

FACT SHEET: CAMBODIA'S SPECIAL ECONOMIC ZONES AND HUMAN RIGHTS

Snapshot: Over the past decade, Special Economic Zones ('SEZ') have flourished in Cambodia and around the region. While the advantages they can bring in terms of economic development and trade are not to be neglected, the development and operations of SEZs are often intrinsically linked with human rights violations such as land-grabs, poor labour conditions or environmental damage. This Fact Sheet highlights the rules underlying the establishment and supervision of SEZs, outlines the most common associated human rights concerns, and provides concrete recommendations to ensure that economic development goes hand in hand with respect of fundamental rights and freedoms.

Introduction

Over recent decades Cambodia has undergone rapid economic development. In 2005, the Royal Government of Cambodia's ("RGC") introduced SEZs in the country as part of its investment policy, with the goal to "improve the investment climate conducive to the enhancement of productivity, competitiveness, national economic growth, export promotion, employment generation".¹ As of 2013, according to official sources, there were 30 SEZs in Cambodia; 9 were operating, 4 were under construction, 7 under process, and 10 were listed as inactive.² According to Open Development Cambodia's website, which tracks SEZs throughout South-East Asia, there were 38 SEZs as of 2016.³

This Fact Sheet provides an overview of the concept of Special Economic Zone (hereinafter "SEZ"), of SEZs in Cambodia, and outlines the associated human rights issues. It concludes with recommendations on bringing the law and operation of SEZs in line with Cambodia's obligations under international human rights law. It has been produced by the Cambodian Center for Human Rights ("CCHR"), a non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout the Kingdom of Cambodia ("Cambodia").

What is a Special Economic Zone?

Cambodian law defined a SEZ as "a special area for the development of the economic sectors which brings together all industrial and other related activities and may include General Industrial Zones and/or Export Processing Zones. Each Special Economic Zone shall have a Production Area which may have a Free Trade Area, Service Area, Residential Area and Tourist Area."⁴

A SEZ is specific geographic area where special administrative regulations apply, such as a different tax regime, or which benefit from different legal or logistical arrangements in order to attract business and investment (usually foreign).⁵ It may take a variety of forms - export processing zones or free ports for instance, and are

¹ Sub-Decree 147 on the Organization and Function of the CDC, http://www.cdc-crdb.gov.kh/cdc/policy_docu_guide/annex_01.htm ("Sub-Decree 147"); Sub-Decree 148 on the Establishment and Management of Special Economic Zones, Art. 1-1, http://www.cambodiainvestment.gov.kh/sub-decree-148-ankr-bk-on-the-establishment-and-management-of-the-special-economic-zone-final_060314.html ("Sub-Decree 148"); Sub-Decree 149 on the Organization and Functioning of the CDC, [http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-\(2004\).pdf](http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-(2004).pdf) ("Sub-Decree 149"). According to the CDC's website, a law on SEZs was drafted in 2008, however it remains under consideration by the RGC, para. 1, <http://www.cambodiainvestment.gov.kh/investment-scheme/the-special-economic-zones.html>.

² 'All regulations related to SEZ', Cambodia Development Council, 'List of SEZ in Cambodia 2013', pp. 1-2, <http://www.customs.gov.kh/wp-content/uploads/2017/04/All-Regulations-related-to-SEZ-Eng.pdf>. Up to date information is not publicly available regarding the number of SEZ currently existing in Cambodia.

³ "Profiles, Special Economic Zones", Open Development Cambodia, 30 May 2016, <https://opendevdevelopmentcambodia.net/profiles/special-economic-zones/>.

⁴ Sub-Decree 148, Art. 2, http://www.cambodiainvestment.gov.kh/sub-decree-148-ankr-bk-on-the-establishment-and-management-of-the-special-economic-zone-final_060314.html.

⁵ 'Cambodia's Special Economic Zones', *Asian Development Bank*, Oct 2015, p. 1, para. 2, <https://www.adb.org/sites/default/files/publication/175236/ewp-459.pdf>.

meant to be located in areas where domestic conditions, such as poor infrastructure, may otherwise deter investment.⁶ Approved zones receive preferential regulations such as profit tax exemptions and import duty exemptions, as well as a ‘one stop’ service centers with representatives from different government departments, which processes all administrative requirements for economic activity directly on the SEZ site.⁷

SEZs are widespread throughout the world and in East Asia in particular, where they were found to be “enormously successful”.⁸ They attract foreign investment, facilitate free trade, create employment and build infrastructure, amongst other economic benefits.⁹ Further, in light of the fact that most of SEZs workers are women,¹⁰ they participate to women’s economic empowerment. According to the World Bank, SEZs provide employment, increase economic participation by women, and have significant impacts on economic development and poverty reduction”.¹¹ However, as highlighted further below, the creation and operation of some SEZs have had an adverse impact on the human rights of the communities on whose land the SEZ was established, and on the rights of those working in the SEZ itself.

Who is Responsible for SEZs?

The Council for the Development of Cambodia (“CDC”), composed of senior ministers from relevant government departments and chaired by the Prime Minister,¹² is tasked with the rehabilitation, development and oversight of investment activities, and is ultimately responsible for the creation and operation of SEZs.¹³ The Cambodian Special Economic Zones Board (“CSEZB”), one of the four entities constituting the CDC,¹⁴ is in charge of the development and management of SEZs in Cambodia.¹⁵ It manages their operations,¹⁶ and has to submit summary reports and recommendations for the CDC Executive Committee’s review and action.¹⁷

⁶ ‘Cambodia’s Special Economic Zones’, *Asian Development Bank*, Oct 2015, p. 1, para. 2, <https://www.adb.org/sites/default/files/publication/175236/ewp-459.pdf>.

⁷ Sub-Decree 148, Art 6. (6.1) and Art 4. (4.3), http://www.cambodiainvestment.gov.kh/sub-decree-148-ankr-bk-on-the-establishment-and-management-of-the-special-economic-zone-final_060314.html.

⁸ ‘Social Policy and Special Economic Zones in the Greater Mekong Subregion’, *The International Journal of Social Quality*, Vol 3, No 1, 2013, p. 49, https://www.jstor.org/stable/23971881?seq=1#page_scan_tab_contents.

⁹ ‘SEZs and Value Extraction from the Mekong’, *Focus on the Global South*, Jul 2017, p. 11, para. 2, https://focusweb.org/system/files/sezs_and_value_extraction_in_the_mekong_english.pdf; see also ‘Special Economic Zones’, Open Development Cambodia, 4 Aug 2015, <https://opendevdevelopmentcambodia.net/topics/special-economic-zones/>.

¹⁰ It is estimated that at least 95% of production workers employed in Cambodia’s SEZs are women. ‘Cambodia’s Special Economic Zones’, Asian Development Bank, Oct 2015, p. 8, para. 3, <https://www.adb.org/sites/default/files/publication/175236/ewp-459.pdf>.

¹¹ ‘Fostering Women’s Economic Empowerment Through Special Economic Zones’, *The World Bank*, 2011, Executive Summary, Executive Summary, p. x, paras 3-5, see also Chapter 1,

<http://documents.worldbank.org/curated/en/657561468148771219/pdf/727040WP0Box370sez0and0women0global.pdf>. However, reports also show that women are disproportionately affected by land-disputes associated with SEZs and by the human rights issues associated with SEZs, see Cambodia’s Women in Land Conflict’, CCHR, Sep 2016,

https://cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=116&id=5&lang=eng; ‘Trade Union Manual on Export Processing Zones’, International Labour Organization, 2014, pp. 13-14, https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_324632.pdf.

¹² Law on Investment of the Kingdom of Cambodia, 1994, Art. 1, http://ibccambodia.com/wp-content/uploads/2016/06/Law_on_investment_english.pdf; ‘SEZs and Value Extraction from the Mekong’, *Focus on the Global South*, Jul 2017, p. 16, para. 2, https://focusweb.org/system/files/sezs_and_value_extraction_in_the_mekong_english.pdf.

¹³ Sub-decree 149, Arts 10 (1), 10 (9), 13, 30, [http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-\(2004\).pdf](http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-(2004).pdf).

¹⁴ Together with the Cambodian Rehabilitation and Development Board, the Cambodian Investment Board and the CDC’s Secretary General, see Sub-Decree 147, Art. 2, http://www.cdc-crdb.gov.kh/cdc/policy_docu_guide/annex_01.htm.

¹⁵ Sub-Decree 148, Art. 2, http://www.cambodiainvestment.gov.kh/sub-decree-148-ankr-bk-on-the-establishment-and-management-of-the-special-economic-zone-final_060314.html; Sub-Decree 149, Art. 29, [http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-\(2004\).pdf](http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-(2004).pdf).

¹⁶ Sub-decree 149, Art. 29, [http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-\(2004\).pdf](http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-(2004).pdf); ‘The Special Economic Zones’, Part 4 ‘Management Structure of the SEZ’, CDC, <http://www.cambodiainvestment.gov.kh/investment-scheme/the-special-economic-zones.html>.

¹⁷ Sub-Decree 149, Art. 29 (4), [http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-\(2004\).pdf](http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-(2004).pdf).

The CSEZB is composed of representatives from governmental institutions,¹⁸ and has four departments: policy and planning, operation and management, project analysis and registration, and administration.¹⁹

Because they are public entities acting on behalf of the RGC, the CDC and the CSEZB must respect internationally recognized human rights as enshrined in the Cambodian Constitution and international treaties ratified by Cambodia at all times.²⁰ However, there is no effective grievance or reporting mechanism allowing communities affected by the SEZ to report human rights abuses, in contravention of the RGC's obligation to ensure that all human rights violations are properly investigated and effectively remedied.²¹

What are the Pre-Requisites for a SEZ?

To be authorized, a SEZ must meet the following requirements:²²

- The zone must be at least 50 hectares in size, within an enclosing fence;
- It must have a production area, which may be for example a free trade area, a service area, a residential area, a tourist area;
- The zone must have the required infrastructure, roads, office buildings, water, electricity and sewage systems, environmental protection measures;
- The SEZ must comply with the instructions of 'relevant ministries or institutions'.

Once a SEZ is approved, a sub-decree defining the establishment of the SEZ and its boundaries must be adopted.²³

Human Rights Issues Associated with SEZs

1. **Lack of transparency and publicity:** there is a lack of publicly available information regarding SEZs in Cambodia, including a lack of publicity of the sub-decrees establishing the SEZs.

- The affected communities and those supporting them are deprived from key information and unable to properly defend their rights.

¹⁸ Sub-Decree 149, Art. 33 (3) (a), [http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-\(2004\).pdf](http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-(2004).pdf); Ministry of Economy and Finance; Office of the Council of Ministers; Ministry of Planning; Ministry of Commerce; Ministry of Industry, Mines and Energy; Ministry of Land Management, Urban Planning and Construction; and other concerned institutions on an *ad hoc* basis.

¹⁹ Sub-Decree 149, Art. 6, [http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-\(2004\).pdf](http://portal.mrcmekong.org/assets/documents/Cambodian-Law/-Sub-decree-on-Role-of-CDC-(2004).pdf).

²⁰ Constitution of the Kingdom of Cambodia, Art. 31, [http://sithi.org/admin/upload/law/2008_02_19_Constitution\(EN\)_including_Amendment_\(1\).pdf](http://sithi.org/admin/upload/law/2008_02_19_Constitution(EN)_including_Amendment_(1).pdf). The direct applicability of these international legal provisions was recognized by a decision of the Constitutional Council of the Kingdom of Cambodia dated 10 July 2007, Kingdom of Cambodia, 'The Constitutional Council', 10 July 2008, Decision no. 092/003/2007; *see also* Sub-Decree 148, Art. 11 which states that the rights and protections contained in Cambodia's Constitution apply within the zones and explicitly outlines that workers have the right to various safeguards as specified in the 1997 Labour Law and other related statutes. Article 15 of the 1997 Law of Investment outlines that all relevant laws and regulations apply to activities in SEZs if not specified in the Sub-Decree, http://ibccambodia.com/wp-content/uploads/2016/06/Law_on_investment_English.pdf.

²¹ ICCPR, Art. 2 (3), <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>; *see also* 'General Comment No. 31: the nature of the general obligation imposed on States Parties to the Covenant', UN Human Rights Committee, 2004, paras 8, 9, 15, 16, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en.

²² Sub-Decree 148, Arts 2 and 3.1, http://www.cambodiainvestment.gov.kh/sub-decree-148-ankr-bk-on-the-establishment-and-management-of-the-special-economic-zone-final_060314.html.

²³ Sub-Decree 148, Art. 3-2 (5), http://www.cambodiainvestment.gov.kh/sub-decree-148-ankr-bk-on-the-establishment-and-management-of-the-special-economic-zone-final_060314.html.

- The upcoming law on information may address these concerns, in full or in part.²⁴ While certain problems remain with the draft,²⁵ it could be used to request information on SEZs.
2. **Forced evictions:** communities living on the site of the future SEZ are sometimes forcibly expelled, as part of a process lacking transparency and fairness, without due consultation and without fair and just compensation.
- International law requires proper consultation with affected communities prior any development project.²⁶ This is particularly important where the affected individuals are from an indigenous group.²⁷
 - Everyone has a right to property²⁸ and to adequate housing,²⁹ and to non-interference with privacy, home and family.³⁰
 - When human rights are violated, the state must ensure that people must have a right to an effective remedy.³¹
3. **Poor wages and working conditions:** the extensive use of low-cost labor, and the lack of regulation regarding wages prior to the adoption of the Minimum Wage Law in July 2018, have led to an environment conducive to labor exploitation, with workers working excessive hours and the underpayment of wages.³²
- A fair wage is a human right: everyone who works has the right to just and favorable remuneration.³³
 - Low wages act a barrier to the attainment of many additional human rights, such as the right to an adequate standard of living, which includes adequate food, clothing and housing.³⁴
4. **Severe Restrictions on Freedom of Expression, Assembly and Association:** Although trade unions are not explicitly excluded from Cambodia's SEZs, in practice membership of trade unions and other associations

²⁴ A draft of the Law on Access to Information to the public for implementing the "public right to know" is in the process of being prepared. In this draft, Article 6 states that it is the State's obligation to update and disseminate information related to "laws, regulations, policies, decisions, and duties of public institutions relating to rights, freedoms, obligations, and public interests"; see draft of the Law on Access to Information, *Ministry of Information*, http://www.a2i.info.gov.kh/html/law_eng.php.

²⁵ However public institutions have still a discretionary power, as they "may decide to reduce or delay the time frame on confidential information either in part or in whole," based on certain limitations. These limitations should be narrowed and clearly formulated, and should follow the requirements of international jurisprudence. See draft of the Law on Access to Information, *Ministry of Information*, http://www.a2i.info.gov.kh/html/law_eng.php; see also "2011 analysis on the Draft law on access to information", *Article 19*, pp. 11-14, <https://www.article19.org/data/files/medialibrary/2739/11-09-20-Cambodia.pdf>.

²⁶ 'General Comment 7: the right to adequate housing (Art. 11 (1) of the Covenant): Forced evictions', *Committee on Economic, Social and Cultural Rights*, 1997, para. 15, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT/CESCR/GEC/6430&Lang=en.

²⁷ 'Fact Sheet: Free, Prior and Informed Consent', CCHR, Aug 2017, pp. 1-3, https://cchrcambodia.org/admin/media/factsheet/factsheet/english/2017-08-09-CCHR-Factsheet-Free-Prior-and-Informed-Consent_ENG.pdf.

²⁸ International Covenant on Civil and Political Rights ("ICCPR"), Art. 17, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

²⁹ International Covenant on Economic, Social and Cultural Rights ("ICESCR"), Art. 11 (1),

<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

³⁰ ICCPR, Art. 17, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

³¹ ICCPR, Arts 2 (3) (a) and 26, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

³² 'Cambodia's Special Economic Zones', *Asian Development Bank*, Oct 2015, p. 8, <https://www.adb.org/sites/default/files/publication/175236/ewp-459.pdf>; 'Economic Development and Working Conditions in Export Processing Zones: A survey of Trends', *International Labour Organization*, 2008, pp. 25, 34, <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.490.1514&rep=rep1&type=pdf>; 'Inside the Corporate Utopia where Capitalism Rules and Labor Laws Don't Apply', *In These Times*, 25 Jul 2016, <http://inthesetimes.com/features/special-economic-zones-corporate-utopia-capitalism.html>; 'Trade Union Manual on Export Processing Zones', *International Labour Organization*, 2014, p. 50, http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_324632.pdf; 'Hundreds of workers faint in Kandal SEZ', *The Phnom Penh Post*, 23 Nov 2015, <https://www.phnompenhpost.com/national/hundreds-workers-faint-kandal-sez>. A nationwide law on minimum wage was voted in July 2018, see the website of the Ministry of Labour and Vocational Training, http://www.mlvt.gov.kh/index.php?option=com_k2&view=item&id=957:%E1%9E%85%E1%9F%92%E1%9E%94%E1%9E%B6%E1%9E%94%E1%9F%8B%E1%9E%9F%E1%9F%92%E1%9E%8A%E1%9E%B8%E1%9E%96%E1%9E%B8%E1%9E%94%E1%9F%92%E1%9E%9A%E1%9E%B6%E1%9E%80%E1%9F%8B%E1%9E%88%E1%9F%92%E1%9E%93%E1%9E%BD%E1%9E%9B%E1%9E%A2%E1%9E%94%E1%9F%92%E1%9E%94%E1%9E%94%E1%9E%9A%E1%9E%98%E1%9E%B6&Itemid=207&lang=en.

³³ Universal Declaration of Human Rights ("UDHR"), Art. 23 (3), <http://www.un.org/en/universal-declaration-human-rights/>; ICESCR, Art. 7 (a) (i), <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

³⁴ ICESCR, Art. 11 (1), <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

is severely constrained and violations of freedom of association are widespread.³⁵ Further, union members reported facing widespread discrimination, intimidation and at times violence, as well as judicial harassment.³⁶

- Cambodian law, including international human rights instruments, must be respected inside SEZs. Article 11 of Sub-Decree 148 reaffirms that workers within SEZs have the right to the various safeguards outlined in the Constitution, the Labour law, and other statutes. In particular, the right to form a trade union is reflected in Article 36 of the Constitution,³⁷ Article 266 of the 1997 Labour Law³⁸ and Article 5 of the controversial 2016 Trade Union Law.³⁹
- The Cambodian Constitution also protects the right to strike and the right to peaceful demonstration.⁴⁰

Case Study: M.D.S. Thmor Da SEZ, Thmor Da Commune, Veal Veng District, Pursat Province

In 2010, the RGC authorized the establishment of the M.D.S Thmor Da SEZ in Thmor Da Commune, close to the border between Thailand and Cambodia. The SEZ was to be set up to include: an import-export market to exchange goods, warehouse for agricultural products, a casino, a golf club, a sport club, a parking lot and a petrol station, over 2,265 hectares.⁴¹ The Try Pheap Group Co., Ltd., owned by local tycoon Try Pheap, is managing the SEZ.⁴² Local communities reported having never seen the sub-decree establishing the SEZ and not having been properly consulted prior to its establishment. In addition, many reported having been forced off their land, at times violently, without prior notice. Some saw their houses and possessions destroyed, and when protesting, some community members were handcuffed, and threatened with arrest.

97 families from three different villages⁴³ in Thmor Da Commune were affected by the land-dispute. As a result of the land-dispute, affected community members lost their farm land and therefore their livelihood, and were also unable to send their children to school; families reported internal disputes as a result of the land dispute, domestic violence and sometimes divorces, discrimination by the authorities as the authorities associated them with the opposition party because they claimed their rights, and faced several mental issues including stress, depression. Many families' children migrated outside of the area including to Phnom Penh and Thailand. Others had to take loans in order to survive, and became indebted.

As a remedy, the authorities offered financial compensation or social land concessions ("SLC") to the affected communities. Many reported being intimidated into accepting insufficient financial compensation or social land

³⁵ 'SEZs and Value Extraction from the Mekong', *Focus on the Global South*, Jul 2017, pp. 22, 24-25, https://focusweb.org/system/files/sezs_and_value_extraction_in_the_mekong_english.pdf; see also 'Inside the Corporate Utopia where Capitalism Rules and Labor Laws Don't Apply', *In These Times*, 25 Jul 2016, Section entitled "Union-Free by Design", <http://inthesetimes.com/features/special-economic-zones-corporate-utopia-capitalism.html>.

³⁶ Those include unjust dismissals, being blacklisted from the zone, and being obstructed from finding work in other factories, see 'SEZs and Value Extraction from the Mekong', *Focus on the Global South*, Jul 2017, pp. 22-25, https://focusweb.org/system/files/sezs_and_value_extraction_in_the_mekong_english.pdf; For example, striking workers in Kandal province were reportedly attacked by security guards on 1 February 2016 while protesting over the recent dismissal of eight employees who were trying to form a union, see 'Labour Unrest Continues', *The Phnom Penh Post*, 2 Feb 2016, <https://www.phnompenhpost.com/national/labour-unrest-continues>. Union members in SEZs report being subject to judicial harassment, facing civil and criminal complaints lodged by factory owners, despite a lack of evidence. For example, the arrest of two union leaders on incitement charges after a non-violent protest in Phnom Penh Special Economic Zone in 2016 after a complaint was filed by one of the SEZs companies, see 'Survey of violations of Trade Union Rights, Cambodia', *International Trade Union Federation*, 19 Feb 2016, Section entitled 'Two Garment Union Leaders Sentenced on Trumped Up Charges', <https://survey.ituc-csi.org/Cambodia.html?lang=en#tabs-3>; see also 'Labour Minister Threatens Unions', *Khmer Times*, 1 Sep 2017, <https://www.khmertimeskh.com/news/29212/labor-minister-threatens-unions/>.

³⁷ Constitution of the Kingdom of Cambodia, [http://sithi.org/admin/upload/law/2008_02_19_Constitution\(EN\)_including_Amendment\(1\).pdf](http://sithi.org/admin/upload/law/2008_02_19_Constitution(EN)_including_Amendment(1).pdf).

³⁸ Labour Law, 1997, <http://sogi.sithi.org/admin/upload/media/121-hjtccce1370826550.pdf>.

³⁹ Law on Trade Unions, 2016, http://sithi.org/admin/upload/law/trade_union_law_eng.pdf; see also Fact Sheet, 'Trade Union Law', *CCHR*, Aug 2016, https://cchrcambodia.org/admin/media/factsheet/factsheet/english/2016_08_24_cchr_fs_lcs_trade_union_law_ENG.pdf.

⁴⁰ Constitution of the Kingdom of Cambodia, Art. 37, [http://sithi.org/admin/upload/law/2008_02_19_Constitution\(EN\)_including_Amendment\(1\).pdf](http://sithi.org/admin/upload/law/2008_02_19_Constitution(EN)_including_Amendment(1).pdf).

⁴¹ Council of Ministers, Notification 1334, 19 November 2010 (not available online).

⁴² Try Pheap Group Official Webpage, "Special Economic Zones", Try Pheap Group Co., Ltd, 2018, <http://trypheapgroup.com/en/?page=10>.

⁴³ Sangkum Thmei, Kandal and Aekakpheap villages. See "Brief Report on the Impact of Project development of MDS Company in Thma Da Commune, Veal Veng District, Pur Sat Province", Joint Report, NGO Forum on Cambodia, CHRAC, CLEC, ADHOC, CCHR, LICADHO Pursat, 19 April 2017 (only available in hard copy from NGO Forum on Cambodia and CCHR).

concessions. Further, the proposed SLC land is located in an area containing landmines. The authorities have started the process of demining, but no specific timeframe as to when the demining will be terminated. To date, 17 families have not found a satisfactory resolution to the land dispute.

Conclusions and Recommendations

As outlined in this Fact Sheet, while SEZs can have a positive impact in terms of economic development, they can also adversely impact the rights of local communities, if they are not created and operated in a way that respects human rights.

The RGC should address the issues outlined above; in particular, CCHR makes the following recommendations:

1. Refusing to allow the creation of a SEZ unless the relevant authorities have undertaken the following steps:
 - 1.1. Engaged in **meaningful consultation** with affected individuals and communities. Where the SEZs will affect indigenous communities, obtained their **free, prior and informed consent**;
 - 1.2. Considered the human rights practices and policies of potential investors and **exclude those with a poor record**;
 - 1.3. Undertaken an **environmental and social impact assessment**, the outcomes of which should be made public available.
2. Reform the **legal regime** governing SEZs to align with international best practice and international human rights law, and in particular, guarantee an **effective and impartial application of labour laws and minimum wage rights** within SEZs throughout Cambodia.
3. Ensure that sub-decrees adopted to establish the SEZ and defining the boundaries thereof are **publicly available**.
4. Ensure **freedom of association** is protected within SEZs, including by: ensuring trade union representatives are able to access the SEZs and carry out their functions on behalf of union members; and, by protecting union members, or those proposing to form or join unions, from discriminatory treatment and threats.
5. Create an **independent, impartial and effective grievance mechanism** to receive and resolve complaints from SEZ workers and local communities whose human rights are negatively affected by the SEZ.

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