

A CAMBODIAN GUIDE TO DEFENDING LAND AND HOUSING RIGHTS

Volume I

*Rights, Laws and Strategies for Cambodian Communities
Facing Forced Displacement*



Part III Defending Your Rights

Facilitators' Manual



INTERNATIONAL
ACCOUNTABILITYPROJECT

CENTRE ON
HOUSING RIGHTS
AND EVICTIONS



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A Cambodian Guide to Defending Land and Housing Rights
Part III: *Defending Your Rights* – Facilitators' Manual

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FOREWORD

Forced evictions and displacement of people and communities are on the rise around the world. Many contemporary cases of forced evictions constitute a gross violation of human rights and indicate a systematic disregard of recognized human rights standards on the part of States. Forced evictions and displacement occur in countries worldwide, including both democratic and authoritarian states. Many are so-called development-based evictions, which include evictions often planned or conducted with the justification or under the pretext of serving the “public good.” These evictions may be linked to slum-clearance, large-scale infrastructure or other development projects, and land-acquisition measures associated with urban renewal, city beautification, large-scale acquisition of forest and agricultural land for food and bio-fuels production or other land-use programmes. Evictions are also on the rise due to the reluctance of States to control speculation in housing and property.



Above all, the impact on those affected can often be characterized as a human tragedy. In the wake of forced evictions, people are often left homeless and destitute, without means to earn a livelihood and, in practice, with no effective access to legal or other remedies. As a general rule, forced evictions affect the poorest, the socially and economically most vulnerable and marginalized sectors of society. Wherever forced evictions take place, discrimination seems to play a critical role. Minorities, including indigenous people, are often more likely to be evicted. Forced evictions intensify inequality and social conflict, contributing to segregation and the creation of “apartheid cities and villages.”

Most of these “development-based” evictions have one or several common features that contravene recognized human rights standards. Lack of prior notice, inadequate or no consultation, absence of information-sharing, no possibility of participation in the decision-making process for those affected, lack of housing alternatives and the use of excessive force to carry out evictions are disturbing trends.

Women suffer particularly as a result of forced evictions and as a consequence not just from loss of home, but also livelihoods, relationships and support systems they were used to, breakdown of kinship ties, physical and psychological trauma and even increased morbidity and mortality. Of serious consequence is also the fact that evictions increase the vulnerability of women to further acts of violence.

Faced with such a disturbing scenario it is clear that interventions at all levels are necessary to create a world where displacement is minimized. These interventions need to adopt an uncompromising human rights approach that insists on the implementation of internationally recognized human rights such as the right to adequate housing, food, health and water. Alongside the protection of these human rights we also need to insist

on the protection of people's rights to security of the home and person, to participation, freedom of expression and freedom from inhuman and degrading treatment.

This guide forms one such invaluable tool to counter forced evictions. This resource is a first of its kind in that the curriculum has been designed especially for and with grassroots community organizers and activists – for them to share with communities at risk of eviction.

This resource is an important step in taking the human rights that we struggle for at the international level and bringing these rights and information to the communities who need it most. The Guide is a valuable tool of human rights education and learning. When communities confronted with evictions understand their human rights, they can devise ways themselves to challenge the violation of their rights. The Guide creates – in a step by step manner – the space that is necessary for the empowering process that can lead to communities claiming their rights.

In the global struggle underway against forced evictions, I welcome this Guide and hope that it will be used widely across Cambodia. I also welcome the Guide as a reaffirmation of the powerful role that human rights like the right to adequate housing can play in restoring dignity to those whose lives and homes are threatened by the insecurity generated by impending evictions. If the struggle against evictions is realized through the strategies created by people themselves, as the Guide so eloquently strives for, then that is the best affirmation of the potential of the dignity of the individual and the collective identity of a community. The progress made by the adoption of this Guide at local levels will be watched closely across the world. I hope that such efforts can be taken up by the thousands of communities facing the threat of evictions across the world.

Miloon Kothari

Special Rapportuer to the United Nations on the Right to Adequate Housing, 2000-2008

New Delhi, 31 September 2009

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INTRODUCTION

Around the world, millions of people have been displaced from their homes, farms and forests to make way for development projects such as dams, plantations, mines and new buildings. Sometimes the projects are for the benefit of the country, but often the main benefits go to the powerful individuals and companies that take the land. Frequently, the people living on and using the land are not given an opportunity to participate in the decisions about whether the development takes place and how they will be affected.

Instead, intimidation and violence are often used to force people from their homes and land. People may be left homeless or landless and without access to livelihoods, education and healthcare. When forced displacement occurs, the rights of affected people are not respected.

People around the world are joining together to resist the injustices of forced displacement. We are a part of this growing movement of people and organizations that are working to defend the rights of those facing forced displacement. We are working to make governments and companies listen to the voices of the people. We believe that everyone should benefit from and make decisions about development, and that development should not make people worse off or destroy their way of life.

The *Cambodian Guide to Defending Land and Housing Rights* is designed to be a useful resource for people who are facing displacement as a result of development. It can help people learn about the risks and dangers of displacement, as well as their rights, and the strategies that they can use to protect those rights. It contains information on many different topics related to forced displacement. It also includes activities that help people understand the information, take part in discussions, and learn important skills, even if they cannot read or write. This way, everyone can participate in planning what actions they will take to defend their rights and those of their neighbors.

We hope that the information, strategies and stories in this Guide will help you and your community in your struggle. We have written this Guide with a spirit of solidarity and hope. We believe that communities and peoples' movements are a powerful force for making change in our world. We sincerely hope this Guide will help strengthen a truly global movement to stop the injustice of forced displacement, and to defend your communities, lands and ways of life.

DEFENDING YOUR RIGHTS THROUGH REGISTRATION AND DOCUMENTATION

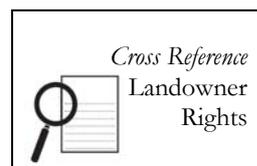
OUTCOMES

After completion of this module, Participants will:

1. Know that they can apply to have ownership of their land registered.
2. Understand that documentation is important to support their claims if they are involved in a land dispute or threatened with eviction.
3. Know what type of documentation to collect.
4. Know how to make or find documentation to support their claim to their land and protect their rights.

1. LAND REGISTRATION AND TITLING

Under the Land Law 2001, the Government has the responsibility to make an official list of all land plots and owners in Cambodia. This list is called the **Land Register**.¹ Once a land plot and the owner of the land are added to the Land Register, the owner is given a **title** and is officially recognized as the legal owner of the land.²



¹ Land Law 2001, Article 238.

² Land Law 2001, Article 241 & 244.

1.1. HOW TO REGISTER YOUR LAND

The Land Law created two different systems to **register** land in Cambodia, the **systematic** and **sporadic** systems. In the systematic system, *the government* chooses areas in which all the plots of land are to be measured, registered and titled, until eventually the whole country is registered. In the sporadic system, *individual citizens* start the process themselves by applying for title for their land. The authority responsible for registering land is called the **Cadastral Administration**.³

POSSESSORS

All legal possessors have a right to request that their possession is turned into ownership. If your possession began before the Land Law 2001 was passed (or you bought the land from someone who possessed the land before then), and your possession meets the five conditions set out in the Land Law, you are a legal possessor. The five conditions are that your possession is continuous, peaceful, honest, unambiguous and known to the community. In this case, you should be given a title over your land when systematic registration comes to your area or when you apply for sporadic title.⁴

1.1.1. SYSTEMATIC REGISTRATION

In the systematic registration process, the government decides which areas they will title and then sends out registration teams. There are several stages in the process of registration:

- Notice is given that the registration process is going to take place;
- A public meeting is held to explain the process in more detail;
- The registration team travels to the area, interviews the people who live there, looks at documents and measures the land;
- After this, the results of this survey are posted for everyone in the area to see;
- If anyone disagrees with the results they can complain;
- Any disputes over the land are resolved;
- The land is registered and the owner is given a land title.

1.1.2. SPORADIC REGISTRATION

If you do not live in an area where systematic registration is going to happen, you may be able to register your land through the sporadic registration system. To do this, you must fill in an application form and file it with the Cadastral Administration. The process after that is similar to systematic registration. You will be told when the titling teams are coming to your land and they will investigate your application.

³ Land Law 2001, Article 229.

⁴ Land Law 2001, Article 30 & 45.

BE READY FOR THE TITLING TEAMS

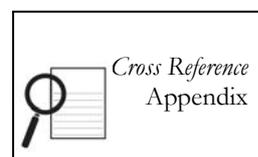
If you want to get title to your land, it is important to be ready when the registration teams come to measure and get information about your land. Have your documentation and any evidence to prove your possession rights ready to show them, and be prepared to show them around your land.

Be aware that informal fees for applying for title through the sporadic system are often very high and this makes it very expensive for families to get title to their land through this system. Sometimes, the Cadastral Administration does not come to investigate the application and register the land, even when the applicants have a right to get title under the Land Law.

Although there can be problems with the sporadic system, this does not mean that you should not try to apply for title. Even if the Cadastral Administration do not give you title, as long as you have documented possession rights you will get the following benefits by applying:

1. By applying for title, as a possessor you are claiming that you should have title and the rights of full ownership. This can help your advocacy.
2. If someone else wants to challenge your application for title, then he or she must prove that he or she has a stronger claim to the land than you.

If the Cadastral Administration refuses to issue a title, possessors may file a complaint to the Ministry of Land Management, Urban Planning and Construction. You may want to contact a lawyer or legal NGO for advice on how to write this complaint.



EXAMPLE OF A LAND TITLE:



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

វិញ្ញាបនប័ត្រសំគាល់ម្ចាស់អចលនវត្ថុ

លេខ : ██████████

ខេត្ត ████████	លេខកូដ ████████
ស្រុក ████████	លេខក្រាលដី ████████
ឃុំ ██████████	ទំហំ ████████
ភូមិ ████████	

ឈ្មោះកម្មសិទ្ធិករ ██████████ (ពោះម៉ាយពីខ្មោច ខាង ██████████)
 និងទាយាទខ្មោច ខាង ██████████

អាស័យដ្ឋាន ██████████

ប្រភពនៃការផ្តល់ដី រដ្ឋចែកអោយ

បទដ្ឋាន គ្មាន



មាត្រដ្ឋាន 1/2500



ធ្វើនៅភ្នំពេញ, ថ្ងៃទី ១៧ ខែ មេសា ឆ្នាំ ២០០៦
 ឧបនាយករដ្ឋមន្ត្រី ប្រធានក្រុមប្រឹក្សាភិបាល និងសំណង់
 រដ្ឋមន្ត្រី ក្រសួងព្រៃឈើ និង កសិកម្ម



ប្រែក្លាយ បើបញ្ជាក់លម្អិតបន្ថែមស្រុកសំគាល់ម្ចាស់អចលនវត្ថុនេះ ដោយបានដំណែកជាដើម ទទួលបាន ឬបញ្ជាក់បញ្ជីទូរគោលកម្មកម្ពុជាសំគាល់ម្ចាស់ដី។
 ធ្វើដើម្បីតំណាងឲ្យសិទ្ធិករក្នុងការប្រើប្រាស់ដីសំគាល់ម្ចាស់អចលនវត្ថុ និងប្រើប្រាស់ដីសំគាល់ម្ចាស់អចលនវត្ថុនេះ ដោយបានដំណែកជាដើម ទទួលបាន ឬបញ្ជាក់បញ្ជីទូរគោលកម្មកម្ពុជាសំគាល់ម្ចាស់ដី។
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LESSON 1: THE TITLING PROCESS

AIM: Participants will know what land titles are and what the main steps of the land registration process are. They will know that all legal possessors have the right to apply for title and that land title is the strongest legal protection you can get for your land in Cambodia.



MATERIALS: Whiteboard or flipchart, markers, blank pieces of paper, pens, tape, copies of example land title from Handout 1.

METHOD(S) USED: Group discussion, game.

Procedure	Time Frame (in minutes)
1. Introduction discussion	10
2. Introduce the information in Section 1	20
3. Explain the exercise and divide into small groups	5
4. Play game	20
5. Debrief	15
Total:	70

INSTRUCTIONS TO FACILITATOR

1. INTRODUCTORY DISCUSSION:

- To begin this exercise, ask the Participants:
 - Does anyone know what a land title is?
 - Does anyone know how to get a land title?
 - Does anybody have a land title?
 - Where did you get your title from?
- As you are discussing these questions, pass around copies of the example land title from Handout 1.
- If Participants cannot answer the questions above, explain to them that they will learn the answers to these questions in the following exercise.

2. INTRODUCE THE INFORMATION IN SECTION 1:

Section 1 - It is important that Participants understand:

- What land registration and titling are.
- That there are two different systems for registering land: the systematic and sporadic systems.
- That all possessors have the right to apply for title.
- That for some communities, it can be difficult to get title but it can still be useful to gather all your documentation and apply.

3. EXPLAIN THE EXERCISE AND DIVIDE INTO SMALL GROUPS:

- Explain to the Participants that they are going to play a game which will help them to remember the steps of the registration process.
- Before the lesson, prepare seven pieces of paper with one of the seven steps of the registration process written clearly on each piece of paper. The seven steps are:
 - Notice
 - Public meeting
 - The registration teams investigate the land
 - Results are posted for everyone to see
 - If anyone disagrees they can complain
 - Disputes are resolved
 - The land is registered and owner is given a land title

- Stick the pieces of paper on the wall along the side of the room *in the correct order*. The first step (notice) should be at the back end of the room and the last step (land registered and owner given title) should be at the front end of the room.
- Divide Participants into three teams and ask each team to stand at the back of the room in three lines. You will ask a question, and if a team knows the answer they should raise their hand. The first team to answer correctly may move to the first stage (notice).
- The game should continue like this. Every time a team answers correctly they should move forward one stage.
- The winning team is the first to get to the last stage (land registered and owner given title). You may give the winning team a copy of the example title from earlier.

4. PLAY GAME:

- At the start of the game, explain that for the purpose of this game *everyone in the room is a legal possessor, therefore they have the right to apply for a title*. In this game they will answer questions and move step by step towards the land title.
- You should try to ask questions on points that have been taught in previous lessons. For example, if you have already taught this group about possession, ask questions on the conditions of legal possession.
- If you run out of questions or if this is the first time you have taught this group, you may ask questions on any subject you like.

5. DEBRIEF:

- Explain that this exercise was just a fun way to show the different stages of the registration process.
- To review what people learned in the lesson, ask the following questions to the whole group:
 - What is a land title?

Suggested Answer: An official document that formally recognizes that you are the owner of your land.

- Why are land titles important?

Suggested Answer: A land title is the strongest protection you can get for your land. It may help you to challenge the threat of eviction, or get better compensation if you are evicted.

- What are the two ways of registering your land?

Suggested Answer: Systematic and sporadic.

- What is the difference between the two systems?

Suggested Answer: Under the systematic system *the government* chooses areas to be registered and titled. Under the sporadic system, *individual citizens* start the process by applying for title over their land.

- Who has the right to apply for title?

Suggested Answer: All legal possessors have the right to apply for title.

- Finish the lesson by explaining that although legal possessors are sometimes denied access to the titling system, it is still very important to collect documentation that proves you are a legal possessor. Using this evidence to apply for title can strengthen your case even if you are not given title. Collecting documentation is the subject of the next lesson.

2. DOCUMENTATION

2.1. KEEPING DOCUMENTATION

Legal possessors have the right to apply for title but are sometimes denied access to the titling system. Because of this, it is very important to collect documentation that proves you are a legal possessor. If you do become involved in a land dispute in the future, or if your community is targeted for eviction, having good documentation will help you to argue that you are a legal possessor. In many eviction cases, companies or authorities say that the community living on the land is illegal, but if you document your rights you can show that this is not true and that you therefore have rights to the land.

Documents can be used to show the Cadastral Administration that you live on the land, how long you have lived there, and what the borders of your land are. Also, documents may be used as evidence to help solve any future disputes over who owns the land. They can be used to help you avoid a forced eviction. *These documents are not legal proof that you own the land you live on,* but they may support you in any future dispute or if you want to register your land.

COLLECT DOCUMENTS RELATED TO YOUR LAND AND KEEP THEM SAFE

1. Photographs of the land and any buildings or improvements you have made to it.
2. Letters sent to you at the address of the house.
3. Birth certificates, a living book or a family book for you and your family showing how long you have been living on the land.
4. The village chief's statistics book.
5. Records showing any taxes paid on the land.
6. Copies of any electric, water, telephone, or other utility bills you paid for your house.
7. Documents from the buying or transfer of the land, for example, the contract of sale.
8. Voter registration forms.

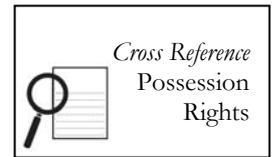
Keep these documents in a safe place in case there is ever any conflict concerning the land that you live on. *Never let anyone take the original documents away from you unless it is absolutely necessary.* If an official needs to see them, you should make copies of the document and give the copies to the officials. If the official procedure requires the original documents, then be sure to keep copies and write the name of the person you gave the original documents to and the date you gave the documents to him or her.



2.2. MAKING YOUR OWN DOCUMENTATION

Your claim to your land is stronger when you have documentation that shows:

1. That you have been on the land since before August 2001 (when the Land Law was passed), or
2. That you bought the land from someone who was there since before that time.



It is a very good idea to try to make your own documentation in addition to the documents listed above. For example:

Pictures

If you do not have old pictures of the land, take new pictures. One community living in Kampot did this. They asked a local NGO to help take pictures of each member of the community standing in front of their house. The owners held signs that said how big their plot of land was and how long they had lived there.



Sworn statements

Another way of making your own documentation is to make sworn statements. This is a written statement made by a person, who then signs or thumb-prints the document to show that they promise that all the information in the document is true. *You must make sure that anything you say in a statement like this is true.* If you make an untrue statement and later try to use it as evidence, you are breaking the law.

For example, if you want to make a sworn statement that shows that you have lived on a piece of land for ten years, you could write down:

“I, Sek Sokhim, have lived at house #23-B Street 274 since 1998”.

You should then thumb-print the document right below the statement. This is your sworn statement. If possible you could also ask local officials to sign a similar statement.

You could also get your neighbors to make sworn statements that support yours. For example, you could ask your neighbor to write:

“I, Ith Vuthy am Sek Sokhim’s neighbor and have lived next to Sek Sokhim for ten years since he moved into house # 23-B Street 274 in 1998.”

He should then thumb-print the document.

2.3. GATHERING MORE DOCUMENTATION

You can also obtain more documentation from different government offices that show how long you have lived on your land.

For example, if you have registered a small business, the Ministry of Commerce may have a document that says where you, the business owner, live. Another example is that the Ministry of Education may have documentation that your children go to the local school. This documentation may identify you as the parents and may also show your address.

The best way to try to obtain documentation from government ministries is to follow these steps:

1. Send a polite letter to the relevant authority asking for the documentation. *Be sure to keep a copy of this letter.*
2. If there is no reply, send a second letter explaining the reasons for requesting the documentation. *Be sure to keep a copy of this letter.*

3. If there is no reply after that, you may try to have a meeting with the head of the department and ask for their assistance in helping you get documentation. *Be sure to record the date of the meeting and what was said.*

If the authorities are not willing to provide you with documentation or meet with you, you may want to seek legal advice from an NGO.

LESSON 2: COLLECTING DOCUMENTS ABOUT YOUR LAND

AIM: Participants will know what documents they should keep to support their rights to their land and understand the importance of keeping these documents.



MATERIALS: Whiteboard or flipchart, markers, blank pieces of paper, pens, tape.

METHOD(S) USED: Group discussion, drawings.

Procedure	Time Frame (in minutes)
1. Introduce the information in Section 2	30
2. Explain the exercise and divide into small groups	5
3. Small group discussions	15
4. Class discussion	20
5. Debrief	10
Total:	80

INSTRUCTIONS TO FACILITATOR:

1. INTRODUCE THE INFORMATION IN SECTION 2:

Section 2 - It is important that Participants understand:

- That it is very important to keep documentation about your land.
- That documentation can be used if you apply for title.
- That documentation can be used to prove that you are a legal possessor if you are involved in a dispute or threatened with eviction.
- That as well as keeping your documentation, it is important to make and collect more documents. The more documentation you have, the stronger your claim to the land.

- When explaining the different types of documents people can collect, you should write down on the board the list of these documents. Make sure to erase the list before the Participants start the exercise.

2. EXPLAIN THE EXERCISE AND DIVIDE PARTICIPANTS INTO SMALL GROUPS:

- Divide the Participants into four groups. Tell the Participants to imagine that they have been living on their land since 1995. They should discuss what documents they should collect to prove their rights to their land.
- Give each group blank papers and explain that Participants should use them to make representations of the documents they think they need. The Participants should make as many documents as they can think of.
- You should make one document to show as an example. Take a piece of paper and draw a picture of the house. Explain to the Participants that this is a photograph of the house. Participants should think of more documents that they can collect.
- Tell Participants they have 15 minutes to discuss and make these documents. Each group will then have 5 minutes to share their ideas with the rest of the class

3. SMALL GROUP DISCUSSIONS:

- Follow group discussions closely to make sure Participants understand their task. If the Participants are having difficulties, you can help them by encouraging them to think about:
 - Documents they have received while they were living on the land

- Documents they can make themselves to show they live on the land
- Official documents they can ask for from officials

4. CLASS DISCUSSION:

- After the group discussions, ask each group to stick the documents they have made on different walls. If there is not enough space, the Participants can simply put the documents on the floor around the centre of the room.
- Participants should stand in the middle of the room and you should ask a volunteer from one group to give an example of a document and point at it and explain what it is. Ask Participants from other groups to give more examples. Participants should try to give new ideas each time and not repeat something that has already been said.

Suggested Answers:

People should collect documents they have made or received while they were living on the land, for example:

- Dated photographs of the land and any buildings or improvements made
- Letters sent to the address of the house
- Birth certificates, living book or family book
- Village chief's statistics book
- Records showing any taxes paid on the land
- Copies of any electricity, water, telephone, or other utility bills paid for the house
- Documents from the buying or transfer of the land, for example the contract of sale
- Voter registration forms

In addition, people can also make their own documents to show they have been living on the land, for example:

- Pictures of people in front of their house
- Sworn statements

Finally, people can also ask for more official documents from government offices, for example:

- From the Ministry of Commerce if you have registered a small business
- From the Ministry of Education if you have registered your children at the local school

5. DEBRIEF:

- Ask Participants why they think it is important to collect and keep as many of these documents as possible. Make sure they understand the following points:
 - Documents can be used when applying to register land and receive title, and
 - Documents can be used as support when a land dispute arises in order to show how long people have lived on their land.
- Ask Participants what documents they already have and what documents they are planning to make or request.
- Remind the Participants again that people should always keep these documents safe and never let anyone take the original documents from them unless it is absolutely necessary.

DIFFICULT TERMS:

1. **Cadastral Administration:** The government agency responsible for registering land in Cambodia, issuing titles, keeping accurate records of land ownership and making them available to the public.
2. **Land Register:** The official list and description of land plots and owners in Cambodia.
3. **Register:** To add something to an official list. In Cambodia you can register many things, for example, births and deaths, your car or your business. When land is registered the owner is given a title and this can only be questioned in court.
4. **Sporadic registration:** A way to register land which is started by an individual making an application to the Cadastral Administration.
5. **Systematic registration:** A way to register land which is started by the government. The provincial or municipal governor will choose an area and titling teams will travel to the area to investigate and register the land located there.
6. **Title:** An official record that states that a person legally owns a piece of land.

DEFENDING YOUR RIGHTS THROUGH LEGAL REMEDIES

OUTCOMES

After completion of this module, Participants will:

1. Know what legal remedies they can use to try to protect their land rights.
2. Know how to use these legal remedies to challenge forced displacement.
3. Know how to hire and work with a lawyer to assist with their advocacy.

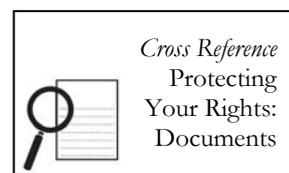
1. WHAT ARE LEGAL REMEDIES?

If you believe your land and housing rights have been, or will be violated, you have the right under both Cambodian law and international law to seek a **legal remedy**. A legal remedy is a legal solution that prevents a violation of the law from happening or compensates for harm that is done when a law is violated. A legal remedy in the case of an eviction might be a court order to stop the eviction from happening. It could also be an order to return land to evicted people or to pay compensation if an illegal eviction has already happened.

There are several ways that communities can access legal remedies to try to protect their land rights. These include submitting complaints to the Cadastral Commission or to the courts.

2. COMPLAINT TO THE CADASTRAL COMMISSION

Under the Land Law, the **Cadastral Commission** has the responsibility to solve disputes over unregistered land.⁵ Land is unregistered if the Cadastral Administration has *not yet* visited the land, measured and recorded it and given a title to the owner.



You can make an official complaint about a land dispute at the local Cadastral Commission. The Cadastral Commission should investigate the dispute, and try to resolve it. At the local level and the provincial level, this is done by bringing the parties to the dispute together to discuss the issue and to agree on a resolution. If this process is not successful, the national level Cadastral Commission will make a decision even if the parties do not agree. A land title should then be issued to the true owner of the land.

⁵ Sub-Decree on Organization and Functioning of the Cadastral Commission 2002, Article 3.

ការិយាល័យបណ្តឹង



The Cadastral Commission has a very big list of cases waiting to be heard, and sometimes it is not effective or efficient in solving disputes, especially if they involve a powerful person. You may decide to file a complaint to the Cadastral Commission, *but at the same time you should also consider other options to resolve the land dispute.* For example, you may write petitions and letters, and arrange meetings with officials, in addition to complaining to the Cadastral Commission. If you take actions like writing letters or contacting the media after filing your complaint, you can include information about the complaint. This can make your letter, petition or message to the media even stronger.

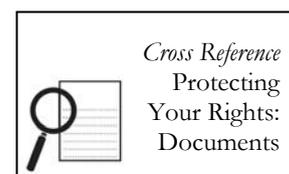
KEEP YOUR ORIGINAL DOCUMENTS

If you complain to the Cadastral Commission, be sure to give copies (not originals) of all documents and evidence relevant to your complaint. The officer who takes your form should make copies of all documents and return the originals.

Make a record of when and where you filed your complaint, and who you submitted the complaint to.

3. COMPLAINT TO THE COURT

If you are involved in a dispute over land that is already registered, and you submit a complaint, the court has the responsibility to resolve the dispute.⁶ Registered land is any land that already has a title, with either your name on it or the name of the other person involved in the dispute. Courts may sometimes hear disputes over unregistered land, for example if the dispute is over a contract of sale, or a family dispute about who should inherit the land.



The Constitution also guarantees the right to complain to the courts about a violation of law committed by the government or by government officials.

The Constitution of the Kingdom of Cambodia

Article 39: Cambodian citizens shall have the right to...make complaints or file claims against any breach of the law by state and social organs or by members of such organs committed during the course of their duties. The settlement of complaints and claims shall be the competence of the courts.



This means that if you lose your land or your home because the government did something illegal, such as granting an illegal concession to a private company, then you have the right to complain to the courts about the concession by filing a civil lawsuit. You can file this complaint against the government official who is responsible (for example, the provincial governor) or you can complain against the government organ that issued the concession (for example the Ministry of Agriculture, Forestry and Fisheries).

3.1. CIVIL COMPLAINTS AND CRIMINAL COMPLAINTS

If you complain to the court and the judge decides that a law has been broken or your rights have been violated, the court should provide a legal remedy. There are two types of complaints that you could file to the court: a **civil complaint** or a **criminal complaint**.

⁶ Prakas on Determination of Competence of the Court and Cadastral Commission Regarding Land Disputes 2003, Articles 1 & 4.

A civil complaint means that you are complaining that someone violated a law, such as the Land Law, and has personally caused harm to *you or your community*. You can file a civil complaint *before* the harm is done, in order to ask the court to stop it from happening. You can also file a civil complaint *after* the harm is done, if you want to try to get compensation.

An example of a legal remedy in a civil case is a court order that one party must pay compensation to the other party in order to make up for any damage that was done. For example, if a company damages someone's house or crops because they were not careful when they were building an apartment block next door, the court could order that the company pay the cost of repairing the house or replanting the crops.

Another example of a civil legal remedy is when the court grants an **injunction**. An injunction orders one of the parties in the dispute to stop doing something that will cause harm. For example, if a company or the local authorities say that they are going to evict a community, an injunction could be granted that orders them not to carry out the eviction.

A criminal complaint means that you are complaining that somebody has violated a criminal law, such as the Penal Code, and has caused harm to society as a whole. For example, if someone uses unnecessary force or steals property during an eviction, they have committed a crime. You may choose to file a criminal complaint if you want the perpetrator to be punished according to the law.

In a criminal case, the court could order someone who broke the law, for example by unnecessarily destroying property during an eviction, to pay a fine to the State or go to prison.

It is possible to file both a civil and criminal complaint for the same case so that the court can order civil and criminal remedies.

PROBLEMS WITH USING THE COURT TO SOLVE DISPUTES

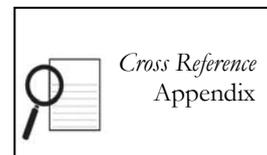
It is important to note that many people file cases with the Cambodian courts, and there are not enough judges to deal quickly with all of these cases. This means that it can take a very long time before the court will hear your case and make a decision. Sometimes, judges are also influenced by other factors and do not always make decisions according to the law or what you might think is fair.

Because of this, it is a very good idea to do other things like writing petitions and letters, and arranging meetings with officials, in addition to going to court. If you take actions like writing letters or contacting the media after filing your court case, you can include information about the court case. This can make your letter, petition or message to the media even stronger.

4. CONTACT A LAWYER OR LEGAL NGO

You may want to contact a lawyer to represent you or your whole community. He or she can help you understand your legal rights. The lawyer will also be able to give you advice on taking the case to court, meeting with authorities, any negotiations taking place, and what other options you have.

Unfortunately, a lawyer's fees are expensive, and it may be difficult to find a lawyer who is willing to represent you in a land dispute. In that case, it may help to contact a legal NGO. An NGO may be able to provide advice or help you to find a lawyer at no cost. (See Appendix for a list of contact details).



4.1. ROLE AND RESPONSIBILITIES OF LAWYERS

If you decide that you want to hire a lawyer to help you with your case, it is a good idea to arrange a meeting with the lawyer before you hire him or her. You can ask the lawyer questions at the meeting and decide if he or she is the right person to represent your community. You can invite the lawyer to come to meet the whole community so everyone has an opportunity to ask questions and raise their concerns.

FIVE QUESTIONS TO ASK YOUR LAWYER BEFORE HIRING

Some of the questions you might want to ask the lawyer are:

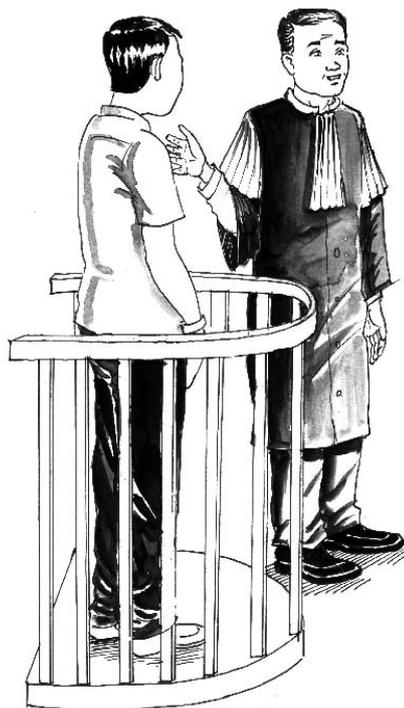
1. Have you handled land dispute cases before?
2. Have you represented a community before?
3. Will you meet with us regularly to give us advice about our options and get instructions from us on what to do?
4. Will you explain the law and our rights to us?
5. Will you be willing to talk to the media about our case?

If you do not feel that the lawyer you have chosen will work with your best interests in mind or will not consult you properly, you are free to hire a different lawyer.

It is important to remember that your lawyer is working for *you*. He or she must act in your best interests and is responsible for advising you and following your instructions.

4.2. WORKING WITH YOUR LAWYER

Once you have hired a lawyer, you should meet with him or her regularly and update him or her with any new information. Being open and honest with your lawyer about the facts of your case will help him or her to represent you well and make the best arguments on your behalf. Your lawyer must keep information about your case **confidential**, which means they should not share it with anyone else without your permission. It is also important to show your lawyer as many documents supporting your case as possible.



You should make sure that your lawyer keeps you informed about what is happening with your case and answers any questions you have. If your lawyer does not know the answer, he or she should find the answer for you. You can also ask your lawyer for regular written reports about your case and what specific things they have done for you.

WORLD BANK AND ASIAN DEVELOPMENT BANK PROJECTS

Many development projects in Cambodia are financed by the **World Bank** and the **Asian Development Bank**. These institutions have their own policies about how they must protect people's rights in cases of eviction. If one of these institutions is contributing money to a project that will displace people, the project must happen in a way that follows the rules of the institution's policy, *in addition to the rules in international and Cambodian law*.

It is important to know that these institutions have special offices at their headquarters that accept and investigate complaints from affected communities. If you think that your rights are being violated because of a project that is financed by one of these institutions, a legal NGO may be able to assist you in deciding whether or not you should file a complaint with their offices.

LESSON 1: LEGAL REMEDIES

AIM: Participants will know what legal remedies are available if they are threatened by forced displacement, and they will know how to access those remedies.



MATERIALS: Whiteboard/flipchart and markers, copies of Handout 1.

METHOD(S) USED: Role-play, group discussion, presentations.

Procedure	Time Frame (in minutes)
1. Groups prepare and perform role-plays	20
2. Introduce the information in Sections 1 to 4	45
3. Explain exercise and divide Participants back into same groups	5
4. Groups discuss possible legal remedies	20
5. Debrief	30
Total:	120

INSTRUCTIONS TO FACILITATOR

1. GROUPS PREPARE AND PERFORM ROLE PLAYS:

- Before teaching from the text, explain to the Participants that first they will prepare and act out role-plays of three different land disputes (see Handout 1).
- Explain that this is a quick exercise to begin the lesson. The groups will have 5 minutes to prepare a short role-play. After this, each group will perform for the others.
- Explain that during the lesson, Participants will look at different legal remedies to land disputes. Participants will discuss what options might be available to the communities in these role-plays.
- Each group should perform their role-play, and then read out the case study. Do not discuss the role-plays in detail now, they will be discussed throughout the rest of the lesson.

ROLE-PLAY CASE STUDIES

1. Your community has lived peacefully in the centre of the city since the early 1980s. There are around 70 families in the community and nobody has title.

One month ago the community was issued an eviction notice by the government. It said that the land will be developed by a private company which owns the land. Your community asked the company and the Municipality to show a copy of the title, but they did not. You do not think the private company has a legal title to the land.

2. Your community lives in the countryside of Kompong Thom province. Most of the people settled there in around 1990. Recently a notice was posted that said the community would be evicted as a wealthy businesswoman living nearby has title to the land. Now there are rumors that the community will be evicted as the woman with title wants to turn the land into a rubber plantation.

Your community went to the office of the Cadastral Administration to find out if this was true. The officials there confirmed that the businesswoman does have a title to the land.

3. Your community lived on the outskirts of Siem Reap town since 1980, but last year everyone was evicted. The authorities evicted your community because a private company claimed it had title to the land. During the eviction a lot of property was destroyed, and people were physically hurt by authorities and employees of the company.

2. INTRODUCE THE INFORMATION IN SECTIONS 1 TO 4:

- Before you begin to teach from the text, remind Participants to keep thinking about the role-plays. Tell them to be thinking about whether any of the remedies discussed here are suitable for the communities involved in those cases.

Sections 1 to 4 - It is important that Participants understand:

- What the meaning of a legal remedy is.
- That disputes over unregistered land should be filed with the Cadastral Commission.
- That disputes over registered land should be filed with the courts.
- That it may be necessary to contact a legal NGO or lawyer for help filing a complaint.

- Because there is a lot of new information in this lesson, make sure that you break up the sections with small discussions. For example:
 - Before teaching about the Cadastral Commission, ask the Participants if they have ever heard of it. Ask if anyone can explain what it is to the rest of the group.
 - Before teaching about the courts, ask Participants if they or anyone they know has ever decided to go to court to try to solve a problem. If so, what was the reason they decided to do so and what was the result? If not, why have they never raised any of their problems with the court?
 - Ask Participants if they or anyone they know have ever used a lawyer. Ask if the lawyer did a good job in helping to resolve the problem. Also, ask if the lawyer was expensive.

3. EXPLAIN EXERCISE AND DIVIDE PARTICIPANTS INTO SAME GROUPS:

- Divide the Participants into their role-play groups.
- Ask the groups to look again at their case studies, and consider what they have just learned. What legal remedies could be available to those communities?

4. GROUPS DISCUSS POSSIBLE LEGAL REMEDIES:

- Move around the different groups and make sure that they understand the exercise.

- Encourage the groups to think about the following questions:
 - Is the disputed land registered or unregistered?
 - Should the community complain to the Cadastral Commission?
 - Should the community complain to the courts?
 - What kind of remedy would you want if you were in this situation?

Suggested answers:

Community 1:

- This community has lived on the same land since the early 1980s, and the families may have strong claims for possession rights.
- The land is not titled, so a complaint should be sent to the Cadastral Commission.
- The Cadastral Commission should investigate the case, and after it is resolved, titles should be issued.
- If the 70 families have legal possession rights the titles should be issued to the families.
- If they are unsure about how to file this complaint, the community could contact a legal NGO for some guidance.

Community 2:

- This case involves land that has been registered and the wealthy businesswoman has title to it.
- Because the community has lived on the land since 1990, it looks like the businesswoman's title may have been issued illegally and may not be valid.
- The community could file a complaint with the courts.
- The community should try to find a lawyer to help draft the complaint and to represent the families in court.
- Because the community has not yet been evicted, the court could provide a legal remedy to stop the eviction from happening by granting an injunction.
- The court could also issue instructions to the Cadastral Administration to investigate the title given to the businesswoman. If the title was given illegally then a crime has been committed and the court could also order a criminal investigation.

Community 3:

- In this case the company claims that it has title to the land.
- The community has lived there since 1980, so it is likely that the company either does not really have a title, or if it does, the title was issued illegally.

- As the company claims it has a title and a violent eviction and destruction of property has already happened, the community could complain to the courts.
- If the families decide to go to court, they should try to find a lawyer to help draft the complaint and to represent them in court.
- Because the community has already been evicted, the court should provide civil and criminal remedies for the harm that was done.
- The court could order that the land be given back and that the company pay for the homes to be rebuilt.
- The court could also call for a criminal investigation into whether the eviction was legal or not. This could result in fines or prison sentences for those responsible for the damage and violence.
- Both private individuals and authorities could be charged for the illegally issued title, the illegal eviction, damage to property and violence.

5. DEBRIEF:

- Bring the groups back together and explain that as a whole class they will provide feedback together and discuss what legal remedies are available to each community.
- Go through the three cases separately. Ask someone to read out the first case study. Ask the group who discussed the case what legal remedies they think are available to the community.
- After this, ask the other groups to contribute. Ask them if they agree if this is the most appropriate remedy for the community.
- Do the same for the other two groups. Take 10 minutes to discuss each case.
- If there is time, you may want to ask if anyone has any stories they want to share with the rest of the class. Has anyone ever tried to complain to the courts or the Commission? Did they have any problems? Were they happy with the result?

DIFFICULT TERMS:

1. **Asian Development Bank:** An international development institution that provides loans, grants and technical assistance to developing countries in Asia. The Asian Development Bank's mission is to reduce poverty in Asia. Its headquarters are in Manila, Philippines and it has an office in Cambodia.
2. **Cadastral Commission:** Government body that is responsible for resolving conflicts related to unregistered land.
3. **Civil complaint:** If you file a civil complaint, you are claiming that someone has violated a Law, such as Land Law, and has caused harm to you or your community. You can file a civil complaint if you want to ask the Court to order the person who harmed you to pay you compensation. A civil complaint can also be made before the harm is done, to ask the court to stop it from happening.
4. **Confidential:** Keeping something secret. A lawyer must keep secret any information he or she is told by clients.
5. **Criminal complaint:** If you file a criminal complaint, you are claiming that someone has breached a criminal law, such as the Penal Code, and caused harm to society as a whole. This can result in the person being fined or sent to prison.
6. **Injunction:** An order given by the court that says a person must do something (for example, return property), or must not do something (for example, must not carry out a planned eviction).
7. **Legal remedy:** A legal remedy is a legal solution that prevents a violation of the law from happening or compensates for harm that is done when a law is violated.
8. **World Bank:** An international development institution that provides loans, grants and technical assistance to developing countries around the world. The World Bank's mission is to reduce global poverty. Its headquarters are in Washington D.C., USA and it has offices in many countries, including Cambodia.

ROLE-PLAY CASE STUDIES

1. Your community has lived peacefully in the centre of the city since the early 1980s. There are around 70 families in the community and nobody has title.

One month ago the community was issued an eviction notice by the government. It said that the land will be developed by a private company which owns the land. Your community asked the company and the Municipality to show a copy of the title, but they did not. You do not think the private company has a legal title to the land.

2. Your community lives in the countryside of Kompong Thom province. Most of the people settled there in around 1990. Recently a notice was posted that said the community would be evicted as a wealthy businesswoman living nearby has title to the land. Now there are rumors that the community will be evicted as the woman with title wants to turn the land into a rubber plantation.

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3. Your community lived on the outskirts of Siem Reap town since 1980, but last year everyone was evicted.

The authorities evicted your community because a private company claimed it had title to the land. During the eviction a lot of property was destroyed, and people were physically hurt by authorities and employees of the company.

DEFENDING YOUR RIGHTS THROUGH ADVOCACY

OUTCOMES

After completion of this module, Participants will:

1. Know what advocacy is.
2. Know about some of the civil and political rights that are protected by the Cambodian Constitution.
3. Know how they can use these rights to try to challenge forced displacement using different advocacy methods.
4. Be aware that there are some risks involved in exercising these rights through advocacy.

1. WHAT IS ADVOCACY?

Advocacy means delivering a message through words or actions to try to influence the decisions that affect people's lives. For example, some human rights organizations advocate for the government to protect people's human rights by publishing reports about human rights violations. People can also use advocacy to help protect their land rights and challenge forced displacement.

There are many different types of **advocacy methods**. Advocacy can be quiet and private, for example, by meeting with officials to raise your concerns, or it can be vocal and public, for example, by talking to the press or holding a peaceful demonstration. It is usually best to first share your concerns privately with the people you want to influence, and if this is not successful, you may then want to change your advocacy methods. All situations are different though, and it is good to plan an **advocacy strategy** that is appropriate for your situation.

An advocacy strategy is a plan that sets out:

- The goal that you or your community wants to achieve;
- The people you are trying to influence;
- The types of advocacy methods you will use; and
- How you will use those methods.

An advocacy strategy also includes the roles and responsibilities of different people for carrying out the advocacy. It might also include a list of who you will contact to join or support your advocacy, such as other communities and NGOs.

1.1. YOU HAVE THE RIGHT TO ADVOCATE

International law and the Cambodian Constitution protect certain human rights that allow you to do advocacy. These rights are very important because they allow communities and individuals to have a voice in decisions that the government makes. Four very important rights are:

- The right to participate in the decisions that affect you
- The right to association
- The right to assembly
- The right to expression

These rights can be exercised to protect your land and resolve land conflicts. When you use different advocacy methods, such as meeting with officials or talking to the media, you are exercising your rights. In this section, these rights are explained in more detail, along with examples of how these rights can be used to carry out different advocacy methods.

2. THE RIGHT TO PARTICIPATE IN THE DECISIONS THAT AFFECT YOU

The Constitution of Cambodia gives all Cambodian citizens over 18 years old the right to vote. This means everyone has the right to choose their government. People's participation does not stop there. The Constitution also gives Cambodians the right to continue to participate in how the country is run.

The Constitution of the Kingdom of Cambodia

Article 35: Cambodian citizens of either sex shall have the right to participate actively in the political, economic, social and cultural life of the nation. Any suggestions from the people shall be given full consideration by the grant of the State.



This means that the government should consult with the people and ask for their opinions when making important new laws and policies. Everyone has the right to communicate their concerns to their local officials and elected representatives.

The right to be involved in public affairs is also recognized in Article 25 of the **International Covenant on Civil and Political Rights**, which the Cambodian government has agreed to respect.

Two ways to exercise your right to participate in public affairs are by sending letters of complaint and meeting with government officials or institutions.

2.1. LETTERS OF COMPLAINT TO GOVERNMENT OFFICIALS OR INSTITUTIONS

If you become involved in a dispute over your land or if you are threatened with displacement, you can send a letter to the relevant authorities and government institutions. Some examples of people who you may want to contact include:

- The office of the Prime Minister
- The Ministry of Interior
- The Senate Human Rights Commission
- The National Authority for Land Dispute Resolution
- Your local authorities

You may send letters of complaint as an individual or as a whole community. You may want to ask for help drafting the complaint from an NGO that works on legal issues, or you may want to write the letter yourselves.

2.2. MEETING WITH OFFICIALS

It may help to meet local government officials. Because some officials are very busy, sometimes requesting a personal meeting is the only way to make them aware of your land dispute. At the meeting, you should ask them to look into your case and take specific action. If you arrange a meeting with an official, you should first prepare for the meeting so that you will be ready to explain the facts of the land dispute and how you and your community would like the dispute to be resolved. If you are representing your community at the meeting with the official, you should arrange a community meeting first to discuss what you should say to the official on behalf of the community.

It is often a good idea to try to arrange for a group of people from your community—rather than one person alone—to go to official meetings. This helps to ensure that the community’s position is well represented, and it makes it harder for any one individual to be pressured. Also, it helps maintain trust and unity within the community when a whole group of community members can report back and share the same story.

If the meeting with local authorities is unsuccessful, you can try to meet with officials at the district or provincial level. You can also try to arrange a meeting with officials in Phnom Penh. It is a good idea to try to meet with your local authorities first because they are more likely to understand the situation in your area. National authorities are more likely to reject requests for meetings if you have not tried to meet with your local authorities first. National and high-level officials usually want to see that you have first met with—or tried to meet with—officials at local and lower levels. For this reason, save any documentation that can show that you have already met or tried to meet with local officials—such as written requests for a meeting, letters or written records of meetings.

2.3. WHAT TO INCLUDE IN A LETTER OF COMPLAINT OR A LETTER REQUESTING A MEETING WITH AN OFFICIAL

When you are writing a letter to an official or preparing for a meeting, try to include the following information:

1. Names of the people, officials or company who are involved in the land dispute
2. A brief explanation of the dispute
3. A description of the land, for example, where it is, what size it is and what it is used for
4. Who lives on the land and how long they have been there
5. References to the law, if you know a particular law has been or will be violated
6. Any commitments or promises made by officials to the community to resolve the problem
7. Descriptions of actions already taken by the authorities
8. A brief list of all the other things you have done to try to solve the dispute

You can also attach the following documents to your letter:

- Copies of any documentation that supports your land claims.
- Copies of any important letters or documentation about the situation to or from government authorities or the individual or company trying to evict you.

LESSON 1: ADVOCACY AND THE RIGHT TO PARTICIPATE

AIM: Participants will know what advocacy is and understand that they have the right to be involved in decisions that affect their lives. They will be able to use this information when drafting a letter to or meeting with authorities.



MATERIALS: Whiteboard or flipchart, markers, copies of Handout 1 and Handout 2.

METHOD(S) USED: Group discussion, presentations.

Procedure	Time Frame (in minutes)
1. Introduce the information in Section 1	20
2. Introduce the information in Section 2	20
3. Small group discussions and letter planning	20
4. Debrief	20
Total:	80

INSTRUCTIONS TO FACILITATORS

1. INTRODUCE THE INFORMATION IN SECTION 1:

- Write on the board/flipchart the word “advocacy” and ask Participants if they have ever heard this word before. If they have, ask them what it means to them. As people give their ideas, write them down.
- After five minutes, use the text to explain what advocacy is.

Section 1 - It is important that Participants understand:

- That advocacy means delivering a message through words or actions to try to influence the decisions that affect people’s lives.
- That there are many types of advocacy methods, and different situations need different approaches.
- What an advocacy strategy is.
- That the right to do advocacy is protected by both the Cambodian Constitution and international law.

2. INTRODUCE THE INFORMATION IN SECTION 2:

- Following the discussion on advocacy, explain that the rest of the lesson will focus on advocacy through writing to and meeting with officials.

Section 2 - It is important that Participants understand:

- That the right to be involved in decisions that affect daily life is protected by the Constitution and international law.
- That this includes being consulted on new law and policy, and also communicating with your government and its officials.
- That one advocacy technique is writing to and meeting officials to inform them about land disputes and request that they help to resolve the dispute.

3. SMALL GROUP DISCUSSIONS AND LETTER PLANNING

- Explain to Participants that next they will break into small groups and consider a fictional case of a community in Pursat province.
- The community wants to request a meeting with provincial officials, and if that is not successful, then with officials in Phnom Penh. Participants should talk about the case and what they think should be included in a letter to the provincial authorities.

- Give each group a copy of the case in Handout 1 and a copy of Handout 2 which shows what information and documents they should include if they decide to write to or meet the authorities.
- Make it clear that they are not writing the letter, just brainstorming and planning what they should include.
- When they have finished, the small groups will come together and share their ideas as a whole class.

CASE STUDY

Your community lives in Pursat and has lived on the land since the early 1980s. The 100 families in your community mainly earn a living from farming, fishing and running small businesses. Last year some people came to your village with equipment and dug into the land and left deep holes. Recently, representatives from a company called Tiger Co. have come to your village and told your community that it must move because the company has permission to mine for gold on the land.

Your community has been told that it must move in one month, and that each family will be given \$500. Most families do not want to move as they live quite happily where they are. The families fear that they will be forced to move to Siem Reap or Phnom Penh to find work.

Other families want to ask for more compensation and if they get it they will agree to move.

Community representatives met the District Governor but nothing has happened since.

Your community has legal rights to the land and many families have documentation showing recognition from local authorities.

Your community is ready to take the next step to try to stop the forced displacement.

Suggested Answers:

- The community could write to the provincial authorities to request that the land dispute is resolved in accordance with the law, and they could request a meeting.
- In the letter they should include as many of the things from the list in Handout 2 as they can. For example:

- A summary of the land dispute (a private company has been given permission to mine for gold, the family has been told to take \$500 compensation and leave).
- The location of the land dispute and a description of the land and what it is currently used for (people live, farm, fish and run small businesses there).
- Who is involved in the land dispute (the community, Tiger Co. and the authorities who granted permission to the company).
- How many people are affected (100 families).
- What effects the dispute may have (for example, families will lose their homes and livelihoods and will have to find jobs and homes in the city, and children will have to leave their schools).
- What steps the community has taken so far to try to resolve the dispute (they wrote a letter to the District Governor and met him, but the dispute is still unresolved).
- Evidence that the community has legal rights to the land and has been recognized by authorities (for example, photocopies of residence permits or voter registration cards).

4. **DEBRIEF:**

- When the groups have finished planning their letters bring everyone back together.
- Put up a fresh piece of paper on the chart and explain that as a whole class you will decide what needs to go in the letter.
- If a group wants to make a suggestion they should raise their hand, if the other groups agree this is important, write it on the board.
- When the groups have finished, look at the Suggested Answers and add anything that is missing.

3. THE RIGHTS TO ASSOCIATION AND ASSEMBLY

3.1. THE RIGHT TO ASSOCIATION

The **right to association** is the right for people to:

- Choose to make or join organizations or groups.
- Choose not to join or support other organizations or groups.

The right to freedom of association means that people have the right to associate with other people who share a common interest or goal. For example, in some land dispute cases, communities have organized community groups and networks to share information and plan actions.

The Constitution recognizes the right to association.

The Constitution of the Kingdom of Cambodia

Article 42: Cambodian citizens shall have the right to establish associations and political parties. These rights shall be determined by law. Cambodian citizens may take part in mass organizations for mutual benefit to protect national achievement and social order.



The right to association is also recognized in Article 22 of the International Covenant on Civil and Political Rights.

There are some limits to this right. Organizations and associations must follow all the laws that individuals must follow. For example, if a group of people make an association that peacefully tries to change a government policy or a company's behavior, for example, through publicity, discussions and negotiation, this is legal. But, if the organization uses violence to do this, their actions are illegal.

Two ways to exercise your right to association are by uniting your community and by joining community networks.

3.1.1. EXERCISING YOUR RIGHT TO ASSOCIATION BY UNITING YOUR COMMUNITY

If your community is under threat of eviction, it is important that you are united. If all the people in the community are united and work together, your voice will be stronger. Those who want to evict people often try to divide the community whose land they want to take. In cases where people have fought successfully against displacement, they have been active, organized and worked together as a community.

There are many ways to unite your community. First, it is important to elect community representatives whom you trust. Some communities choose to elect many representatives and to change them from time to time. This makes it more difficult for community representatives to be pressured by those trying to take the community's land. It is also important to have regular community meetings to share information and discuss advocacy strategies.



Freedom of association - A community organization holds its weekly meeting.

Remember, you have a right to association, but those who want to evict you might try to divide your community. It is important to be strong and united!

CHOOSING COMMUNITY REPRESENTATIVES

A good community representative should:

- Be honest and responsible
- Be committed and willing to give up their own time for the good of the community
- Understand that their role is to serve the community and defend the community's interests
- Organize the community to meet and discuss issues regularly
- Listen to community members' concerns and ideas

- Inform community members of any new information and what he or she has done or plans to do to represent the community
- Report on what the results of these actions are

A good representative will never act or agree to anything on behalf of the community without the community's agreement.

3.1.2. EXERCISING YOUR RIGHT TO ASSOCIATION BY JOINING COMMUNITY NETWORKS

Communities under threat of an eviction can also look for support from other communities and from community networks. Several community networks exist in different parts of Cambodia. These networks have a lot of experience with land problems and may be able to give advice and support.

3.2. THE RIGHT TO ASSEMBLY

The right to assembly means that people have the right to meet peacefully without others stopping them.⁷ This means that government officials and company employees cannot stop people from meeting peacefully without a very good reason. The Constitution says that the law should protect the right to non-violent demonstration.

The Constitution of the Kingdom of Cambodia

Article 37: The right to strike and to non-violent demonstration shall be implemented in the framework of a law.



The right to assembly is limited in the same way as the right to association. All meetings must be peaceful and people should not act or speak in a threatening or violent way.⁸

The right to assembly is also recognized in Article 21 of the International Covenant on Civil and Political Rights.

3.2.1. EXERCISING YOUR RIGHT TO ASSEMBLY BY ORGANIZING OR TAKING PART IN A PEACEFUL DEMONSTRATION

Communities involved in land conflicts have used the right to assembly to gather peacefully outside government buildings, such as the Prime Minister's office, the National Assembly and the Ministry of Interior. Demonstrations have also been held outside the offices of companies involved in land disputes.

⁷ The Constitution of the Kingdom of Cambodia 1993, Article 37.

⁸ Law on Demonstrations 1991, Article 1.

3.2.2. THE LAW ON DEMONSTRATIONS

Under the Law on Demonstrations, a group of people may hold a demonstration if they obey these three rules:⁹

1. The demonstrators must *inform* the commune authorities three days in advance that they are going to have a demonstration. (Note: this does not mean you need to ask for *permission*, you just have to make the authorities aware that you are planning a demonstration.)
2. The demonstration must be peaceful and the demonstrators must not be armed.
3. The demonstration must not threaten public order.

THE CASE OF THE KAMPOT MANGROVE COMMUNITY

In May 2008, local authorities in Kampot announced that a 72-hectare mangrove area was now owned by four individuals, including two government officials. This meant that the livelihoods of over 600 families who make their living from fishing in the mangrove area would be threatened.

The community decided to challenge this decision. Despite strong objections from the provincial authorities, they organized a big demonstration in Kampot with other fishing communities facing similar problems. Over 500 people *from different communities* came together to participate in the peaceful demonstration and ask for the protection of mangrove areas and the livelihoods of fishing communities.

After the demonstration, the deputy Governor agreed to meet with over 100 community members at the local commune office. The community insisted that the *Secadey June Domnung*, which handed ownership of the mangrove area to the four persons, be overturned. Then they escorted the Deputy Governor back to the Municipality. Within weeks the *Secadey June Domnung* was cancelled by the Council of Ministers.

This community was successful because they were a very united and strong community with strong leadership who did not give in to intimidation or bribery. Through this they were able to get other communities to come and support them in the peaceful demonstration.

⁹ Law on Demonstrations 1991, Article 2.

LESSON 2: EXERCISING YOUR RIGHTS TO ASSOCIATION AND ASSEMBLY TO CHALLENGE DISPLACEMENT

AIM: Participants will know that the rights to assembly and association are protected by national and international law. They will know how they can use these rights to try to challenge forced displacement.



MATERIALS: Whiteboard or flipchart, markers, pens, 15 pencils or chopsticks, copies of Handout 3 and Handout 4.

METHOD(S) USED: Group discussion, brainstorming, presentations.

Procedure	Time Frame (in minutes)
1. Community solidarity focuser	10
2. Introduce the information in Section 3	40
3. Explain the exercise and divide Participants into four groups	5
4. Small group work on case studies	25
5. Presentation and large group discussion	25
6. Debrief	10
Total:	115

INSTRUCTIONS TO FACILITATOR

1. COMMUNITY SOLIDARITY FOCUSER:

- Ask three volunteers to stand in front of the class:
 - First, give one volunteer a pencil and ask him or her to break it;
 - Next, give another volunteer three pencils and ask him or her to break them all at the same time;
 - Next, give the last volunteer ten or more pencils and ask him or her to break them;
 - Ask the Participants if they think it was easier to break one pencil or ten. Tell them that the pencils represent the community. When they work together, each community member strengthens the others and the whole group is stronger.
- Tell Participants to keep this in mind during the following discussion and exercise.

2. INTRODUCE THE INFORMATION IN SECTION 3:

Section 3 - It is important that Participants understand:

- That the rights to association and assembly are protected by the Cambodian Constitution and international law.
- That these rights can be used in your advocacy to try to avoid forced displacement.
- That this includes forming community groups and joining demonstrations.
- That these rights are not unlimited. All advocacy should be peaceful and respect other people's rights.

- Before you teach the information from the box about choosing community representatives, you should first ask Participants what characteristics they think are important in a community representative and write these down on the whiteboard or flipchart. After this, you should make sure all the things in the box are listed and then continue with the lesson.
- Before you teach the information about organizing a demonstration, you should first ask Participants what they think is important to think about when planning a demonstration and write these down on the whiteboard or flipchart. After this, you should make sure all the things in the box are listed and then continue with the lesson.

3. EXPLAIN THE EXERCISE AND DIVIDE PARTICIPANTS INTO FOUR GROUPS:

- Explain to the Participants that they will be divided into four groups and each will make a plan about a strategy to challenge a threatened eviction.
- Read out the case study below to the Participants and explain that each group will be given a task. After 25 minutes, each group will present their work to the rest of the Participants.
- Divide the Participants into four groups and give each group a number from 1 to 4.

CASE STUDY

Your community has lived on the same piece of land since the early 1990s. There are two hundred families that are a part of your community. Most of the families make a living by growing food on the land or running small businesses nearby.

Recently, your community received a notice from the Governor that says you must all leave the land in one month or you will be forced to leave. You have heard that the government has sold your land to a company to build a tourist centre with a hotel and shops.

Your community has been told that each household will get \$500 and some rice when they move.

Your community believes that all families have a right to stay on the land. You have heard of other communities facing the same problems and also that some NGOs can offer assistance or advice.

4. SMALL GROUP DISCUSSION OF CASE STUDIES:

- Give a copy of the case study (Handout 3) and some pieces of flipchart paper and markers to each group.
- Give Groups 1 and 3 the first task and Groups 2 and 4 the second task, as shown below and in Handout 4.

GROUP TASKS

Group 1 and 3: Your group's task is to develop a plan to unite your community and get support from others. Make the plan as detailed as possible and set out the steps you will take. You will then present your plan to the rest of the participants.

Group 2 and 4: Your group's task is to develop a plan to hold a demonstration to protest the threatened eviction. Make the plan as detailed as possible and decide when and where the protest will happen. You should also decide what message you want to present at the demonstration and what you will do to present that message. You will then present your plan to the rest of the participants.

- If Participants cannot read or write, explain their tasks to them, and tell them to remember their points for the class discussion.
- Move around the groups and make sure all the Participants understand the exercise. You can give the group help or advice based on the information in Section 3.

5. PRESENTATIONS AND LARGE GROUP DISCUSSION:

- First, Group 1 should explain their task and present their plan to the rest of the Participants.
- When they have finished, Group 3 should present its plan. You should then point out some of the differences between the plans. Ask other Participants for their comments or questions about the two plans.
- Next, do the same for Groups 2 and 4.

6. DEBRIEF:

- Ask volunteer Participants to summarize the main ways that people can exercise their rights to association and assembly to try to challenge forced displacement.
- Ask everyone to think back to the pencil demonstration at the beginning of the lesson and to the other things that were covered in this lesson.
- Ask if Participants think it is better to act as an *individual* or as a *whole community* to challenge forced displacement. Ask the Participants to give reasons for their answers.

- Explain to the Participants that if communities are united and work together, their voice will be stronger and it can make it harder for the authorities to ignore their problem.
- In cases where people have fought successfully against having their land taken, they have usually been active, organized and have worked together as a community.

4. THE RIGHT TO EXPRESSION

The right to expression has two main parts:

1. You have a right to receive information and ideas.
2. You have a right to publicly communicate information, your ideas, and your opinions.

The right to freedom of expression is recognized by the Constitution.

The Constitution of the Kingdom of Cambodia

Article 41: Cambodian citizens shall have freedom of expression, press, publication and assembly.



Expression can take different forms, for example, writing, speech, media or the use of symbols. Many communities have used the blue and white krama as a symbol of defending human rights. This is an example of a symbol being used to express an idea.



Freedom of expression - An organization giving out leaflets

Freedom of expression is very important for a society to function fairly and properly. People must be able to say what they think or believe without being scared that they will be punished, even if other people or the government does not share their opinion.

The right to expression is also recognized in Article 19 of the International Covenant on Civil and Political Rights.

Freedom of expression should never be used to violate other people's rights. For example, people should not make public speeches that encourage violence.

The Constitution of the Kingdom of Cambodia

Article 41 continued: No one shall exercise this right to infringe upon the rights of others, to affect the good traditions of the society, to violate public law and order and national security.



4.1. EXERCISING YOUR RIGHT TO EXPRESSION THROUGH PETITIONS

A **petition** is a written protest or request signed or thumb printed by many people demanding that the government, private person or company either do something, or stop doing something. Many communities from all parts of Cambodia have made and signed petitions to government officials asking them to help to protect their land.

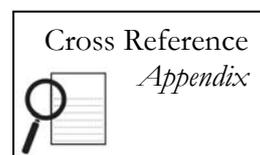


For example, a petition might say “We, the members of Village 4, respectfully ask the National Assembly to help us resolve our land dispute in accordance with the law.” The more thumbprints you have on your petition, the stronger it will be. You can ask people from inside and outside of the community to support and sign or thumbprint the petition.

Some authorities that you can send petitions to are:

- The Prime Minister
- The Ministry of Interior
- The Ministry of Land Management
- The President of the National Assembly
- The Senate Human Rights Commission
- The National Authority for Land Dispute Resolution
- The Governor of your province or municipality
- Your local authorities

You can also send petitions to the company or individual that is claiming your land. (See Appendix for a list of addresses).



KEEP ALL ORIGINAL LETTERS AND PETITIONS

If you send a petition to the authorities, always *keep the original* and *send a copy* to the authorities or company. When you deliver the petition, ask the person receiving it to sign a piece of paper saying that they have received it and write their name, phone number and the date. If you get no response, you can contact the person who received the petition to make sure that it was given to the person you sent it to.

4.2. EXAMPLE PETITION (BASED ON A REAL PETITION DRAFTED BY CAMBODIAN PEOPLE AFFECTED BY LAND GRABBING)

PETITION

We Cambodian citizens were very happy when we heard the speech of Samdech Hun Sen, when he stated that there would be penalties for officials, powerful men, and companies who destroy forests and fisheries, and encroach on the lands of Cambodian citizens. We were happy when he announced that measures would be taken to order those officials, powerful men, and companies to immediately give back the land to the citizens.

Up to now, these officials, powerful men, and companies have continued their action in encroaching on land and forests, and destroying fisheries, and the citizens continue to lose their lands.

We are looking forward for the implementation of measures from the government in accordance with Samdech's speech.

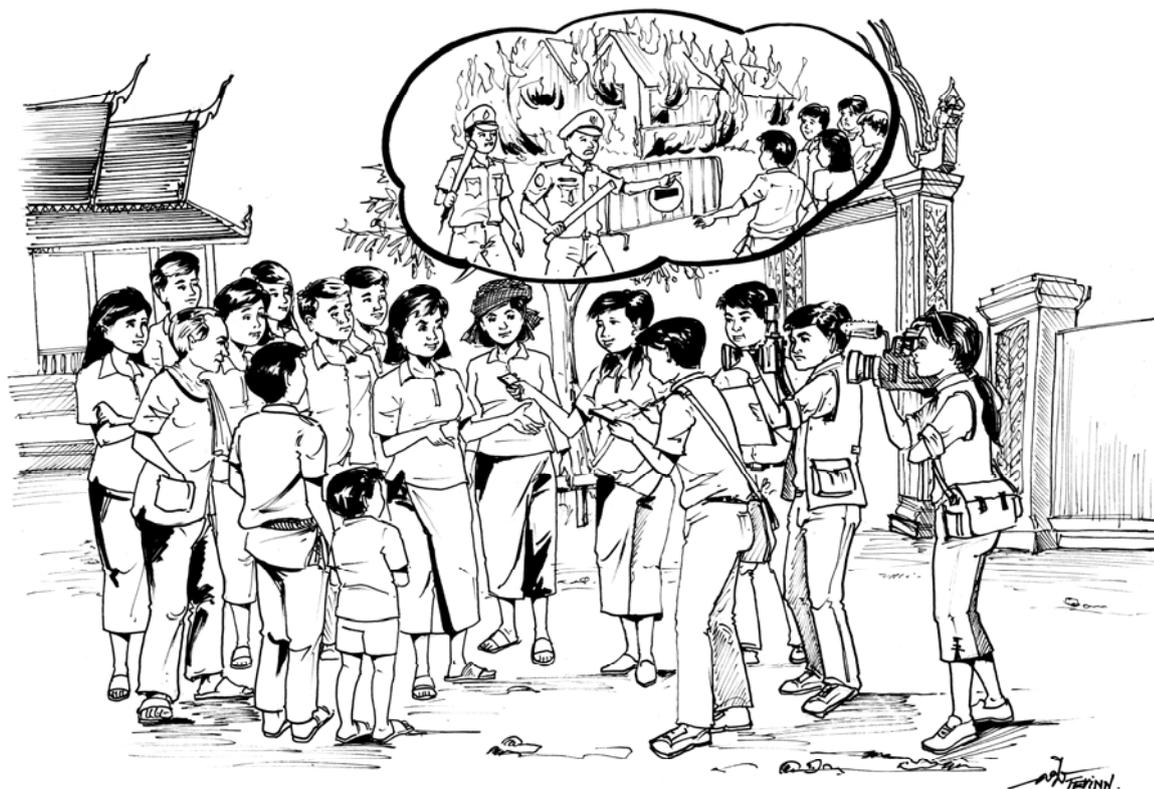
Phnom Penh, Day.....Month.....Year.....

Petitioners

N ^o	Name	Sex	Age	Province/ city	Thumb Printed
1					
2					
3					
4					

4.3. EXERCISING YOUR RIGHT TO EXPRESSION BY CONTACTING THE PRESS

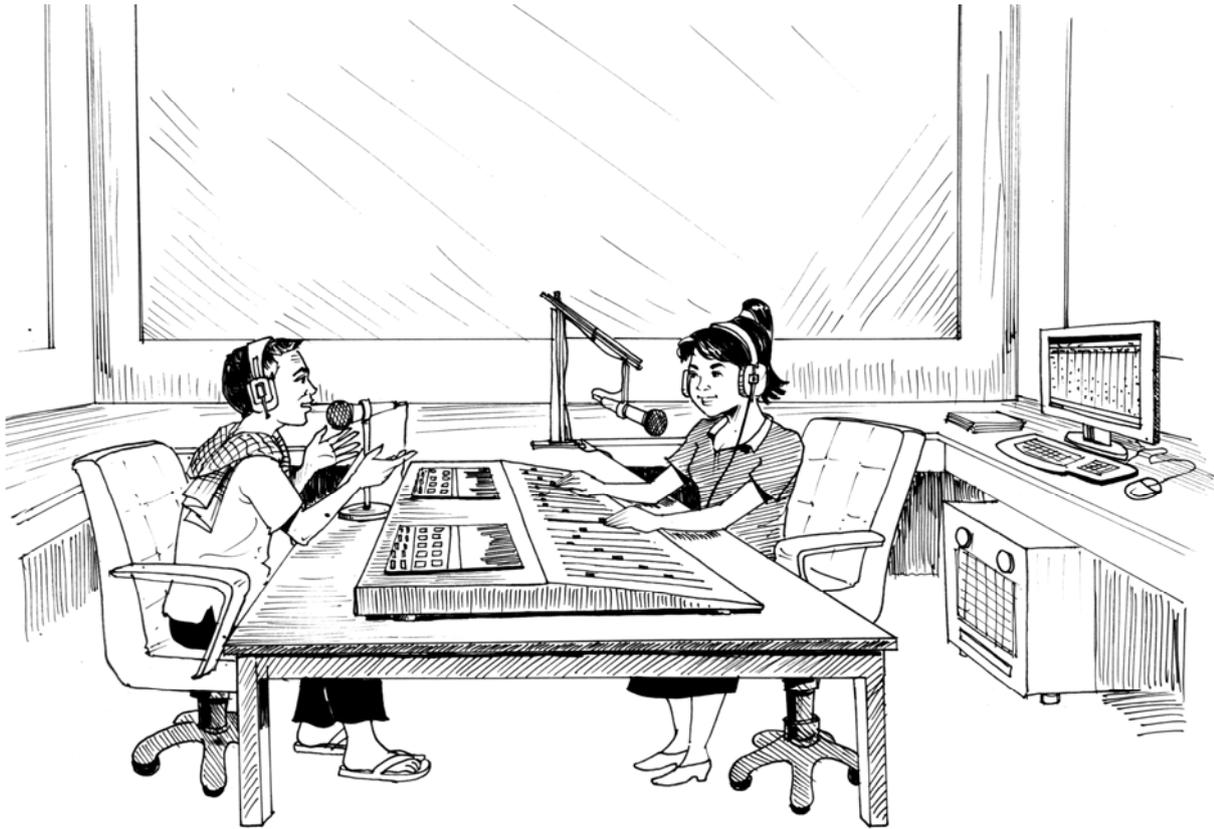
Using different types of media is a very important strategy for telling your story to the public and sending your message to the people trying to evict your community. Government officials and companies do not want the local or international public to think that they are violating human rights and the law. If officials, a company or an individual are trying to force your community off its land, you have the right to talk truthfully about the situation to Cambodian and international media. Using the media also helps to raise public awareness about your situation. This could help you find support from different people and groups, who may, for example, sign a petition or write a letter asking authorities to help your community.



There are many different types of media. For example, you can contact journalists who work for newspapers, television and radio. You can tell the journalist who you are and how you can be contacted. Explain the background to your situation, and any new things that have happened that you would like them to report on. It is important to plan carefully before you contact a journalist and first decide what you would like to tell him or her and what message you want published.

You can also invite a journalist to come to your community. If the journalist comes to your community, you can explain your situation face to face and the journalist will be able to see the situation with his or her own eyes. If the journalist is from a newspaper he or she can also take photos and if the journalist is from a television network he or she can film an interview with you and other community members on your land or in your houses.

If you contact a radio station you might be invited to come to the recording studio for an interview, so you can tell your community's story to people all around Cambodia.



The contact details for The Cambodia Daily, Raksmeay Kampuchea and Asia Sery Radio are listed in the Appendix.

Cross Reference
Appendix



TALKING TO THE MEDIA

If you talk to the media about your problem, it is very important that you *tell the truth*. It is even better if you have documentation and evidence to support your statements. For example, if you say someone has built a fence and is clearing your community's land, it is better to take a picture of the fence to give to the journalist. You can also ask the journalist to visit your village and take photos.

If you make a statement in the media which is false, it can be dangerous because there are criminal penalties for incorrectly saying someone has done something wrong. If you are not 100% sure that the law has been broken, tell your story without saying that someone has broken the law. If you are not sure who is behind an eviction or who destroyed your property, do not use any names in your story.

4.4. COMMUNITY MEDIA

Some communities who have been threatened by displacement have started to create their own media. This can be very simple, like taking photos and arranging them in a poster with a story. Some communities have made songs, dance, poems and theatre to explain issues that affect them.

There are other forms of media involving electronic equipment. These are powerful but need more skills and equipment. If you have a computer you can take photos and make them into a slideshow with music and burn it on to a CD. These can then be copied and played on karaoke players.

One community in Ratanikiri made a short movie about their land conflict. The movie is a role-play of their story, and all the characters on both sides of the dispute are played by community members. The filming was also done by a community member.

The Dey Krahom community in Phnom Penh wrote many songs about their land dispute and they recorded the songs and made an album, which they distributed to people to raise awareness about their problem.

Community media can be used to raise awareness and get support from other communities. It can be used to inform government, NGOs and other groups about your land dispute and the problems you face. Community media can be empowering for the communities who make it, and people should come together to create it. This helps build solidarity which is important for successful dispute resolution. Sometimes the process of making community media is more important than the actual product made.

5. THE RISKS INVOLVED IN USING THESE RIGHTS

Although the rights of the Cambodian people to association, assembly and expression are protected by Cambodian and international law, there can be risks in using these rights. In the past, people have been threatened or harmed while exercising these rights. Some people have been wrongly charged with committing a crime, for example **incitement, defamation or disinformation**.

5.1. INCITEMENT

Incitement is when somebody says or writes something that encourages others to break the law.¹⁰ This is a criminal offence which can be punished by a fine or time in jail. For example, if you encourage someone to rob a jewelry shop, they are guilty of robbery, and you may be guilty of incitement, because you encouraged them to commit a crime.

¹⁰ Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period 1992, Article 59

Some people who have spoken out in public or encouraged others to complain about a land conflict have been improperly charged with incitement. It is important to understand that *incitement only happens when someone encourages another person to do something illegal*. It is not illegal to speak to the media and tell your story honestly and correctly or to encourage other people to defend their legal rights within the law.

5.2. DEFAMATION

Defamation is when a person says something about someone else which is:

1. Not true, and
2. Harms the person's reputation.¹¹

For example: there is a murder in Phnom Penh, and Makara publicly accuses Sotheara of being the murderer. Sotheara was not responsible, and in fact he was in a different province on that day. This accusation was not true, and is likely to make people think very badly of Sotheara. Therefore, Makara may be guilty of defamation.

Some people who have criticized powerful individuals have been improperly charged with defamation. If you say that someone has done something illegal, such as illegally taking land, and it is true, *then it is not defamation*. But, if you say something about someone that is false, you may have committed defamation. This means that *you should always speak the truth in public*, and if you are not completely sure about the facts of a case, you should not make any accusation that might turn out to be false.

5.3. DISINFORMATION

According to the law, it can be illegal for anyone to spread information which is not true. This is called disinformation. This information could be spread through the newspapers, public statements or any other communication. However, to be illegal this communication must be:

1. In bad faith (not honest),
2. Malicious (the aim must be to hurt someone), and
3. Likely to disturb the peace.¹²

For example: Sopheak loses his job and feels angry with the company and his old boss. To get revenge he makes up an untrue story about the company paying very low wages and breaking labor laws. Sopheak's brother owns a local newspaper, and he is also angry, so he prints these accusations as if they are the truth. In this case, the newspaper may be guilty of disinformation because:

¹¹ Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period 1992, Article 63

¹² Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period 1992, Article 62.

- The owner knew the story was not true;
- He wanted to harm the company; and
- The story could harm the reputation of the company and cause conflict with its employees.

Sometimes, people who have distributed petitions or statements about land disputes have been charged with disinformation. However, according to the law, the crime of disinformation has only been committed if all three of the conditions mentioned above are met. For example, if untrue information is made public, but there is no bad faith, *it is not disinformation*.

LESSON 3: EXERCISING YOUR RIGHT TO EXPRESSION TO CHALLENGE THE THREAT OF FORCED EVICTION

AIM: Participants will know how they can use their right to expression to try to challenge the threat of forced eviction. They will also be aware of the risks of using these rights.



MATERIALS: Copies of Handouts 5, 6 and 7, whiteboard or flipchart, markers.

METHOD(S) USED: Role-play, story, large group discussion.

Procedure	Time Frame (in minutes)
1. Introduce the information in Section 4	30
2. Introduce the information in Section 5	30
3. Role-play, story and discussion	30
4. Debrief	15
Total:	105

INSTRUCTIONS TO FACILITATOR

- *Before the lesson starts* make sure that you and another facilitator are prepared to act out the short role-play below in front of the Participants. If there is only one facilitator, you can ask a Participant to act in the role-play with you but make sure you prepare together before this lesson.

1. INTRODUCE THE INFORMATION IN SECTION 4:

Section 4 - It is important that Participants understand:

- That the right to expression is protected by national and international law.
- That communities threatened with displacement can use this right in their advocacy, for example, when creating and signing petitions, talking to the press, and making their own media.

- After explaining what petitions are in Section 4, you can pass around the example from Handout 5.
- When you have finished teaching from Section 4, ask Participants if there are any other ways that they can think of to exercise their right to expression.

2. INTRODUCE THE INFORMATION IN SECTION 5:

Section 5 - It is important that Participants understand:

- That although these rights to advocate are recognized by the law, there are risks involved in using them.
- That people exercising their rights to advocate are sometimes improperly charged with defamation, incitement and disinformation.

3. ROLE-PLAY, STORY AND DISCUSSION:

- Explain to the Participants that a short role-play will be presented to them and that they should watch and listen carefully.
- Then you should act out the following role-play:

ROLE-PLAY INSTRUCTIONS

One person will act as the community leader and one person will act as a journalist. The community leader is very emotional.

Scene 1:

The community leader calls the journalist to ask her to come to visit the community so she can explain that the community is being threatened with eviction.

Scene 2:

The journalist comes to meet the community leader and they have a conversation. During this conversation, the journalist asks the community leader to explain the situation and who is threatening the community.

During the conversation, the community leader explains the following:

- There are two hundred families in the community, and they have lived there peacefully since the 1980s.
- Six months ago they were told to leave by local authorities because a company now owns their land.
- The company owner is Yang Leang. He is very powerful and he is trying to steal the land. He is a thief.
- Last week the company workers came to the community, beat people and destroyed property.
- The community has been told to move 25 kilometers away.
- The community will do everything to defend its land – the company does not respect the law so neither will we!
- Finally, the community leader shows the journalist a petition thumbprinted by many people. The petition says: “Stop the thief Yang Leang from stealing our land!”

- After the role-play is finished, explain that the description given by the community leader was very emotional. He made some mistakes and made some accusations about people which could get him into trouble.
- Explain that you will now read the true story of the community that the role-play was about. You may also give out the handout to Participants (Handout 6) or ask a Participant to read the story.

THE COMMUNITY'S TRUE STORY

Two hundred families in a community in Phnom Penh have lived peacefully on their land since the 1980s. Six months ago they were told by local authorities that a company now owns their land and they have to leave. The company owns land *15 kilometers away* and has told the community that it should move to live on that land and that it will give each family \$500 to build a house.

Last week, company workers came onto the community's land and tried to pressure families into moving away. *They used threats* and told the community members that if they did not move to the land 15 kilometers away their houses would be demolished and they would get nothing.

The community *does not know who owns the company* but according to rumors, the owner is a powerful official called Yang Leang.

The community does not want to move away and believes they have the right to stay on their land in Phnom Penh. The community wants to avoid being evicted from their land.

- After reading the story, ask the Participants the following questions:
 1. What do you think about the way the community leader communicated with the journalist? After hearing the story of the community, do you think there were any problems with what the community leader told the journalist?
 2. What are the possible dangers of this?
 3. What could the community leader have said differently to avoid being charged with defamation or incitement?
- You should make sure that as many Participants as possible have a chance to answer the questions. Keep in mind that this is a large group discussion and encourage quieter people to express their opinions too.
- If there is time you can ask for two volunteer Participants to perform the role-play again but this time thinking carefully about how they should communicate with the media. The person acting as the community leader should perform the role-play in a way that will avoid being charged with defamation and incitement.
- If there is no time to do this, move on to the Debrief.

Suggested Answers:

There is no right or wrong answer to these questions as they are asking the Participants for their opinions. Some example answers are included below.

1. Participants might comment that the community leader was very emotional. Some may think this is a good thing, and some might think he or she spoke too strongly. Participants might comment that the community leader exaggerated or was not completely honest about the following:
 - a. He said that Yang Leang is the owner of the company but this is just a rumor. You should only make a statement like this if you are sure about the facts.
 - b. He said that Yang Leang was a thief and this was also written on the petition. This could possibly be defamation.
 - c. He said that last week company workers hit people and destroyed their property. In the story the company workers threatened the community but did not hit them or destroy anything.
 - d. He said that the resettlement land is 25 kilometers away but in the story it is 15 kilometers away.
 - e. He also said that as the company does not respect the law, so neither will the community.
2. The possible dangers of this are that the community leader could be charged with defamation or incitement. Calling Yang Leang a thief could lead to a charge of *defamation*. Saying that the community would do anything to defend its land and would not respect the law could lead to a charge of *incitement*.

It is possible that the community leader or the journalist could be accused of *disinformation*. However, although they made public some information that was not accurate, if they did not do it in bad faith and if they did not do it maliciously they should not be found guilty of disinformation.
3. It is very important to be honest when talking to the media. If you are not absolutely sure if something is true you should not say it. Instead the community leader should have told the journalist that it was very difficult to get information about the company. This way he could still tell the community's story, but avoid being charged with defamation.

If the community leader said that the community would peacefully and lawfully defend its rights to the land he could avoid being charged with incitement.

4. DEBRIEF:

- Ask Participants to think about the different rights they have discussed in this and the previous lessons - the rights to participation, association, assembly and expression - and the different ways they can use these rights to protect their land and avoid evictions.
- Explain to the Participants that during the previous lessons, they have looked at many ways to try to challenge forced displacement, but *doing just one of these things will probably not be enough to prevent an eviction*.
- Communities can combine several different methods, for example, getting the community organized, holding demonstrations and inviting the media.
- Also, these rights can be exercised whilst collecting and making documentation, while court cases are ongoing or while the case is at the Cadastral Commission.
- It is important to remember that every case is different, and the ideas discussed here may not always be appropriate. It is important that the community considers the facts carefully, and decides together what action to take. Any actions they do plan should always be non-violent.
- Read out the following true story from Battambang province to show how communities have used a combination of advocacy actions to defend their rights. You can also give out copies of the story from Handout 7.

BATTAMBANG STORY

Local villagers in one Battambang community have lived on their land since 1999. In 2006 members of the military illegally sold the villagers' land to a private company. The company moved on to the land and started clearing it. The villagers were evicted, their houses were burned and their property was destroyed. Security guards were hired by the company to keep the villagers off the land, and they often threatened the villagers. In late 2006, three members of the community were arrested by the police for trying to get back onto the land.

Later, over 250 community members from 8 different villages in the commune, together with community leaders from Banteay Meanchey, Pailin, and elsewhere in Battambang Province went to Battambang town to demonstrate. They called for the dispute to be resolved and for the release of the men who were arrested. The demonstration was peaceful and there was no violence.

Community representatives met with the deputy provincial governor and asked that the land be returned to the villagers. In response, the deputy governor wrote an official letter to the district chief to ask that the land dispute be solved.

Later in the year the community came to Phnom Penh and asked the National Assembly to release the men who had been arrested and solve the land dispute. A group of 23 NGOs also signed a statement asking the government to solve the dispute and release the men.

In March 2007 the community held a press conference and invited the newspapers, TV and radio to come and hear about the case. Soon after, the company stopped plowing the community's land and the security guards stopped threatening the villagers. In April 2007, 80 villagers met with the deputy provincial governor and the district chief, who promised that the disputed land would be given back to the people. The three men were also released from prison.

DIFFICULT TERMS:

1. **Advocacy:** Delivering a message through words or actions to try to influence the decisions that affect people's lives.
2. **Advocacy methods:** Different things that you and your community can do to influence the way things happen and achieve your objective. Examples include meeting with officials, organizing peaceful demonstrations and speaking to the media.
3. **Advocacy strategy:** A plan agreed upon by the group which sets out the outcomes they are trying to achieve, who they are trying to influence, the types of advocacy methods they will use and how they will use them. It should also include the roles and responsibilities for carrying out the advocacy, and who they will contact to join or support their advocacy, such as other communities and NGOs.
4. **Defamation:** An untrue statement or writing about a person that harms the honor or reputation of that person.
5. **Disinformation:** It is illegal to spread information which is untrue, *if, and only if:* you do so in bad faith, your reasons for spreading the information are malicious, and if the information is likely to disturb the peace.
6. **Incitement:** Incitement is when somebody says or writes something that encourages others to break the law.
7. **International Covenant on Civil and Political Rights (ICCPR):** One of the most important international human rights laws. It protects the human rights to be involved in public affairs, association, assembly and expression, as well as other rights such as people's rights to life and to be free from discrimination.
8. **Petition:** A written protest or request, signed or thumbprinted by many people asking that the government or a private person or company does something or stops doing something.
9. **Right to assembly:** The right to meet peacefully without interference from others, including government officials.
10. **Right to association:** The right for people to be free to make or join organizations of their choice and free not to be forced to join or support other organizations if they do not want to. This right means that people have the right to associate with other people who share a common interest or goal.
11. **Right to expression:** The right to communicate and receive information and ideas. Expression can take different forms, for example, writing, speech or the use of symbols (such as banners or political posters).

CASE STUDY

Your community lives in Pursat and has lived on the land since the early 1980s. The 100 families in your community mainly earn a living from farming, fishing and running small businesses. Last year some people came to your village with equipment and dug into the land and left deep holes. Recently, representatives from a company called Tiger Co. have come to your village and told your community that it must move because the company has permission to mine for gold on the land.

Your community has been told that it must move in one month, and that each family will be given \$500. Most families do not want to move as they live quite happily where they are. The families fear that they will be forced to move to Siem Reap or Phnom Penh to find work.

Other families want to ask for more compensation and if they get it they will agree to move.

Community representatives met the District Governor but nothing has happened since.

Your community has legal rights to the land and many families have documentation showing recognition from local authorities.

Your community is ready to take the next step to try to stop the forced displacement.

When you are writing a letter to an official or preparing for a meeting, try to include the following information:

1. Names of the people, officials or company who are involved in the land dispute
2. A brief explanation of the dispute
3. A description of the land, for example, where it is, what size it is and what it is used for
4. Who lives on the land and how long they have been there
5. References to the law, if you know a particular law has been or will be violated
6. Any commitments or promises made by officials to the community to resolve the problem
7. Descriptions of actions already taken by the authorities
8. A brief list of all the other things you have done to try to solve the dispute

You can also attach the following documents to your letter:

- Copies of any documentation that supports your land claims.
- Copies of any important letters or documentation about the situation to or from government authorities or the individual or company trying to evict you.

CASE STUDY

Your community has lived on the same piece of land since the early 1990s. There are two hundred families that are a part of your community. Most of the families make a living by growing food on the land or running small businesses nearby.

Recently, your community received a notice from the Governor that says you must all leave the land in one month or you will be forced to leave. You have heard that the government has sold your land to a company to build a tourist centre with a hotel and shops.

Your community has been told that each household will get \$500 and some rice when they move.

Your community believes that all families have a right to stay on the land. You have heard of other communities facing the same problems and also that some NGOs can offer assistance or advice.

HANDOUT 4 – LESSON 2

Copy this page and cut into two halves, one for groups 1 and 3, and one for groups 2 and 4

GROUP TASKS

Group 1 and 3: Your group's task is to develop a plan to unite your community and get support from others. Make the plan as detailed as possible and set out the steps you will take. You will then present your plan to the rest of the participants.

Group 2 and 4: Your group's task is to develop a plan to hold a demonstration to protest the threatened eviction. Make the plan as detailed as possible and decide when and where the protest will happen. You should also decide what message you want to present at the demonstration and what you will do to present that message. You will then present your plan to the rest of the participants.

EXAMPLE PETITION

PETITION

We Cambodian citizens were very happy when we heard the speech of Samdech Hun Sen, when he stated that there would be penalties for officials, powerful men, and companies who destroy forests and fisheries, and encroach on the lands of Cambodian citizens. We were happy when he announced that measures would be taken to order those officials, powerful men, and companies to immediately give back the land to the citizens.

Up to now, these officials, powerful men, and companies have continued their action in encroaching on land and forests, and destroying fisheries, and the citizens continue to lose their lands.

We are looking forward for the implementation of measures from the government in accordance with Samdech’s speech.

Phnom Penh, Day.....Month.....Year.....

Petitioners

N ^o	Name	Sex	Age	Province/ city	Thumb Printed
1					
2					
3					
4					

THE COMMUNITY'S TRUE STORY

Two hundred families in a community in Phnom Penh have lived peacefully on their land since the 1980s. Six months ago they were told by local authorities that a company now owns their land and they have to leave. The company owns land *15 kilometers away* and has told the community that it should move to live on that land and that it will give each family \$500 to build a house.

Last week, company workers came onto the community's land and tried to pressure families into moving away. *They used threats* and told the community members that if they did not move to the land 15 kilometers away their houses would be demolished and they would get nothing.

The community *does not know who owns the company* but according to rumors, the owner is a powerful official called Yang Leang.

The community does not want to move away and believes they have the right to stay on their land in Phnom Penh. The community wants to avoid being evicted from their land.

BATTAMBANG STORY

Local villagers in one Battambang community have lived on their land since 1999. In 2006 members of the military illegally sold the villagers' land to a private company. The company moved on to the land and started clearing it. The villagers were evicted, their houses were burned and their property was destroyed. Security guards were hired by the company to keep the villagers off the land, and they often threatened the villagers. In late 2006, three members of the community were arrested by the police for trying to get back onto the land.

Later, over 250 community members from 8 different villages in the commune, together with community leaders from Banteay Meanchey, Pailin, and elsewhere in Battambang Province went to Battambang town to demonstrate. They called for the dispute to be resolved and for the release of the men who were arrested. The demonstration was peaceful and there was no violence.

Community representatives met with the deputy provincial governor and asked that the land be returned to the villagers. In response, the deputy governor wrote an official letter to the district chief to ask that the land dispute be solved.

Later in the year the community came to Phnom Penh and asked the National Assembly to release the men who had been arrested and solve the land dispute. A group of 23 NGOs also signed a statement asking the government to solve the dispute and release the men.

In March 2007 the community held a press conference and invited the newspapers, TV and radio to come and hear about the case. Soon after, the company stopped plowing the community's land and the security guards stopped threatening the villagers. In April 2007, 80 villagers met with the deputy provincial governor and the district chief, who promised that the disputed land would be given back to the people. The three men were also released from prison.

GLOSSARY

1. **Advocacy:** Delivering a message through words or actions to try to influence the decisions that affect people's lives.
2. **Advocacy methods:** Different things that you and your community can do to influence the way things happen and achieve your objective. Examples include meeting with officials, organizing peaceful demonstrations and speaking to the media.
3. **Advocacy strategy:** A plan agreed upon by the group which sets out the outcomes they are trying to achieve, who they are trying to influence, the types of advocacy methods they will use and how they will use them. It should also include the roles and responsibilities for carrying out the advocacy, and who they will contact to join or support their advocacy, such as other communities and NGOs.
4. **Asian Development Bank:** An international development institution that provides loans, grants and technical assistance to developing countries in Asia. The Asian Development Bank's mission is to reduce poverty in Asia. Its headquarters are in Manila, Philippines and it has an office in Cambodia.
5. **Cadastral Administration:** The government agency responsible for registering land in Cambodia, issuing titles, keeping accurate records of land ownership and making them available to the public.
6. **Cadastral Commission:** Government body that is responsible for resolving conflicts related to unregistered land.
7. **Civil complaint:** If you file a civil complaint, you are claiming that someone has violated a Law, such as Land Law, and has caused harm to you or your community. You can file a civil complaint if you want to ask the Court to order the person who harmed you to pay you compensation. A civil complaint can also be made before the harm is done, to ask the court to stop it from happening.
8. **Confidential:** Keeping something secret. A lawyer must keep secret any information he or she is told by clients.
9. **Criminal complaint:** If you file a criminal complaint, you are claiming that someone has breached a criminal law, such as the Penal Code, and caused harm to society as a whole. This can result in the person being fined or sent to prison.
10. **Defamation:** An untrue statement or writing about a person that harms the honor or reputation of that person.

11. **Disinformation:** It is illegal to spread information which is untrue, *if, and only if*: you do so in bad faith, your reasons for spreading the information are malicious, and if the information is likely to disturb the peace.
12. **Forced displacement:** When people or communities are made to leave their homes and lands. Forced displacement often happens because of non-inclusive development.
13. **Incitement:** Incitement is when somebody says or writes something that encourages others to break the law.
14. **Injunction:** An order given by the court that says a person must do something (for example, return property), or must not do something (for example, must not carry out a planned eviction).
15. **International Covenant on Civil and Political Rights (ICCPR):** One of the most important international human rights laws. It protects the human rights to be involved in public affairs, association, assembly and expression, as well as other rights such as people's rights to life and to be free from discrimination.
16. **Land Register:** The official list and description of land plots and owners in Cambodia.
17. **Legal remedy:** A legal remedy is a legal solution that prevents a violation of the law from happening or compensates for harm that is done when a law is violated.
18. **Petition:** A written protest or request, signed or thumbprinted by many people asking that the government or a private person or company does something or stops doing something.
19. **Register:** To add something to an official list. In Cambodia you can register many things, for example, births and deaths, your car or your business. When land is registered the owner is given a title and this can only be questioned in court.
20. **Right to assembly:** The right to meet peacefully without interference from others, including government officials.
21. **Right to association:** The right for people to be free to make or join organizations of their choice and free not to be forced to join or support other organizations if they do not want to. This right means that people have the right to associate with other people who share a common interest or goal.
22. **Right to expression:** The right to communicate and receive information and ideas. Expression can take different forms, for example, writing, speech or the use of symbols (such as banners or political posters).

23. **Sporadic registration:** A way to register land which is started by an individual making an application to the Cadastral Administration.
24. **Systematic registration:** A way to register land which is started by the government. The provincial or municipal governor will choose an area and titling teams will travel to the area to investigate and register the land located there.
25. **Title:** An official record that states that a person legally owns a piece of land.
26. **World Bank:** An international development institution that provides loans, grants and technical assistance to developing countries around the world. The World Bank's mission is to reduce global poverty. Its headquarters are in Washington D.C., USA and it has offices in many countries, including Cambodia.

APPENDIX

WHERE TO SEND LETTERS AND PETITIONS

If you are involved in a land dispute or threatened with eviction, and it is not solved at the local level, you may want to complain to the provincial or municipal authorities. If you are not satisfied, you can raise your concerns at the national level. You can send letters or petitions to the following addresses:

The Senate: Samdech Thormaportisa Chea Sim, Chairman of the Senate of Cambodia
Address: Preah Norodom Boulevard, Chamkarmon, State Building, Phnom Penh
Tel: 023 211 441, 023 211 442, 023 211 443
Email: info@senate.gov.kh
Website: <http://www.senate.gov.kh/>

National Assembly: Samdech Ponhea Chakrei Heng Samrin, Chairman of the National Assembly.
Address: National Assembly Street, 12301, Phnom Penh
Tel: 023 213 535, 023 220 628
Email: kimhenglong@cambodian-parliament.org
Website: www.cambodian-parliament.org

The Cabinet of the Prime Minister: Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of Royal Government of Cambodia.
Address: Office of the Council of Ministers, #41, Russian Federation Boulevard, Room B21, Phnom Penh
Tel: 012 804 442

Ministry of Interior: His Excellency Sar Kheng, Deputy Prime Minister, Minister of Interior.
Address: #275 Norodom Boulevard, Khan Chamkarmon, Phnom Penh
Tel: 023 212 707, 023 726 148
Email: moi@interior.gov.kh
Website: www.interior.gov.kh

Office of the Council of Ministers: His Excellency Sok An, Deputy Prime Minister, Minister of Council of Ministers.
Address: #41, Russian Federation Boulevard, Phnom Penh
Tel: 012 804 442
Email: ocm@cambodia.gov.kh
Website: <http://www.pressocm.gov.kh/> , www.ocm.gov.kh

Ministry of Land Management, Urban Planning and Construction: His Excellency Chhan Saphan, Secretary of State, Ministry of Land Management.

Address: #771-773 Monivong Boulevard, Boeung Trabek, Chamkar Morn, Phnom Penh

Tel: 023 994 139, 023 217 027

Website: <http://www.mlmupc.gov.kh>

Secretary of the Cadastral Commission: Mr Vuthy Vannara, Director

Address: Psar Neak Meas (1st Floor), Psar Dem Kor, Toul Kok, P.Penh

Website: <http://www.mlmupc.gov.kh>

Ministry of Justice: His Excellency Ung Vongvathana, Minister of Ministry of Justice.

Address: N^o 14, Sothearos Boulevard, Phnom Penh.

Tel: 023 212 693

Email: moj@cambodia.gov.kh

Website: www.moj.gov.kh

Ministry of Agriculture, Forestry and Fisheries: His Excellency Chan Sarun, Minister of Ministry of Agriculture, Forestry and Fisheries.

Address: #200 Norodom Boulevard, Sangkat Tonle Bassac, Khan Chamkarmon, Phnom Penh

Tel: 023 211 351, 023 211 352

Email: maff@everyday.com.kh

Website: www.maff.gov.kh

Ministry of Industry, Mines and Energy: His Excellency Suy Sem, Minister of Ministry of Industry, Mines and Energy.

Address: #45, Norodom Boulevard.

Email: industry@comnet.com.kh

Website: www.mime.gov.kh

Ministry of National Assembly and Senate Relations and Investigations:

Address: #126 Sotheros Boulevard, 12301, Phnom Penh

Tel: 023 221 491, 023 884 254, 023 882 761

Email: mnasrl@cambodia.gov.kh

National Authority for Land Dispute Resolution:

Address: #113, Joseph Bros Tito (St. 214), 12258, Phnom Penh

Tel: 023 211 387

Senate Human Rights Commission:

Address: Norodom Boulevard, 12302 Phnom Penh

Tel: 023 211 411, 023 211 412, 023 211 413

EXAMPLE COMPLAINT LETTER

Here is an example of a complaint letter that one community threatened with eviction sent to the National Authority for Resolution of Land Disputes:

Kingdom of Cambodia

Nation Religion King

Complaint from:

The people, and representatives of the people, living in [REDACTED]
[REDACTED] Phnom Penh.

To:

His Excellency Bin Chhin, President of National Authority for Resolution of Land Disputes.

Objective: To complain concerning

- The Notification N° [REDACTED] dated [REDACTED], issued by Municipality of Phnom Penh, and;
- [REDACTED] Company which grabbed the legal private land of people in [REDACTED]

Reference:

- Notification N° [REDACTED] dated [REDACTED], issued by Municipality of Phnom Penh, and;
- Articles 29, 30, 31, 38, 42, 235, 254 of Land Law 2001

As mentioned in the subject and reference above, we would like to inform His Excellency that we are being oppressed by [REDACTED] [REDACTED] which forced us to leave our houses and violated our legal rights on land. We have lived here since 1983 and many people bought and sold their land with recognition from local authorities, who witnessed and signed the rights transfer documents. Moreover, the people have the receipt issued by Phnom Penh Cadastral Office in [REDACTED]. In addition, we have had documents showing our residence since 1992 such living books, family certificates, identity cards, voter cards, construction letters, etc.

We have filed for land titles but the authorities refused to issue the titles. When the people filed a complaint to the National Cadastral Commission, it issued a letter dated [REDACTED] by the Municipality Cadastral Department to launch an investigation. But, since that first investigation, there was no progress.

Since 1993, we never had any problems living in our area and nobody ever claimed that the land belonged to either a company or to the State. Until one day, [REDACTED] District Hall issued a Notification No. [REDACTED] asking people to move to a relocation site in order to beautify and develop Phnom Penh and ensure respect for the law. The people complained and the Municipality of Phnom Penh issued a administrative letter as a final notification, dated [REDACTED] 2009, which accused people of being living on the land of [REDACTED] Company and on State public land.

In the past, when people rallied at the Municipality of Phnom Penh, the municipality authorities never showed any document to clarify this land is the state public land or belongs to the [REDACTED] Company, it only made verbal statements. When we asked for the document, the Municipality of Phnom Penh never provided it.

We have already filed this complaint with the Cadastral Commission and National Authority of Land Dispute, but there was no decision. So, the judgement of the Municipality of Phnom Penh itself, which claims that the land belonged to [REDACTED] Company and the State, infringes on the jurisdiction of the Cadastral Commission and National Authority for Resolution of Land Disputes.

As mention above, we would like to ask His Excellency to issue a immediate decision to halt forced implementation of the Municipality of Phnom Penh of Notification No. [REDACTED], dated [REDACTED] 2009, issued by the Municipality of Phnom Penh until there are final decision from Cadastral Commission or National Authority for Resolution of Land Disputes and the Courts.

Please accept our high and sincere respect.

Phnom Penh,2009
Thumbprints of [REDACTED] Representatives

Attachments:

- Lawsuit to His Excellency President of National Authority of Land Dispute, dated [REDACTED]
- Receipts of House Statistics issued by the Phnom Penh Cadastral Office, dated [REDACTED]
- Last Notification No. [REDACTED]
- Land occupation documents of the people

EXAMPLE PETITION

This example is based on a real petition written by a community network in Cambodia and sent to the Prime Minister. If you want to write your own petition you may use a similar format to that below.

PETITION

We Cambodian citizens were very happy when we heard the speech of Samdech Hun Sen, when he stated that there would be penalties for officials, powerful men, and companies who destroy forests and fisheries, and encroach on the lands of Cambodian citizens. We were happy when he announced that measures would be taken to order those officials, powerful men, and companies to immediately give back the land to the citizens.

Up to now, these officials, powerful men, and companies have continued their action in encroaching on land and forests, and destroying fisheries, and the citizens continue to lose their lands.

We are looking forward for the implementation of measures from the government in accordance with Samdech's speech.

Phnom Penh, Day.....Month.....Year.....

Petitioners

N ^o	Name	Sex	Age	Province/ city	Thumb Printed
1					
2					
3					

ORGANIZATIONS THAT MAY BE ABLE TO PROVIDE ASSISTANCE

If you are involved in a land dispute or are threatened with eviction, or if you just want more information on how you can try to protect your land, you may want to talk with an organization.

Talk with local people: In most cases, you will be able to learn a lot from talking with other people who have been involved in a land dispute or who have actually been forcibly displaced. If you know a nearby community who has gone through similar problems, or is still involved in a dispute, it can be helpful to talk with them. This way you can learn what strategies have been successful and which have not.

Talk with community networks: There are also several community networks active in different parts of Cambodia. These networks have a lot of experience with land problems and may be able to give advice and support. Some of the organizations listed below may be able to help you contact a local community network.

Talk with local NGOs: It may be helpful to contact a local organization that works to support communities. Because it is based in your region, a local organization may have better knowledge of the situation than one based in Phnom Penh. If there is no local organization that can help you, or if you want to take your advocacy to a higher level, you may want to contact organizations based in Phnom Penh and International NGOs.

The organizations listed below do not necessarily support the contents of this publication. Their contact details are provided as a resource to access assistance or additional information.

ADHOC

Address: #1, Street 158, Okhna Troeung Kang, P.O. Box 1024, Beng Raing, Daun Penh, Phnom Penh

Tel: 023 218 653

Email: adhoc@forum.org.kh

Website: www.adhoc-chra.org/

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Email: cambodia@babsea.org

Website: www.babsea.org

Centre on Housing Rights and Evictions (COHRE)

83 rue de Montbrillant

1202 Geneva, Switzerland

Email: cohre@cohre.org

Web: www.cohre.org

Community Legal Education Center (CLEC)

Address: #54, Street 306, Boeung Keng Kang I, Khan Chamkarmon, Phnom Penh

Tel: 023 215 590

Email: admin@clec.org.kh

Website: www.clec.org.kh/

Community Capacity for Development (CCD):

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Email: ccd_kch@camintel.com

Cambodian Centre for Human Rights (CCHR):

Address: #798, St.99, Boueng Trabek, Chamkarmon, Phnom Penh

Tel: 023 726 901

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Email: info@cchrcambodia.org

Website: <http://www.cchrcambodia.org/>

Cambodian Human Rights Action Committee (CHRAC):

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San Francisco, CA 94104, USA

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LICADHO (Cambodian League for the Promotion of Defense of Human Rights)

Address: #16, Street 99, Boeung Trabek, Phnom Penh. Mailing address: P.O. Box 499, Phnom Penh.

Tel: 023 211 391, 023 360 965

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NGO Forum on Cambodia (Land and Livelihoods Programme):

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Website: <http://www.ngoforum.org.kh>

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Office of the United Nations High Commissioner for Human Rights, Cambodia Country Office (OHCHR):

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#69 St. 360, Phnom Penh
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BBC World Service Trust 100 FM (English Language)

#58, Street 306, 12302 Phnom Penh, P.O Box 155
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Website: www.bbcworldservicetrust.org

The Cambodia Daily (English Language)

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Website: <http://www.tv9.com.kh/>

The Phnom Penh Post (English Language)

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RFI - Radio France International 92 FM

#218, Keo Chea (St. 184), French Cultural Centre, 12211 Phnom Penh,
Tel: 023 721 383, 023 211 194

Rasmei Kampuchea Daily

#474 Preah Monivong, Phnom Penh
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RFA - Radio Free Asia

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Email: sereyt@pp.rfa.org

Website: www.rfa.org/khmer

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VOA - Voice of America

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VOD - Voice of Democracy

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