

CAMBODIA | private development linked to corruption and arbitrary application of the law Abuse of Eminent Domain and State Abuse of Expropriation | an OSF Cross-Cutting Topic

Thousands of families have been forcibly evicted in the lead up to private development of the area around Boeung Kak Lake in Phnom Penh. A 2001 court ruling dictated that the land could not be leased for longer than 15 years, but in 2007 it was leased to a private developer for a term of 99 years. This agreement violated the 2001 Land Law, but was retroactively legalized by the government in 2008. The evictions themselves were marked by unfair compensation, inadequate relocation, unjust use of force, violation of the rights to freedom of expression and assembly. Individuals who defended their land rights were persecuted, subjected to unfair trials and unlawful detention.

THE CASE

By 1991, most of the land surrounding Boeung Kak Lake was occupied, with many households in possession of documentation of their long-term residency and home ownership. In 2001 a new Land Law declared the area public land belonging to the state. This type of land is subject to restrictions on leasing: it cannot be leased for longer than 15 years, and during the term of the lease its function cannot change. In 2005, however, the government allowed plans for private development to move forward. In 2007, the Municipality of Phnom Penh signed a 99-year, US\$79 million dollar lease with Shukaku Inc. for much of the land around the lake. This illegal lease was [retroactively made legal](#) by a 2008 sub-decree.

The Shukaku lease usurped the land rights of the roughly 20,000 residents around Boeung Kak, and presented them with three options: a US\$8,000 payment once they had demolished their own homes; relocation to a distant relocation site; or in-situ resettlement with an unclear timeline, and vague details. For the latter option, residents were told they would be resettled for an unspecified amount of time prior to permanent resettlement, and were not given any details concerning the type of housing they would be offered in the future. Many households rejected this option of in-situ upgrading outright, with the case of [Borei Keila](#) (a failed in-situ upgrading and land-sharing attempt) fresh in their minds.

Developers used police force, demolitions without warning, and threats to evict many of the households. Other residents were tricked into making a decision, as the developers attempted to incite disagreement among community members. They often offered higher compensation to wealthier residents, in an attempt to create tension and jealousy in the community. Politicians were also complicit in these tactics, with many promising Boeung Kak residents that if they were elected, the evictions would not take place. Once elections concluded, the evictions continued. These tactics were effective in causing frustration among community members, but did not stop remaining households from fighting for rights.

As this case was unfolding, the World Bank had been developing a Land Management and Administration Project (LMAP), since 2003. This project was intended to systemically register land and issue titles in order to improve security of tenure. In 2006, a community in the lake area was chosen to receive titles under LMAP. However, later that year, residents registered under the World Bank project as holding tenure were denied their claims to the land on the grounds that the 2001 Land Law and the status of the land as State public land prevented families from titling their land. For residents of Boeung Kak Lake, the LMAP was fruitless. Ultimately, residents submitted a complaint to the World Bank Inspection Panel alleging that the World Bank did not appropriately monitor the project. The Inspection Panel ruled in favor of the community, and in 2011 the [World Bank announced](#) that it had

suspended loans to Cambodia until the government reached an agreement with Lake-area residents.

Though the Prime Minister allocated 12.44 hectares of land to the remaining 779 families for onsite housing (mere days after the World Bank announcement), 85% of Boeung Kak households had already been displaced. Furthermore, 96 families were excluded from the concession, and continued to face eviction. Protests around the concession and the evictions continue through 2013, with authorities becoming increasingly violent in their crackdown and using the legal system to stifle dissent and protest.

RIGHTS AND EVICTIONS

The case of Boeung Kak Lake demonstrates clearly the role of corruption and nepotism in private land development. First, the application of the 2001 Land Law to residents but not to the private developers reveals an arbitrary application of the law favoring private interests. Additionally, the developer, Shukaku Inc., is owned by Senator Lao Meng Khin, a close associate of Prime Minister Hun Sen and donor to the Cambodian People's Party.

In carrying out the evictions, disproportionate use of force was employed, and inadequate compensation (below market repayment, and non-realistic relocation options) was offered. In addition, the developers began to fill the lake with sand in 2008 – in direct violation of Cambodian law. This action caused extreme flooding in the communities around the lake, forcing households to move.

When interviewed, residents of the Lake area said that they needed to remain in their community in order to have access to a livelihood, education for their children, and medical services. They said relocation would be irrevocably destructive to their families.

Residents have been protesting the evictions since they began, and the way the government has comported itself demonstrates a disregard for the rights to freedom of expression, assembly, and fair trial. Police and private security agents have used

violence in attacking and arresting protestors. In one incident in 2012, twenty to thirty demonstrators had assembled to protest the arrival of around two hundred armed city and military police who were preventing families from rebuilding their homes. The confrontation between the protestors and police intensified, and thirteen protestors – all women – were arrested. These women were charged, tried, sentenced, and imprisoned over the course of one day. They were kept in unlawful pre-trial detention, and according to the Cambodian Center for Human Rights, their right to a fair trial was fundamentally breached.

TOOLS AND TACTICS

Community organizing | The Lake area residents joined together to advocate for their rights, fight for better compensation, and protest the government's actions. OSF grantee [Equitable Cambodia](#) played a key role in working to support and strengthen the community organizing process. This process was crucial to organizing the complaint to the World Bank and securing the 12.44 hectare concession.

Mapping alternate plans | OSF grantee [Sahmakum Teang Tnaut](#) (STT), a local organization working with marginalized urban communities, released a 2012 report, "[Outside the Lines](#)," mapping the 12.44 hectare concession and demonstrating that the excluded households could easily fit within the concession. This alternate plan, in addition to their online "Urban Watch" platform has been a key advocacy tool.

Legal analysis | The [Cambodian Center for Human Rights](#), an OSF grantee, has worked extensively on cases brought against activists, and has used its international network to bring light to the intimidation tactics used against Boeung Kak activists.

RELATED READING

[Sahmakum Teang Tnaut "A Home no More" "Meet the Boeung Kak 15"](#)
[World Bank Inspection Panel "Cambodia LMAP"](#)
[The Guardian "Residents score landmark victory"](#)
[Direito a Moradia "Video of eviction in Cambodia"](#)
[LICADHO "Human Rights Defender Yorm Bopha"](#)
[LICADHO "Human Rights 2012, The Year in Review"](#)