOs

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Cambodian Human Rights Action Committee (CHRAC) is a coalition of 18 local NGOs working on human rights issues in Cambodia.

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Introduction

This case study examines the mass eviction that took place on 21 March 2005 in Kbal Spean village, near the Thai-Cambodian border at Poipet. The eviction resulted in the shooting deaths of 5 villagers, injuries to at least 40 more (including 14 seriously injured) and the temporary detention of 30. Journalists and staff of various Non-Governmental Organisations (NGOs) witnessed the eviction, and the case was heavily reported in the media. The extent of the violence and injuries shocked the public; however, to date no successful prosecutions have been brought for offences committed at the time.

The Kbal Spean case is unusual, but at the same time it also highlights the typical fate poor communities can suffer in rural Cambodia. It is unusual because the extent of the violence that transpired during the eviction had not occurred in any other eviction for some time. It is also different from the current trend of land cases occurring in the capital, which typically involve the government taking property without paying fair compensation. This case, however, involved a private dispute. It is one of

many cases where poor communities have gone to the courts hoping that their rights will be protected, only to lose the land on which their livelihood and very survival are based.

The case study aims to cover the following issues and topics:

- Land issues in the Poipet area
- History of the Kbal Spean land dispute
- Events surrounding the eviction
- Responses to the eviction
- Current situation of the Kbal Spean villagers
- Recommendations

The case was extremely complicated; it involved 218 families, over 100 members of the security forces, three courts, various government officials and at least 10 NGOs. Due to time constraints, it was not possible to meet with all those involved. The information contained in this report was obtained directly from sources and from investigations conducted immediately after the incident.

Land Issues in the Poipet Area

The majority of people in rural Cambodia are illiterate, and as a result face difficulties in understanding the processes and procedures of land registration in relation to their land property rights¹. Opportunists often take advantage of the land registration system, where in some cases people who do not want or cannot afford to pay bribes are obstructed by government officials. As a result, former landowners have become landless and powerful people who already owned substantial amounts of land have acquired yet more by taking advantage of the flawed legal process.

Land cases in Banteay Meanchey province are particularly characterized by violence, contemptuous treatment of the victims and difficulties resolving the cases in ways that are fair and beneficial to the

poor². This situation is largely a product of the province's Khmer Rouge past and the current casino boom in Poipet. The Khmer Rouge insurgency lasted longer in Banteay Meanchey than any other part of Cambodia, and there still remains a large military presence. Following the opening of the Aranyaprathet border crossing in 1997, Poipet also became one of the main routes for Cambodia's imports and exports. The opening also led to highly lucrative casinos being located in the Poipet area to attract business from Thailand, where gambling is illegal.

These circumstances have led to an enormous increase in the value of land situated in Poipet and the border area, and consequently there is a high potential for land conflicts.

History of Kbal Spean Land Dispute³

The Kbal Spean community

Kbal Spean village (Poipet Commune, O'Chrov District, Banteay Meanchey Province) covers a land area of nearly six hectares. It is home to more than 200 families, who primarily make their living pushing carts or selling produce across the border. The village is close to Poipet town, north of a large pagoda (Wat Trach) and about 1500 m away from National Road No. 5, to the east of A5 Dam. To the north of the village is a golf course, owned by one of the casinos. Other villages border the south, east and west of Kbal Spean.

Prior to 1997, the land in question was heavily mined. In 1997, some of the current residents were asked to move to that land by district authorities. They cleared the land of trees and mines themselves, which resulted in injury and even death to some residents. Originally only 60 families occupied the land, but the number quickly grew as the newly-opened border created more opportunities for people to earn money⁴. The community is composed of former Khmer Rouge cadre, recent re-settlers and members of the military (both current and demobilized, with many suffering from disabilities).

District and commune officials and the community itself also asked the Cambodian Mine Action Centre (CMAC) to conduct mine clearance. CMAC cannot locate its official records of the de-mining, though has said that it cleared mines from the area near Wat Trach, which is close to the village⁵.

Local authorities arranged for measurements and demarcations to allocate plots of land for the people. Each family had a plot (10 x 20m) and the community created a village with 6 small roads linking the houses. The authorities issued family certificates, identity cards and organized housing structures by issuing specific housing numbers for them.

Tin Oun, Kbal Spean village chief

Tin Oun is officially the village chief of Kbal Spean, although does not live in the village and the villagers themselves claimed not to know who he was when he first appeared in 1998. A number of people have speculated that Tin Oun is merely the front man for a high-ranking official (with an interest in the land). These claims; however, cannot be verified⁶.

In June 1998, Tin Oun submitted a request for land title to an area measuring 230 x 250 meters. This request was signed by the former Poipet commune chief (on 13 June 1998) and by the then district chief (on 30 July 1998). Tin Oun claims that he received a title of possession to use and occupy the land, issued by the General Department of Cadastre. The residents heard that the land was covered by a title but believed that it was merely a rumour. (Four years later, the O'Chrov Cadastral office issued a letter stating that Tin Oun's 1998 land title application had not been filed properly and therefore could not be registered.)

In 1999, Tin Oun filed a case with the Banteay Meanchey Provincial Court claiming he was the owner of 51,214m² of land on

which the village was situated. He said he had cleared and occupied the land since 1993, but that people had illegally entered the land and put up houses. He also claimed that aside from clearing the land and planting crops, he dug a water pond, a canal and an irrigation network and placed fence posts on the land.

On 18 November 1999, Banteay Meanchey Provincial Court decided to grant the land to Mr. Tin Oun in conformity with the title of possession.

Issues concerning the Banteay Meanchey Court decision

- The villagers did not have legal representation during the hearings at the Banteay Meanchey Court.
- The Court apparently only interviewed Tin Oun, his workers, and a few villagers. The Court also reportedly did not call any commune, district or cadastral officials, who might have been able to testify on behalf of the people⁷.
- There were unexplained discrepancies in the size of the land claimed by Tin Oun and the actual land awarded by the Court.
- It appears that the Court did not take into account existing laws on the use of land, awarding Tin Oun land that should have only been used for housing and awarding more land than was allowed⁸.
- There are two existing Court verdicts with the same number and date of issue, but with different measurements of land. The first measurement only covers around 6,000m²; the second covers over 42,000m². It is unclear which is the valid verdict, but the Court implemented the one covering the greater area of land. There is no indication that the second verdict (covering the bigger area) was meant to be a correction; even if it is, procedures were not followed⁹.

Evidence supporting the community's claims

- A report written by the former Governor

of Banteay Meanchey (Provincial Report # 219 Kh.b.ch, dated 07 February 2003) states that prior to 1998, the land was forest area, a hideout for bandits, heavily mined and with no residents. This report supports the testimony of the community¹⁰.

- In 2000, representatives of the Ministry of National Assembly-Senate Relations and Inspection met with the villagers and inspected the land. In minutes dated 15 January 2000, the Ministry representatives noted that the Kbal Spean area had been heavily mined, and that no crops, fruit trees or fence posts had been built. There was only a small canal, which the committee noted may have been built after 1999. The findings contradict Tin Oun's assertions that he had planted crops and built an irrigation network, fence posts and a canal on the area.
- Ros Saron, the Poipet commune chief, issued a letter in 2000 to certify that the 218 families had been living in group 55, Kbal Spean V, Poipet Commune, and that they had been victimized because of the land conflict¹¹.
- The official documents (family books etc.) issued by the local authorities specifically recognize named members of the community as resident within the area concerned¹².
- The O'Chrov Cadastral Office issued a Letter (No. 68) on 24 May 2002 which stated that the application of Tin Oun did not use the correct form issued by the Ministry of Land Management. Therefore, according to the Deputy Chief of the O'Chrov Cadastral Office, Tin Oun's application to process and use the land dated 18 June 1998 was not correct and could not be registered in the office¹³.

The appeal and the resulting enforcements of judgments

On 27 February 2001, the Appeal Court issued a decision supporting Tin Oun. Tin Oun was represented by a lawyer; the villagers, however, were without counsel. After the Appeal Court decision was hand-

ed down, Tin Oun proposed that the people move to a new village around 9 km away. The people refused to do so, as their livelihoods were based on their having access to the border, and the distance from the proposed site was too great.

On April 24-26, 2002, the Banteay Meanchey Provincial Court enforced the verdict of the Appeal Court and forcefully evicted all residents from the land. The people moved to a site close to the old village. The villagers reported that Tin Oun told them that if they were to vote for him and his political party, he would give them back the land. The people agreed and in late 2002 and early 2003, they moved back onto the land without any problems.

However, Tin Oun then filed a complaint against six representatives of the residents for trespass. Two representatives were apprehended and detained in September 2003. Legal Aid of Cambodia assisted these two

and secured their release in November 2003 after filing an appeal with the Appeal Court. However, to this date criminal charges of violating property rights remain pending against the representatives.

The Provincial Court made an unsuccessful attempt to implement the verdict again in December 2003, meeting firm but peaceful resistance from the community. The villagers then began lobbying for assistance, sending letters to the King, the President of the National Assembly, the Council of Ministers and to the Minister of Land Management, Urbanisation and Construction. The King submitted a letter to the Minister of Justice to seek intervention, but the problem could not be solved as the verdict of the Appeal Court had already come into effect. Tin Oun also apparently sent petitions of his own, including one with a notation supposedly expressing the support of the Prime Minister.

The Eviction

There are various versions of how the violence began and what happened afterwards. The differing accounts can most likely be explained by the large size of the area and the sheer number of security armed forces involved. This case study aims to present the most probable account of the events of the eviction.

Notice of the eviction

Following a request from Tin Oun dated 14 February 2005, the Banteay Meanchey Court chose to enforce its verdict for a third time. The eviction was to occur on Monday, 21 March 2005.

The Banteay Meanchey prosecutor and court clerk claim that the villagers and commune authorities were officially informed one month prior to the eviction. Commune authorities deny having been informed and only arrived at the site after the shooting took place.

The community apparently had some notice that the eviction was going to take place; while they denied any official notice, they had apparently been warned by representatives of Tin Oun and had armed themselves with knives, axes, sticks, gasoline and acid.

Security forces involved

Various sources have given differing numbers of security forces. The villagers and NGOs (several of which were present) claim there were around 240 security forces. However, the court clerk stated 119 and a government-ordered Commission of

Inquiry said there were 124. In addition to uniformed police, military police and officials, some witnesses said there was a third armed group in dark grey uniform with no insignias, who participated in the eviction and confiscated cameras from the witnesses.

According to investigations by ADHOC and the Human Rights Action Committee (CHRAC), witness statements and newspaper accounts, a water truck and two bulldozers, together with 50 demolition workers, also accompanied the security forces.

Prior to the eviction, the security forces met with court clerk Chan Savath to discuss the proceeding in a restaurant in Poipet. Chan Savath claims he instructed the forces to avoid violence and not to shoot at all. They then decided to divide the forces into different groups and went to the village¹⁴.

Arrival of armed forces and beginning of eviction

The armed forces arrived sometime between 8am and 9am and took positions around the village. Preliminary reports by the Commission formed to investigate the shooting said that the forces were divided into four sections, each posted at one side of the village¹⁵.

The eviction started at around 9:30am, although the exact course of events remains unclear. Differing eyewitness accounts state that Chan Savath started reading the court verdict aloud whilst houses were being bulldozed and burned¹⁶ or that he read the verdict after the shooting occurred.

Chan Savath himself claims that he did not see how the shooting began or how the forces were deployed at the village. He said he was about 200m from the area and that upon hearing the shooting, he lay flat on the ground until it finished. He said the shooting lasted around ten minutes¹⁷. However, when interviewed he was ambiguous regarding the point at which he read out the verdict.

Outbreak of violence

It is unclear what the security forces did once they arrived at the village, and there are many conflicting accounts over how the violence began.

According to newspapers¹⁸ and eyewitness accounts, the eviction started with police firing threateningly into the air, entering the community and beginning to arrest villagers. Villagers threw stones and other projectiles and the armed forces retaliated by firing their guns at the people and arresting those who were caught.

Prosecutor Gnuong Thol (who was not present during the eviction) claims the people initiated the violence; a knife was thrown at a military police officer and forces fired in response. Thol said the forces only shot in the air and to the ground. He emphasized that he gave the instruction to avoid violence and shooting and if there was trouble, the forces should negotiate with the people's representatives.

The only certainty is that shots were fired, villagers were killed and wounded and their houses were demolished.

Claims that the police fired directly at people appear to be supported by the number of people shot and killed during the eviction:

1. Mr. Pich Bunthoeun, 40 years, was shot 4 times and died instantly.
2. Mr. Sean Sok, 44 years, was shot in his right chest, and died instantly.

3. Mr. Kim Samban, 39 years, was shot in the chest and died instantly.

4. Mr. Tham Bunthin, 38 years, was shot and died instantly.

5. Mr. Korn Koeun, 39 years, was shot in the abdomen and right leg. The victim was handicapped. He died later in hospital.

Eyewitness accounts

Although some eyewitness statements are contradictory, as villagers were in different places and saw events from different perspectives, many of them are consistent about a high level of police brutality during the eviction.

One woman, whose husband was among those shot dead, stated: "My husband tried to run away from the road but when he was about 10 meters away he was shot once by a man called Saron who was wearing a police uniform. Then Saron shot him twice more... Saron also pointed a gun at me and stopped me from going [to help] my husband."

Another villager described being beaten with a bamboo stick by a man in civilian clothes, suffering a 6cm gash to his head, as members of the authorities shouted "Why are you living on my land? I will beat you to death." Other villagers said that, when the armed forces surrounded the villager, some of them shouted "we open the door of blood".

The armed forces allegedly took money, cell phones and watches from corpses and ransacked houses before they were demolished. A pregnant woman whose husband was killed asked a policeman if she could enter her house to take a rice pot – the response to her was "If I was a nice person, I wouldn't be here today."

Amongst other claims made by eyewitnesses are:

- Villagers were broadcasting a recorded speech of Prime Minister Hun Sen speaking against land grabbing. Police were said to have shot the speaker once the violence erupted.
- One villager said that he asked the authorities if they could remove his personal belongings before his house was demolished. The individual was advised by a police officer to ask permission from his superior. When the person returned, they saw that police and military police had taken their belongings. When they asked why the

authorities were taking away their personal effects, one of the authorities beat the individual.

- Amongst the armed forces present was a man named as Pov or Por Phally¹⁹ who was using a gun and shooting during the eviction. He was also said to be wearing a police uniform although he is not a police officer.
- Some villagers alleged that several of the armed authorities ordering the demolition of houses were in civilian clothing.

Responses to the Eviction

Government Response

There was an immediate outcry after the incident and various government officials immediately went to visit the village. Ministry of Interior Undersecretary of State, Srun Vong Vannak, together with Banteay Meanchey Governor, Heng Chhantha, spoke with the villagers. They expressed condolences for the incident and promised the formation of an investigative commission upon orders from the Prime Minister and the Ministry of Interior²⁰. National Assembly members, including Khiev Sarn, Mann Siphann and Son Chhay, also spoke with the villagers. Mu Sochua and Kim Sophearith from the Sam Rainsy Party also went to Kbal Spean²¹. Government and provincial officials provided temporary assistance to the community. Villagers also reported that various officials had promised them swift resolution within a week, however no such action has resulted from these apparent promises.

Om Yentieng, head of the government's Human Rights Committee, stated that the case would require a thorough investigation and that the committee was looking into it²². Heng Samrin, Honorary President of the CPP, said that government "neglect" and a "lack of prevailing control" was the reason for the violence in Kbal Spean²³.

Government investigation: Commission of Inquiry

The government delegated the investigation to a Commission of Inquiry that was formed on 21 March 2005. The head of the Commission is the Deputy Governor

of Banteay Meanchey; it also includes the provincial Police Commissioner, Military Police Commander and various other provincial authorities²⁴.

This Commission issued two preliminary reports. The first identified the forces involved, and named those in charge of the forces. The report added that the superiors of all the armed forces involved have to take responsibility for what happened during the eviction. Two O'Chrov district police, Muy Chun and Tan Phirom, were temporarily detained by the Commission at the provincial police station for further investigation. The 11 military police officers who had admitted to firing their guns were supposedly to be kept under watch by their superiors, for further investigation.

The second report specified the number of forces involved²⁵ and found that there was another group with an interest in the land. The Commission is investigating to find out who is behind this group. On 24 March 2005 provincial police arrested Pov/Por Phally, who was allegedly shooting at villagers during the eviction²⁶. District police also interrogated the owner of the heavy equipment who rented out bulldozers and water trucks to Tin Oun. The Commission noted that Tin Oun had fled the area, and police were looking for him.

It appears that the Commission only visited Kbal Spean once and villagers said they were not interviewed during this visit. Moreover, villagers suspected that at least one of the persons involved in the Commission investigation had also participated in the eviction. The Commission did not pro-

vide any reports to the concerned Courts.

Resulting criminal charges

Complaints against the forces were filed in Banteay Meanchey court, but transferred by the Ministry of Justice to the Battambang Court. The Battambang Court investigated charges of murder, attempted murder, voluntary manslaughter and battery against 66 military police/police and 52 villagers (including 4 deceased villagers)²⁷. Four people were remanded in prison charged with murder, attempted murder and voluntary manslaughter: Tan Phirun, Born Sam Bin, Por/Pov Phally and Nim Phann.

The Court interviewed some of the military police and police officers, as well as approximately 30 villagers. Investigating judge Nil Non spent several days in Banteay Meanchey conducting interviews. However, concerns were raised that there might not be enough evidence to convict any of the military police and police officers, as the villagers were not able to identify them by name²⁸. The military police and police officers who were interrogated all claimed they did not shoot directly at the people.

The investigating judge and prosecutor were asked if they were aware of the re-

ports of the Commission of Inquiry. Both stated the reports had not officially been provided to them. The investigation judge further commented that he would prefer to conduct his own investigation²⁹.

On 4 August 2005, the Battambang court announced that charges were dropped against Tan Phirun, Born Sam Bin, Por/Pov Phally, all three of whom were described as policemen. Charges remain against military policeman Nim Phann; however he was awarded pre-trial release and all four men were freed. Charges are also reported to have been dropped against the villagers.

NGO response

A number of NGOs including members of the CHRAC immediately began investigating this case. ADHOC currently is leading the investigation into the incidents and providing legal assistance to some of the villagers, with legal assistance also provided by CDP and CCD. Other NGOs have assisted the villagers by sending petitions on their behalf to the King, the Ministry of Justice, the Prime Minister and the Ministry of Interior³⁰. LICADHO provided medical care immediately after the incident, and studied the land case that led up to the eviction.

Current Situation of the Kbal Spean Community

Following the eviction, the villagers moved to a nearby area close to the property of the Golden Crown Casino and constructed temporary shelters. Having had lost all personal belongings in the eviction, they had no clothing, cooking utensils, water, or food. The villagers were provided some materials by the provincial authorities and NGOs.

In early April 2005, the villagers returned to Kbal Spean after representatives from the Golden Crown Casino ordered them to leave the area where they had resettled, alleging that the villagers were polluting the canal water. The villagers returned to their original lots, setting up temporary makeshift housing.

On 6 June 2005, villagers contacted LICADHO to say that they'd heard a rumor of another eviction which would take place on 8 June. When contacted, the Banteay Meanchey prosecutor assured that no such eviction was scheduled.

It has also been reported that there was a recent influx of families into Kbal Spean, where numbers have now swelled to approximately 300. It appears that rumors

of housing being provided for residents in Kbal Spean caused the influx of families³¹.

It was reported in *The Cambodia Daily* that on 24 July 2005, the O'Chrov District authorities offered the Kbal Spean villagers another plot of land 4 kms from Kbal Spean, but the villagers refused to accept the offer. A village representative was quoted as saying that the distance from the border would mean increased transportation costs³². Nonetheless, on 11 August 2005, Provincial Governor Heng Chantha signed a letter authorising the relocation to go ahead.

Finally, some villagers have expressed concerns about the advocacy training provided to them by some of the NGOs. They are unsure about what the training is for and do not always understand the rationale behind it. They reiterate that their main desire is to legally own the land which they occupy, and receive the necessary documentation that would guarantee their ownership. The villagers recognize their situation is still quite precarious and they therefore remain insecure about their future, and are easily frightened by rumours.

Recommendations

The Kbal Spean case serves as a grave warning. The current trend of displacements and evictions has severe implications for the future of Cambodia. If allowed to continue unabated, there will be an increase in homelessness, poverty, hunger and sickness. If communities cannot find a resolution through the courts or from the government, it is likely that this trend will lead to more violence³³.

Government

- The government should assure the security of all villagers involved in the Kbal Spean land dispute.
- The government should ensure there are no further attempts to forcibly evict the Kbal Spean villagers. Any relocation should be purely voluntary on the part of the villagers, and be based upon them being provided acceptable alternative land.
- Government officials who made promises to assist the villagers should be held to their promises.
- Because of the prevalence of land disputes in Poipet, and to avoid the possibility of further such violence, the government should establish an inter-ministerial committee to investigate all current and future land disputes in Poipet, in close cooperation with NGOs. The Ministry of Land Management and the donor-funded Land Management Assistance Project should establish a land titling project in Banteay Meanchey province including, most urgently, in Poipet.
- The provisions of the 2001 Land Law and its accompanying sub-decrees need to be fully implemented. Any sub-decrees that still need to be drafted should be produced as soon as possible, and with the consultation of civil society and the people who will be affected by the sub-decree.
- The Government should abide by the international standards on forced evictions and human rights by which it is bound.

Judiciary and legal profession

- The Battambang Court's investigation into crimes committed during the Kbal Spean eviction should be reopened.
- The Supreme Council of Magistracy should review the Banteay Meanchey Provincial Court's actions on the Kbal Spean case, including the issuing of two verdicts dated the same day but with different measurements of the land at issue, and punish any court officials who have acted improperly.
- Future investigations of similar cases (evictions involving violence), particularly those which will go to court, need to be much more comprehensive. Not only relatives of those injured or killed but all witnesses to the eviction need to be interviewed.
- Lawyers should work in close consultation with their clients, keeping them informed. Cases involving communities should be viewed as belonging to the community, not to individual

clients who have retained legal services. All actions taken by the lawyers should be taken in consideration of the community.

- All those having to appear in court should have legal representation. If lawyers come from different organisations, there should be regular meetings to discuss the case. Evidence and information should also be shared.
- Judicial reform is necessary, particularly with regard to land cases. There needs to be more objective investigations. All parties, particularly those who could lose their rights to the land, should have representation.

NGOs

- There are many NGOs assisting threatened communities. Their work needs to be focused, united, and more coordinated. Different petitions filed by the various NGOs need to be consistent. All actions taken need to be followed up until results are obtained, and any actions taken should not jeopardise any pending court cases.
- A specialised NGO to work on land conflict issues, at a national policy level and with networks in the provinces to work on a local level, should be created.
- NGOs taking action on cases should always keep communities informed, and encourage their active participation in the proposed solutions.
- Some NGOs are providing training on advocacy and community development, which may be necessary, but it needs to be implemented with the people's full understanding and participation.
- The security and health conditions of threatened villages need to be monitored.

General

- The situation in border towns like Poipet, where land prices are increasing dramatically, needs to be addressed as soon as possible. All development plans and the like should be made in consultation with communities who may be affected by the plan. All plans should be drawn up in a way which would benefit the people in the area.
- There needs to be a comprehensive strategy to deal with land cases with the participation of the Government, civil society and the communities affected.
- Non-formal training on the land law is necessary for people in rural areas, who have not had an education. Training of paralegals on the land law, the procedures of obtaining title, and remedies when ownership is violated is also necessary.
- Communities under threat of eviction need to be consulted on their wants and needs. Any actions taken by civil society and the government should be done with the full participation of the people affected.
- There have been a number of reports, workshops and conferences on the land issue in Cambodia. Each of these reports contains recommendations on how to resolve land conflicts in Cambodia. These recommendations should be reviewed and where applicable, implemented³⁴.

Chronology

- 1997** Kbal Spean villagers demined the village area and were issued with family certificates, identity cards and specific housing numbers
- 18 June 1998** Tin Oun applies and receives a title of possession (for use and occupation of Kbal Spean) from the General Department of Cadastre
- Early 1999** Tin Oun files for ownership of the land with the Banteay Meanchey Provincial Court.
- 18 November 1999** Tin Oun is awarded the land title to Kbal Spean by the Provincial Court
- 15 January 2000** Representatives of the Ministry of National Assembly-Senate Relations and Inspection met the villagers and inspect the land
- 2000** Poipet commune chief, Ros Saron, issued a letter to certify that the 218 families have been living in group 55, Kbal Spean V, Poipet Commune, O'Chrov district, Banteay Meanchey.
- 27 February 2001** The Appeal Court issues a decision confirming Tin Oun's land title
- 24-26 April 2002** The Banteay Meanchey Provincial Court enforces the verdict of the Appeal Court and forcefully evicted all residents from the land. The people moved to a site close to the old village.
- 24 May 2002** The O'Chrov Cadastral Office issues a letter stating Tin Oun's application to for a title of possession dated 18 June 1998 was not correct and could not be registered in the office
- Late 2002 – early 2003** The villagers claim that Tin Oun told them that in exchange for voting for him and his political party, he would give them back the land. The people agreed moved back onto the land without incident
- September 2003** Tin Oun files a complaint against six representatives of the village residents for trespass. Two representatives were apprehended and detained
- November 2003** Legal Aid of Cambodia assisted the two representatives and secured their release by filing an appeal with the Appeal Court, which ordered the release
- December 2003** The Provincial Court attempts to implement the verdict again but is unsuccessful
- 14 February 2005** Tin Oun makes a request to Banteay Meanchey Court to enforce its verdict for a third time
- 21 March 2005** The eviction occurs and violence erupts, leaving 5 villagers dead

**Late March –
early April 2005**

Government Commission of Inquiry investigates the eviction events. The court investigation into the violence is transferred by Ministry of Justice from Banteay Meanchey court to Battambang court. Battambang court prosecutor charges more than 100 people (police, military police & villagers) with crimes ranging from murder to physical battery. Two police officers, one military policeman and another man (whose position is disputed) are arrested and detained.

Kbal Spean villagers return to live at the eviction site, after being ordered off nearby land which they had settled on following the eviction.

July 2005

District authorities offer the villagers alternative land 4km away. Villagers reject the offer, saying the land is too far away.

4 August 2005

Battambang court drops charges against three men, all described as policemen, who had been in pre-trial detention. Charges reportedly remain against one military policeman, but he is granted pre-trial release. Charges are also reportedly dropped against all other security forces and villagers.

11 August 2005

Provincial Governor Heng Chantha signs a letter authorising the latest proposed relocation to go ahead.

Endnotes

- ¹ The current procedure is regulated by the sub-decree on Sporadic Land Registration and consists of around 16 steps with various authorities involved.
- ² Cooper, “Land Policy and Conflict”, p 5; Williams, “Land Ownership Disputes in Cambodia”, p 7, 9.
- ³ Much of the information contained in this section has been taken from notes and emails from various agencies and organizations, including UNCOHCHR, Dr. Claude Katz, ADHOC, LICADHO, ZOA and Legal Aid of Cambodia who were involved in the initial investigations of the Kbal Spean situation. It is important to note that most of the NGOs/agencies only began working with Kbal Spean after the decisions of the Banteay Meanchey and Appeal Courts.
- ⁴ The number of families increased between 1999 and 2000 and some current residents admit they had bought property from others who had cleared the land.
- ⁵ Reported by the Battambang Provincial Office of UNOHCHR Cambodia in July 2001.
- ⁶ Information provided by a number of persons, who were hesitant to name the high-ranking person allegedly involved, and did not want to be quoted as the source of the information.
- ⁷ Cited in report of Senator Seng Oeurm entitled “Fake Verdict #168 of Banteay Meanchey Court”
- ⁸ Article 19 of the 1992 Land Law states that the only property that can be owned was for housing. Instruction # 03 of the State Council of the Council of Ministers (1989) states that land for housing can reach dimensions of 2000m² but land provided for cultivation cannot exceed 5 hectares. The Court violated Instruction No. 3 by granting Tin Oun nearly 6 hectares of land to be used for cultivation. From Report of Senator Seng Oeurm entitled “Fake Verdict #168 of Banteay Meanchey Court”
- ⁹ Report of Senator Seng Oeurm entitled “Fake Verdict #168 of Banteay Meanchey Court”. There is only one provision in the Law on the Functioning of the Courts on correction of verdicts, which technically only applies to criminal cases. It has been used in civil cases by the courts, and would require parties with interests in the case to file a complaint with the court of first instance to reject the erroneous verdict and request a new one. The document provided by Senator Seng Oeurm maintains that the correction of the land size in the verdict should have been recorded, and should have cited the law that allows the judge to correct the verdict and the reason for the correction. It should also be noted by the provincial land conflict commission, the land title office and other people whose properties border the land. A new master plan needs to be made, detailing the correct size of the land and the boundaries. The master plan must be recorded and both parties and people living on areas bordering the land must thumbprint the plan to acknowledge the correction. Also, the corrected verdict should adjust the price of the land to fit the new corrected size.
- ¹⁰ Cited in report of Senator Seng Oeurm entitled “Fake Verdict #168 of Banteay Meanchey Court”
- ¹¹ Certification obtained by Legal Aid of Cambodia, for use in the criminal case filed against two villagers for infringement of private property (the year is clear but exact date is illegible).
- ¹² Information obtained from an analysis made by Licadho staff.
- ¹³ The deputy district chief had ordered Tin Oun to come and fill out the proper form at the district land title office so he could obtain formal acknowledgement that he had been using the land since 10 April 1999, but Tin Oun did not appear.
- ¹⁴ Interview with court clerk Chan Savath in Banteay Meanchey on 19 May 2005.
- ¹⁵ The first group was composed of 15 border police, led by Mr. Him Chhong, deputy chief (Entity 891). The second group was composed of 42 military police led by Captain Sroy Pen, and 12 O’Chrov district police led by the Deputy District Police Chief, Mr. Sorm Sophin. The third group was composed of 40 provincial police led by Captain Vinh Siem and Mayor Sieng Nol. The last group was composed of 15 border police led by Commander Chhoung Ang.
- ¹⁶ The witness expressed security concerns and prefers not to be named. He has stated that he will testify in court only if his and his family’s safety can be guaranteed. His statement that the court clerk only read the verdict after the shooting occurred is supported by the ADHOC/CHRAC investigation and other witnesses.
- ¹⁷ Interviews with Gnuong Thol and Chan Savath at Banteay Meanchey Court, 19 May 2005.
- ¹⁸ The Cambodia Daily, March 22 and March 23 2005; Phnom Penh Post, March 25 – April 7 2005
- ¹⁹ 23 years old, living in Kham Chke village, Talam Commune, Mongkul Borei District.

- ²⁰ As recorded.
- ²¹ The Sam Rainsy Party also provided medicines, rice, money and other items to villagers. SRP has produced a report on the eviction, which contains photographs of the unknown forces in dark gray uniform.
- ²² Cambodia Daily, 23 March 2005.
- ²³ Quoted in the Cambodia Daily, 24 March 2005.
- ²⁴ The Commission is composed of Mr. Sok Sareth (Deputy Governor) as chief. Mr. At Khem (Police Commissioner) and Mr. Rath Sreang (Military Police Commander) are deputy chiefs. The members are: Mr. Chhoeung Sokhom (Deputy Police Commander), Mr. Keo Sen (O'Chrov District Chief), Mr. Gnek Chamreun (provincial inspector), Mr. Nuth Ly (O'Chrov district Police Chief), Mr. Sing Ing (O'Chrov District Deputy Military Police Commander), and Mr. Hay Nam Heng (Poipet Commune Chief).
- ²⁵ BMC court requested 230 forces of military police and police but received a total of 124, all of them armed with guns. There were 40 provincial police, 40 provincial military police, 12 district police and 30 border police.
- ²⁶ 23 years old, living in Kham Chke village, Talam Commune, Mongkul Borei District.
- ²⁷ Neither the prosecutor nor the investigating judge could say exactly how many military police and police were charged, and how many villagers. The list of those charged did not indicate any identifying characteristics. This figure was obtained by comparing the list of villagers and the list of those charged.
- ²⁸ Meeting with Yam Yet, 16 June 2005.
- ²⁹ Meeting with Nil Non, 14 June 2005 and Yam Yeth, 16 June 2005.
- ³⁰ The Ministry of Justice rejected the petition on the grounds that the case was already pending in court. Two NGOs sent petitions to the Prime Minister. One of those NGOs reported that the Prime Minister has agreed to meet with them on the case, but no date has been set.
- ³¹ Information provide by CHO.
- ³² 27 July 2005, "Evicted Families Refuse to Relocate to New Land", p. 15.
- ³³ As Thun Saray, Adhoc president has said, "If they [government][don't care about this, I think the tension, violence would be increased more and more," he said. "And also the political [situation] will be unstable also if they lack the social and economic situation like this." As quoted in "Evictions Fuel Social Unrest in Cambodia", by Kate Woodsome, 7 April 2005.
- ³⁴ See, for example, Williams Shaun, "Where Has All the Land Gone? Land Rights and Access in Cambodia", Oxfam GB, May 1999, Conference Report on National Workshop on Institutional Cooperation about Resolving Land Disputes in Cambodia, July 1999 organized by Oxfam GB-ADHOC; Williams Shaun, "Land Ownership Disputes in Cambodia – A Study of the Capacity of Five Provinces to Resolve Conflicts over Land", Oxfam GB, February 2000; Palmer David/Törhönen Mika-Petteri, "Land Administration in Post Conflict Cambodia", FAO, Symposium on Land Administration in Post Conflict Areas, Geneva, April 2004, Cooper George W., "Land Policy and Conflict", March 2002 (revised June 2004); and Leuprecht, Peter, "Land concessions for economic purposes", A human rights perspective", UN-Special Representative for Human Rights, November 2004.