



JOINT STATEMENT

CIVIL SOCIETY EXPRESSES CONCERNS AND RECOMENDS ON EXPROPRIATION DRAFT LAW

Phnom Penh, December 24, 2009

Representatives of civil society groups including The Cambodian Human Rights Action Committee (CHRAC), The NGO Forum on Cambodia (NGO Forum), Housing Rights Task Force (HRTF), Star Kampuchea, The Committee for Free and Fair Elections in Cambodia (COMFREL), and other local and International NGOs wish to express their serious concerns about the **draft law on Expropriation**¹ that is going to be debated and adopted by the National Assembly in the coming days.

As representatives of civil society, we are of the view that the draft law contains many areas of concern. If adopted in its current form, the law will potentially negatively affect the interests of property owners, rights bearers and many other poor communities due to the fact that law allows the public authorities to expropriate land and forcefully evict residents, without adequate measures to ensure due process or provide fair and just compensation in return.

To address these concerns and to improve the substance and spirit of the law, civil society, community representatives and other concerned parties who have been watching thoroughly the draft law process, appeal to all members of the National Assembly to seriously consider and debate the substance and objectives of this law in order to minimize the potential negative impacts of expropriation procedures where they are necessary and improve the legal protections offered individuals affected by such operations.

We therefore urge the National Assembly again to consider and include our 14 proposed recommendations into the debate and the law. These are listed as follows:

1. (Article 2): given delays in the land titling process throughout Cambodia, the law on expropriation should **govern both the owners with land titles and those with legitimate possession rights** affected by expropriation of their immovable property in situations of national and public interest;
2. (Article 3): every memorandum of understanding and agreement on investment support between the government and partner countries shall be subject to the scope of the law;
3. (Article 4): in light of the uniquely vulnerable position of indigenous people in protecting their land rights, where an expropriation affects collective land of indigenous people, this shall require prior registration before any expropriation is carried out on that land;
4. (Article 5): the definition of “*public physical infrastructure*” shall be clarified , because it is too broad and can be subject to differing interpretations; Ex: (article 5 (i) and article 5 (o))

¹ The Draft Law on “Expropriation” that the Civil Society have so far discussed is the draft dated November 13, 2009. The draft was then put for consultation by Civil Society at Imperial Hotel on December 9, 2009 which concludes our joint recommendations for the draft.

5. (Previous Article 7): expropriation of the citizen's immovable property shall be minimized. This clause was in the previous draft dated July 14, 2009 and was removed in the draft dated November 13, 2009. Therefore, *please re-insert this important clause*;
6. (Article 9): in case the expropriation project *does not operate for two years*, the expropriated land shall be given back to the citizen (do not leave it unused);
7. (Article 10): there shall be a guarantee that affected people can access adequate shelter even where expropriation occurs in emergency circumstances;
8. (Article 12): the Expropriation Committee and sub-committee is the only body who shall be in charge of all execution of the expropriation; *any sub-decree which is formulated under this law shall be published in draft form to the public so that they have an appropriate opportunity to conduct consultation* ;
9. (Article 16): include the "*directly affected community*" in public consultation and with *adequate time*;
10. (Article 16): while proposing the expropriation project, the right to file a complaint shall be given with adequate time to the owner of the immovable property and rightful owner;
11. (Article 19): make sure the *expropriation of the citizen's immovable property shall not happen if the resolution has not been completed*;
12. (Article 22): just and fair compensation shall include the market price, cost of living, and cultural and traditional cost;
13. (Article 31): at least three months time shall be given to the affected community/residents so that they can easily find new places.
14. (Article 35): the level of punishment shall be more serious for any competent official or their accomplice who carries out an expropriation which is not for national and public interests; and does not properly follow the expropriation procedure; the punishment shall include the administrative punishment, fine, and send to jail.

For more information, please contact:

Mr. Hang Chhaya	Chairman of CHRAC/Director of KID	Tel: 012 865 910
Mr. Thun Saray	President of ADHOC	Tel: 016 888 509
Mr. Sok Sam Oeun	Executive Director of CDP	Tel: 012 901 199
Mr. Chhith Sam Ath	Executive Director of NGO Forum	Tel: 012 928 585
Mr. Yeng Virak	Executive Director of CLEC	Tel: 012 801 235
Mr. Ou Virak	Executive Director of CCHR	Tel: 012 404 051
Mr. Sia Phearum	Director of HRTF	Tel: 012 852 235
Ms. Chet Charya	Executive Director of Star Kampuchea	Tel: 012 802 460
Mr. Koul Panha	Executive Director of COMFREL	Tel: 012 942 017
Mr. Thean Sarom	Operation Manager WV-Cambodia	Tel: 012 656 181
Mr David Pred	Cambodian Director, BABSEA	Tel: 092 285 954