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Document: ALRC-SHRC-04-03-2007

Language(s): ENGLISH ONLY

HUMAN RIGHTS COUNCIL

Fourth session

**Written statement submitted by the Asian Legal Resource Centre (ALRC), a
non-governmental organization in general consultative status**

Land-grabbing, corruption and the absence of the rule of law in Cambodia

1. The Asian Legal Resource Centre (ALRC) wishes to draw your attention to the issue of land-grabbing to which many Cambodian people have and continue to fall victims in the country. Land-grabbing takes different forms, such as land disputes between powerful or rich people or the public authorities on the one hand and ordinary people or low ranking government officials on the other. Victims are mostly the rural and urban poor and indigenous people. Land-grabbing has and continues to inflict enormous suffering in various forms upon victims, such as the inconvenience of relocation and resettlement, economic and social welfare losses and physical hardship. These forms of suffering are often preceded by threats, intimidation, violence, imprisonment or even death, when victims put up any resistance and/or demand appropriate and just compensation according to their lawful entitlement.
2. The ALRC will cite a few cases in this submission to highlight the seriousness of the issue and to request the intervention of the Human Rights Council to urge the Cambodian government to address and put an end to land-grabbing. There has been a dramatic increase in this practice since 2001. Between 2001 and 2003, a local human rights NGO registered around 150 cases. This number rose to around 350 in 2004 and 2005, and then to 450 in 2006. According to another NGO, the indigenous people in the northeastern province of Rattanakiri have already lost 30 per cent of their community land due to land-grabbing, while that remaining is under threat. The National Authority for Resolution of Land Disputes (NARLD), created in February 2006, has to date received closer to 2000 cases. An international human rights NGO has recorded that between 1000 and 1600 families in Phnom Penh and over 1200 families in ten provinces alone had experienced evictions in 2006.
3. In 2005, a foreign company was given significant land concessions in the northeastern province of Mondolkiri. This concession infringed upon the ancestral lands of an indigenous community, who strongly protested against this. In the same year, there were also protests against the concession of some 30,000 hectares straddling two western provinces, Kompong Chhnang and Pursat. In January 2006, a group of villagers from an indigenous community in Rattanakiri province protested against the clearance of their land and crops, which was reserved for development but was secretly sold to a businessman. In the same month, in

Phnom Penh, some 290 families from the provinces of Battambang, Kompong Speu, Oudor Meanchey and Sihanoukville camped out in front of the Parliament to protest against eviction from their land. In February, the police destroyed the camps and forced them into trucks to take them back to their provinces. In August, 200 villagers on seven trucks from Ang Snuol district, Kandal province, were on their way to the Parliament to demand the release of their representative who was arrested while protesting land-grabbing. Around 100 well-armed riot police officers blocked their entry to Phnom Penh, and assaulted them, injuring around 40 persons.

4. The use of force and intimidation is common to force victims to accept compensation well below the market price of their property. In the eviction of 168 families living near Monivong Hospital in Phnom Penh, whose land the government conceded to the powerful Royal Group Company, they were offered the average compensation of less than US\$20 per square meter of land, while the estimated market price was US\$200. Low-ranking police officers who were members of the families were threatened with losing their jobs if they rejected the offer and the relocation. The families were forcibly evicted in July 2006 and were relocated some 20 kilometers away on the outskirts of Phnom Penh. In the same month, for the “beautification and development” of the city, the Municipality of Phnom Penh threatened 146 families living in Group 78 in Chamcar Mon district with forced eviction and offered US\$600 and a five by twelve meter plot each on the outskirts of Phnom Penh if they vacated their property, the estimated market price of which was US\$700 per square meter.
5. When threats, intimidation and offers of compensation fail, government officials use violence or even press criminal charges against victims. In 2005, five villagers were killed by the civilian and military police forces during the eviction of some 200 families in the northwestern province of Banteay Meanchey, close to the Thai border. In 2006, an NGO reported 78 arrests in 29 land dispute cases. There are a variety of criminal charges filed by land grabbers, such as: infringement against private or public property; causing damage to markers, topographic points or cadastral signs; fraud; robbery; or incitement. In January 2007, two villagers among 222 families from Preah Net Preah district, Banteay Meanchey province, were prosecuted for robbing rice that they had harvested from land allocated to them but contested by rich businessmen who claimed to have bought it from the military posted in the area. In December 2006, a villager not only had his son seriously injured by the police when protesting against land-grabbing by a powerful company, PHANEMEX, but was also charged with fraud by the same company. In January 2006, while the indigenous villagers protested against a businessman's clearance of their land and crops in Rattanakiri province, two of them were arrested and charged with causing damage to other people's property.
6. Forcible eviction creates significant suffering. For instance, in May 2006 over 1000 families in Phnom Penh were forcibly evicted, making over 400 families of poor tenants immediately homeless. Local officials pressurized them to leave and denied humanitarian agencies access to distribute tents. They smashed cooking pots and pans, cut off running water and electricity, and banned any sale of water at the site. The homeless had to sleep in the open. In June, armed police forcibly evicted the homeless tenants and trucked them to a resettlement area some 22km

away on the outskirts of Phnom Penh.

7. On top of the inconvenience of displacement, evictees who have successively been relocated at different sites on the periphery of Phnom Penh have experienced, according to a survey, an average income reduction of up to 70 per cent, depending on the sites, due to increased transportation costs, lower paid employment in the resettlement area, and unemployment. Their standard of living has also decreased due to the lack of running water, electricity, sanitation and schools. Certain resettlement areas are flooded in the rainy season.
8. The ALRC holds that land-grabbing has arisen during a transition from a collective to a private ownership system and there is no rule of law to embed the new system and properly adjudicate land disputes. In addition cadastral surveys and the registration of land ownership have lagged behind private possession. Furthermore, due to ignorance, costs or sheer apathy, many have not registered their land and obtained title deeds. As a result, not many land owners have title deeds on the land they occupy, although many do have some form of official recognition of their ownership. All this has created opportunities for the powerful and the rich to use illicit means to secure title deeds on land and get government officials to evict its owners. The government has also, through illicit transactions, made land concessions regardless of whether these concessions infringe upon people's land or affect their livelihood.
9. A land law was enacted in 2001 which recognises that any person enjoying peaceful, uncontested possession of a given property for more than five years acquires an *in rem* ownership interest, and can request a definite title of ownership over it. However this Land Law has not been effectively enforced due to political manipulation and corruption within Cambodia's rule of law institutions. Cambodia's courts are politically controlled, and like all other government agencies, are corrupt. The national, provincial and district cadastral commissions created under the same law are unable to fulfill their mandates due to a lack of independence, resources and expertise. Government officials abuse power and ignore article 36 of that law, which allows for the suspension of any eviction that could cause instability or social repercussions. Similarly, the provisions of articles 26 and 265 prohibiting the infringement of indigenous communities' land rights are also being overlooked.
10. Courts of law are not trusted as they are under executive control and the influence of money. In the case of the eviction of the 168 families near the Monivong Hospital cited above, the Phnom Penh court refused to adjudicate a complaint filed by those families when the government ordered the eviction. A land dispute case is still pending, in which the government has suspended the enforcement of the Supreme Court's judgment concerning this case. The Rattanakiri provincial governor rejected the prosecutor's decision in November 2006 to halting land grabbing in Bokeo district in his province. The owner of the powerful PHANAMEX land-development company is known to refuse to appear in court when summoned.
11. The newly-created NARLD cited above has not addressed any of the complaints it has received so far. It has managed to seize and return to the public domain over

170,000 hectares of woodlands that the powerful and the rich had illegally cleared for private ownership, but has not taken any legal action against persons for their illegal acts.

12. Land grabbing is a violation of the right to ownership guaranteed under article 44 of the Cambodian Constitution, and of the right to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions as stipulated in article 11 of the International Covenant on Economic, Social and Cultural Rights, to which Cambodia is party. It also violates other constitutional rights of the Cambodian people.

13. In order for all these rights to be realised, the ALRC urges the Human Rights Council to work with the Cambodian government to ensure that:

13.1. The 2001 Land Law and all the implementing regulations are effectively enforced, and the government applies its article 36, which allows for suspension of any eviction order that could cause instability or social repercussions, as well as to suspend all pending evictions while working out appropriate and just compensation for victims;

13.2. Article 44 of the constitution is effectively enforced to protect private ownership;

13.3. Whenever land confiscation is needed, in order to comply with the article 44 of the constitution, a law must be enacted to determine public interests, authorise the confiscation for such purposes and create a mechanism to determine and offer appropriate and just compensation to affected owners;

13.4. Any eviction has to be decided by a court of law for registered land and by a cadastral commission for unregistered land, as the Land Law has stipulated, through due process of law and with appropriate and just compensation;

13.5. No eviction can be carried out by an executive order;

13.6. Courts of law are independent, competent and impartial, and have adequate resources, their decisions are binding, and there is a law to punish any non-compliance with court decisions;

13.7. Land concessions are suspended while pending disputes are being resolved;

13.8. The National Authority for the Resolution of Land Disputes is scrapped, while the cadastral commissions are strengthened and given the necessary independence, resources and expertise to resolve land disputes;

13.9. The government effectively redistributes land to the poor and landless, ensuring that they have access to employment and public services;

13.10. There is transparency in land concessions;

13.11. People likely to be affected are sufficiently consulted before any land concession is made.