

## FACT SHEET : COMMUNITY FISHERIES AND DEVELOPMENT PROJECTS IN CAMBODIA'S COASTAL AREAS

**Snapshot:** Development projects continue to threaten the existence of community fisheries (“CFi”) living in coastal areas, whose land they depend on for survival is being encroached on and destroyed. This factsheet builds upon two previous fact sheets released by CCHR in [2021](#) and [2022](#) and wraps up its field research on two development projects threatening CFi in the coastal areas of Kampot and Kep provinces: one involving the company *OMNI Kampot Development Co., Ltd* (“OMNI company”) and the other involving the company *Ching Kor Import Export Co., Ltd* (“Ching Kor company”). In addition, some other development projects threatening CFis, are also shown in this factsheet. If moving forward, these projects will affect several of the CFi living in these two provinces. This fact sheet concludes with tangible recommendations to the Royal Government of Cambodia (“RGC”) and businesses in order to improve respect for fishing and land rights and fundamental freedoms along the coast and across the country.

### 1. Introduction

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CFi were officially established by a Royal Decree in 2005, giving Cambodian citizens the right to join together to establish community fisheries in their own local areas,<sup>1</sup> in an attempt to improve the management of local fisheries. CFi constitute economic, social and cultural engines that structure the daily lives of thousands while feeding families across Cambodia. They employ millions of Cambodians and contribute significantly to domestic food security. Cambodians are among the biggest fish consumers in the world, with an estimated consumption rate of 37.5 to 67 kg of fresh fish per individual every year and with 75% of the Cambodian population getting their animal protein intake from fish.<sup>2</sup> CFi are, therefore, vital actors in Cambodian society.

The livelihood that community members make from fishing enables them to realize key human rights, such as the right to housing – which has become particularly urgent to protect in the context of the COVID-19 pandemic – the right to food, the right to health, and the right to children to access education. Sadly, the survival of CFi has been threatened by an increasing number of development projects in recent years, especially in marine and coastal areas, as well as tourist destinations that are highly attractive for project developers. By encroaching on the fishing space that communities depend on to survive, many development projects hinder communities from carrying out their fishing activities and damage the environment, presenting a serious threat to the survival and way of living of CFi and undermining food security in Cambodia.

### 2. Key Issues: The continued threat of development for CFi in Kampot and Kep coastal areas

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In May 2022, at the ceremony marking the opening of the construction of the massive new logistics and multi-purpose port by the local company *Kampot Logistics and Port Co., Ltd* over more than 600

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<sup>1</sup> Article 1 of the Royal Decree on the Establishment of Community Fisheries ([Unofficial translation](#), 2005).

<sup>2</sup> RGC Statement on Fisheries, (*Cambodian Fisheries Administration's website*, accessed on 17 March 2022).

hectares of privatized land<sup>3</sup> in Kampot's Preaek Tnaot commune, the Minister of Land Management, Urban Planning and Construction ("MLMUPC") and the Ministry of Public Works and Transport said that the port would be a catalyst for the development of the national economy and assist Cambodia in being more prosperous and a high-income country by 2050.<sup>4</sup> The RGC's attempts to increase tourism and boost economic development has led to the approval of various development projects in Kampot and Kep provinces in recent years in addition to this multi-purpose port, such as the ambitious French Riviera Marina,<sup>5</sup> the Kampot International Tourism Port,<sup>6</sup> the development of beaches in Kep,<sup>7</sup> or the building of a seaport and satellite city or of artificial islands with recreational and golf areas as well as resorts<sup>8</sup>, to name a few. While the benefits for the economy are undeniable, some of these development projects are located along Kampot's and Kep's coast and overlap with the land of local communities living in coastal areas. This includes that of various CFI, whose fishing grounds and rights and the natural resources and biodiversity they depend on for survival and as protection from natural disasters are threatened by such projects.

Despite the existence of an international and domestic legal framework protecting CFI's land and other fundamental rights,<sup>9</sup> it remains insufficient and/or is not properly implemented by Cambodian authorities.<sup>10</sup> The rights granted to CFI are secured through their registration with the Ministry of Agriculture, Forestry and Fisheries. However, this registration does not provide them with ownership of the land they occupy and can be withdrawn by the authorities at any time. The insecurity of land tenure that CFI live in is further exacerbated by the fear that they will be dislodged without notice for the benefit of lucrative development projects in the RGC's efforts to bolster tourism in coastal areas. In addition, the RGC has been increasingly using repressive domestic laws to target land activists and citizens embroiled in land disputes with the authorities or private companies exercising their fundamental freedoms to defend their land rights.<sup>11</sup>

Consequently, CFI remain largely unprotected and their existence increasingly endangered by development projects. It is notably the case for the eight CFI of Kampong Samaky, Trapeang Sangkae, Trapeang Ropov, Chang Haon, and Preaek Tnaot in Kampot and Phum Thmei, Kampong Tralach, and Ou Krasar in Kep, who are all threatened by the development plans of the OMNI and Ching Kor companies and other companies in the area, as outlined in more details in the case study<sup>12</sup> below.

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<sup>3</sup> Mech Dara, "600 hectares of sea privatized for Kampot port project," ([VOD](#), 9 August 2022).

<sup>4</sup> Sok Sithika, "\$1.5 billion Kampot port construction begins," ([Khmer Times](#), 6 May 2022); Ivan Fredriech Cano, "New Kampot International Port planned for \$1.5 billion," ([Khmer Times](#), 15 June 2022); Eac News, "Kampot multi-purpose port will provide about 10,000 jobs to the people," ([Eac News](#), 5 May 2022).

<sup>5</sup> Ky Kosal, "New \$23b Kampot resort" ([Khmer Times](#), 16 August 2017); "Pallas: approval given for \$23.2 billion development project in Cambodia" ([Bilderberg Investment Group](#), 24 June 2021).

<sup>6</sup> Nov Sivutha, "Kampot tourism quay '90% done'" ([The Phnom Penh Post](#), 9 January 2022)

<sup>7</sup> Buth R. Kongkea, "Kep beaches to receive makeover" ([Khmer Times](#), 23 July 2021).

<sup>8</sup> Action Aid Cambodia, CCHR, and CWDCC "Report of environmental and social impact assessment: impact of development projects on marine environmental resources in Kampot and Ke provinces," ([AAC](#), October 2021), p.3 ("Joint report released by AAC, CCHR, and CWDCC").

<sup>9</sup> For more details about the legal framework on CFI, land, and environmental rights, please see CCHR, "Fact sheet: Community fisheries and development projects in coastal areas," ([CCHR](#), February 2021) ("CCHR Factsheet #1") and CCHR, "Fact sheet: community fisheries and development projects in coastal areas," ([CCHR](#), April 2022) ("CCHR Factsheet #2").

<sup>10</sup> MoE, GEF, UNDP & PEMSEA "National State of Oceans and Coasts 2018: Blue Economy Growth Cambodia" ([MoE](#), Dec. 2019), §4.10, p. 46.

<sup>11</sup> CCHR, "Fact sheet: Forced evictions in Cambodia during COVID-19" ([CCHR](#), Oct. 2021); See also RFA, "Villagers take protest over long-running land dispute to Cambodian capital," ([RFA](#), 6 September 2022); Khuom Narim, "Villagers' lands cleared for mega-airport project despite ongoing disputes," ([Cambodia News](#), 10 February 2022).

<sup>12</sup> The information provided in Section 4 comes from CCHR's interviews unless otherwise specified. CCHR conducted field research in Kampot and Kep provinces in August 2022 and interviewed seven CFI impacted by the OMNI or Ching Kor projects - Kampong Samaky, Trapeang Sangkae, Preaek Tnaot, Trapeang Ropov, Chang Hoan, Ou Krasar, and Phum Thmei CFI, except Kampong Tralach CFI whose representatives were absent in the interview due to they were busy with other businesses- sub-national authorities and local non-governmental organizations (NGOs). To inform this case study, CCHR notably interviewed several members of the seven target CFI, five authorities at the village, commune

#### 4. Case study: Kampot and Kep CFI confronted to the uncertainty of the OMNI, Ching Kor, and other development plans.

Kep and Kampot coasts are home to various fishing communities. Kampong Samaky CFI of Koun Satv commune, Trapeang Sangkae CFI of Trapeang Sangkae commune, Tuek Chhou district, Preaek Tnaot, Trapeang Ropov and Chang Haon are in Preaek Tnaot commune, Bokor City, Kampot province. In Kep, Phum Thmei, Ou Krasar and Kampong Tralach CFI are located in Kep City. All were formed in the early 2000s and recognized by the RGC.<sup>13</sup>

Fishing is the main occupation of these communities, which means that most community members depend on fishing to sustain their livelihoods and secure food for their families and the community as well as for neighboring communities, as expressed by the CFI interviewed by CCHR.<sup>14</sup> Furthermore, the interviewed CFI members stressed that beyond being a regular source of income for them, fishing is also a family tradition passed on from generation to generation; most community members have learned how to fish and have been fishing since they were born. Losing their CFI would not only cause massive job losses for them but also threaten their children's future.

Since September 2012 to present, the land on which the Preaek Tnaot, Trapeang Ropov, and Chang Haon CFI depend for their survival has been included in the Ching Kor company's plan, PAPA Petroleum and currently, there is a new project plan, name Kampot Logistics and Port Co Ltd, to fill soil in the sea and develop large stretched of coast for port, resort hub, and special economic zone ("Ching Kor project") over about 600 hectares, and "PAPA Petroleum along with Kampot Logistics and Port Co Ltd" over about 1,000 hectares of land in Preaek Tnaot commune, Bokor City, Kampot province. In 2018, the ambitious plan of the OMNI company to build artificial islands for tourism purposes ("OMNI project") over almost 4,000 hectares of land in Kampot's Tuek Chhou district, Kampot province, and Kep City, Kep province came to threaten several CFI living in the area, including Kampong Samaky, Trapeang Sangkae of Kampot, and Phum Thmei, Kampong Tralach and Ou Krasar CFI of Kep.<sup>15</sup>



According to the information collected by CCHR in the interviews conducted in 2020 and 2021, the Ching Kor company had yet to complete the Environmental and Social Impact Assessment ("ESIA") of

and provincial levels in Kampot and two authorities at the commune and provincial level in Kep, as well as four local NGOs. Furthermore, CCHR submitted interview requests to several other local and provincial authorities, who declined the invitation.

<sup>13</sup> Joint report released by AAC, CWDC and CCHR in October 2021, p. 3.

<sup>14</sup> Ibid, page 15-16, confirmed by CCHR's interviews conducted in 2021 (See Factsheet #2).

<sup>15</sup> The map can be accessed to for only CFI who are impacted by Chong Kor and OMNI project plans, as there is no an updated map including PAPA Petroleum and Kampot Logistics and Port Co Ltd can be found.

its project as required by law,<sup>16</sup> while the OMNI company had commissioned an ESIA of its project to the consulting company *Creative Green Design Co., Ltd.*<sup>17</sup> At the time, CCHR could not obtain the full assessment report or more details about the ESIA findings. None of the CFI and sub-national authorities interviewed in 2022 had any updated information about the two companies, Ching Kor and OMNI's ESIA's, as well as about PAPA Petroleum and Kampot Logistics and Port Co Ltd, and the reports remain inaccessible. One of the interviewed local NGOs reported having met and discussed with a representative from the Ministry of Environment ("MoE") at a workshop in August 2022, who confirmed that the MoE had requested the OMNI company to review their ESIA, as previously reported.<sup>18</sup> The interviewee also reported having met another NGO representative who had spoken with the MoE's ESIA Department, which said that both the OMNI and Ching Kor companies had been requested to review their ESIA's. CCHR was not able to verify this information with the relevant authorities. Similarly, since the previous interviews, no new meetings or consultations were held with CFI by Ching Kor and OMNI companies or the authorities. None of the interviewees had updated information about the status of the OMNI and Ching Kor projects, while some of interviewed CFI complained PAPA Petroleum and Kampot Logistics and Port Co Ltd, filled soil in the sea, causing their daily fishing had met difficulty due to fishing area was shrunk from day to day and created mud on the way they move boats to fishing area, and what they seriously concern was that local authority, in a meeting in July 2022, said that Chang Hoan CFI domain was approved to move to another location, and doing so for Preak Tnaot and Trapeang Ropov CFI, based on a map that CCHR obtained from authorities in August 2022.

The Ching Kor company also owns two rice factories on approximately 30 hectares of private land in Preaek Tnaot commune. When asked if these factories continued to create difficulties for local villagers (e.g., bad smell, waste leaked to the ocean) as reported in previous field research, the concerned interviewed CFI said that one of the factories had been inactive for a while. They also mentioned a Thai company that had been renting part of the Ching Kor project's land. Preaek Tnaot CFI added that the company's operations were still causing bad smell and waste leakage into the sea, thus impacting the environment and its biodiversity and the fishermen's income. Trapeang Ropov CFI reported that the situation had improved for them.

The opacity surrounding development projects continues to be a serious concern. Information about these projects in the area remains scarce, with a blatant lack of knowledge about them from the affected communities, who stated hearing about projects that might impact them mainly from local NGOs or the companies themselves when they show up in their communities to seek their approval. They rarely obtain information from local or provincial authorities, who appear to lack information themselves or are reluctant to disclose the information they have. The OMNI have gone silent since 2019 and 2020. None of the interviewees, including local and provincial authorities, clearly know whether the company is still operating and the current status of its project. However, CCHR in August 2022, via phone call, tried to reach a Ching Kor's staff officer who briefly said that the company was processing its operation every day, and this was similar to the information in which an interviewed officer told CCHR that Ching Kor was actively processing its documentation for the company project moving forward, while another representative in a workshop which was held in July 2022, briefly told

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<sup>16</sup> See CCHR Factsheet #1.

<sup>17</sup> See CCHR Factsheets #1 and #2.

<sup>18</sup> See CCHR Factsheet #2.

the participants there that Ching Kor was standing its position following the comments of CFI members. If over 60 % of CFI members would agree to accept company project and that the company would continue its project, but if less than that, the company would not continue its project.

Some CFI interviewees have also reported land encroachment by influential individuals, such as some part of mangrove area at Trapeaeng Sangkae CFI where presently was occupied by a navy police official, about 12 hectares of Kampong Samaky CFI land domain had been encroached by 5 influential individuals, and about 2,000 square meters of Preaek Tnaot CFI land was being encroached by an unidentified individual without a measure was taken effectively yet.

When asked what they were doing to monitor and limit any human rights and environmental impacts of development projects in the region, including in coastal areas, the interviewed sub-national authorities outlined that they assist CFI in monitoring illegal actions and take immediate steps to stop them. The interviewed local NGOs, however, highlighted that based on their observations, the authorities do not appear to have any mechanisms in place to adequately monitor and limit the harmful human rights and environmental impacts of development projects in the two provinces. One NGO interviewee further added that the authorities do not properly implement existing laws protecting against these impacts. Another one expressed their wish to see competent sub-national authorities pay more attention to the impacts of development projects in the area and take more concrete action to protect CFI from companies rather than seeking compromise with the latter and moving CFI to other locations to make way for projects. This was echoed by the CFI interviewed. The interviewed CFI in both provinces reported that they usually raise the issues they face with companies and their development plans with the relevant authorities, such as the Provincial Fisheries Administrations or the commune or village leaders, besides local NGOs and, at times, the media but emphasized the need for more action by the authorities. Some asked that they help CFI safeguard their land and protect them from land encroachment and prohibit any development project from overlapping with CFI land to preserve CFI and traditional fishing. Others called on both the authorities and companies to notify them of development project plans, hold proper consultations with the affected CFI and communities, and conduct ESIA in a fair and transparent manner to avoid any negative impacts on the CFI land and jeopardizing the CFI's existence.

The constant uncertainty in which CFI live due to the country's unbridled thirst for development in coastal areas has also taken a toll on their members' mental health and well-being. The interviewed CFI members reported feeling unhappy, angry and stressed about development projects and concerned about losing their fishing careers and income. Some said they were having nightmares about their land being completely encroached on. The chief of one of the interviewed CFI told CCHR that they had almost resigned from their leadership position in the past due to stress but that their CFI members had encouraged them to stay. The interviewees added that those negative emotions sometimes affected their mood and triggered arguments within families or between neighbors and could lead to other serious issues, such as domestic violence. Furthermore, in two interviewed CFI, the looming threat of development projects had generated distrust of CFI members toward CFI committee members who were suspected of having agreed to some projects and accused of having given off the CFI land. While the concerned CFI committee members have denied those accusations and assured that they were sharing the same concerns and frustration as the other members, this has created tensions within the CFI.

CFi continue to live in constant fear of development projects and are worried that if companies go through with their development plans, they will lose everything, from the land and natural resources they live off to their fishing traditions and children's future.

## 5. Conclusion & Recommendations

Development projects continue to pose a serious threat to CFi in Cambodia and impact the human rights of thousands of Cambodians. While development projects can benefit the country's economy, it is crucial that CFi are given due consideration and are meaningfully informed and engaged with when development projects are envisaged in coastal areas so that economic growth is not achieved at the expense of human rights. CCHR, therefore, reiterates the recommendations previously made to the RGC and businesses operating in Cambodia:

### *Recommendations to the RGC*

- R.1.** Implement **appropriate legal reforms** to align national law, including the Law on Fisheries, with best practice as set out in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security and the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication. This should include a formal process to recognize, protect and facilitate the legitimate rights of CFi to their fishing grounds and surrounding lands;
- R2.** Take measures to **strengthen the capacity of local authorities and key actors** to understand the **legitimate tenure rights of CFi**, including developing guidelines for local authorities to certify or issue licenses of tenure rights to CFi;
- R3.** **Effectively remedy all human rights violations**, and ensure that any remedy meets the effectiveness requirements of Principle 31<sup>19</sup> of the UNGPs;
- R4.** Ensure that **meaningful consultations with affected communities** take place prior to any contract designated for developments and that communities are kept informed and give consent prior to the granting of state or private rights over fishing grounds;
- R5.** **Clearly require ESIA's before allowing any development, infrastructure project or special economic zone**, and ensure that they are made available to affected communities and to the public in a timely manner, and that implementation mechanisms used are in accordance with international human rights standards, including Principle 18<sup>20</sup> of the UNGPs;
- R6.** Develop and adopt a **National Action Plan on Business and Human Rights**, in consultation with civil society, to disseminate and implement the UNGPs; and
- R7.** **Stop the use of repressive laws to harass land activists and citizens** embroiled in land disputes with the authorities or private companies for exercising their fundamental freedoms to defend their land rights.

<sup>19</sup> For further information, access [UNGP#31](#): In order to ensure their effectiveness, non-judicial grievance mechanisms, both Sated-based and non-judicial-based, should be: (a) Legitimate, (B) Accessible, (c) Predictable, (d) Equitable, (e) Transparent, (f) Rights-compatible, (g) A source of continue learning, and (h) Based on engagement and dialogue.

<sup>20</sup> Please access [UNGP#18](#): In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationship.

**Recommendations to businesses**

- R8. Exercise due diligence prior** to starting any operation in Cambodia, in accordance with Principles 15, 17, and 18 of the UNGPs,<sup>21</sup>
- R9. Conduct ESIA**s, make them available to affected communities and to the public in a timely manner, and put into place mechanisms to monitor their implementation, in accordance with international human rights standards such as Principle 18<sup>22</sup> of the UNGPs;
- R10.** Consult with **affected communities, key stakeholders and authorities**, in a meaningful, timely and transparent manner to take into account and address their concerns;
- R11. Effectively remedy all human rights violations**, and ensure that any remedy meets the effectiveness requirements of Principle 31<sup>23</sup> of the UNGPs; and
- R12.** Establish an **effective, accessible, and transparent operational-level grievance mechanism** for those adversely affected by business activities, in line with Principle 29<sup>24</sup> of the UNGPs.

**For more information, please contact CCHR's Securing Access to and Control over Land and Natural Resources for Vulnerable Community Fisheries in the Coastal Areas in Cambodia's Project Coordinator, Mr. Vann Sophath, by phone at (+855) (0)12 941 206 or email at [vann.sophath@cchrcambodia.org](mailto:vann.sophath@cchrcambodia.org).**

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<sup>21</sup> Please access [UNGP#15](#): In order to meet their responsibility to respect human rights, business enterprises should have in place, policies and processes appropriate to their size and circumstance. [UNGP#17](#): In order to identify, prevent, mitigate, and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking response, and communicating how impacts are addressed. [UNGP#18](#): In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationship.

<sup>22</sup> *Ibid*, footnote number 20 of the factsheet.

<sup>23</sup> *Ibid*, footnote number 19 of the factsheet.

<sup>24</sup> Please access [UNGP#29](#): To make it possible for grievance to be addressed easily and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.