

**URGENT ACTION APPEAL:
Jarai Indigenous Communities Face Displacement
After Land Stolen by Politically-Elite Businesswoman**



*Top row: Jarai indigenous villagers in Kong Yu, Ratanakiri, Cambodia;
bottom row: sign on gated disputed Kong Yu land
[“NO ENTRY WITHOUT AUTHORIZATION”].*

STAKEHOLDERS

Victims - Jarai Indigenous villagers in Kong Yu and Kong Thom villages, Cambodia

- Approximately 65 Jarai indigenous families are at risk of losing their ancestral land and culture. 500 hectares of indigenous lands have been illegally transferred to a businesswoman and relative of high ranking government officials in a deal facilitated by local authorities.
- Kong Yu and Kong Thom villages are located in a remote area located in Ratanakiri province, O'Yadao district, Cambodia.
- As with many indigenous groups in Cambodia, the majority of villagers in Kong Yu and Kong Thom do not speak or write Khmer (Cambodian) language. The villagers adhere to animist practices which emphasize the spiritual relationship with the environment, and maintain traditional agricultural practices.
- Indigenous communities are said to have inhabited these highland regions for 2000 years. Their socio-religious and economic dependence on land and natural resources makes them disproportionately affected by land alienation.

Beneficiary – Ms. Keat Kolney

- The sister of Senior Minister of the Ministry of Economy and Finance **H.E. Keat Chhon** and wife of Secretary of State for Ministry of Land Management **H.E. Chhan Saphan**. The politically-elite Keat Kolney was directly involved in the illegal transaction and is the beneficiary of the deal involving Kong Yu and Kong Thom. She is also the Chairwoman of the Progressive Farmers Association, which reportedly is responsible for clearing the land and managing the rubber tree plantation on the disputed area.

Facilitator, Beneficiary - Government of Cambodia

- Local authorities facilitated the illegal transaction through threats, deception, and fraud. Reports indicate that upwards of US\$ 20,000 was paid to officials to complete the land transaction. These authorities include Commune Council members, some of whom have publicly admitted to receiving money for the land transaction, the former village chief of Kong Yu, and several district level authorities.

THE EVENTS

Spring and Summer 2004: Commune officials make several visits to Kong Yu and Kong Thom to pressure villagers into selling their land. The villagers refuse, explaining they need the land for farming and future generations. Officials return to the village and claim that the land is needed for disabled soldiers of Prime Minister Hun Sen's army, and that villagers have no rights to the land. Fearful of creating problems with the Prime Minister, and unsure of their rights, the villagers reluctantly agree to donate approximately 50 hectares of land for this purpose.

August 20, 2004: Local officials organize a party and provide alcoholic beverages to villagers. After villagers have become drunk, officials collect thumbprints on a blank piece of paper. Villagers are encouraged to thumbprint multiple times on behalf of absent villagers.

August 27, 2004: Local officials, together with Keat Kolney, distribute gifts to the villagers, including scarves and envelopes with cash. Villagers are again asked to thumbprint documents they do not understand. The envelopes are immediately collected by authorities.

August 28, 2004: The then-Kong Yu village chief distributes approximately US \$400 to each family. Villagers learn that this money completes a transaction giving Keat Kolney—not disabled soldiers of Hun Sen's army—village lands. Villagers also learn that this transaction is for 500 hectares, ten times the amount originally planned for the disabled veterans.

October 2004: Following bulldozing of and denial of access to village lands in preparation for a new rubber plantation, Kong Yu residents file a complaint to a local NGO, requesting help canceling the land transaction and demanding the return of the 500 hectares of land. Villagers also file a complaint in local administrative offices asking for dissolution of the local commune council because of its role in facilitating the deal.

February 11, 2006:, 200 villagers gather at their local commune office to voice their concerns and request information on the plantation company clearing the land. In response, villagers are accused of holding a protest and causing social unrest. Military police threaten seven Kong Yu representatives with arrest if further demonstrations are held.

January 23, 2007: The villagers, NGOs, and the media hold a press conference in Ratanakiri to announce the filing of a lawsuit in court to regain possession of their land. Police and provincial authorities prohibit holding the event at a private university, so it is held at a local NGO office. Authorities threaten to forcibly disperse the event, heavy police presence is maintained throughout the conference, and police take photographs of participants.

OFFICIAL JUSTIFICATION FOR SEIZURE OF LAND

A representative of Keat Kolney claims that individual thumbprinted land transfer documents from villagers prove that the transaction is legal, and that villager claims are baseless. The representative has also said that provincial authorities hold up their plantation as a model for other rural land investors in the province. The rubber tree plantation on the disputed land is presumably in accordance with government policy, which aims to “accelerate development of indigenous community area” in the northeast region.

The former provincial governor has said that the land sale was legal, and that “NGOs [were in the village] and they encouraged the people to be angry,” while the current provincial governor has claimed that “[t]here are no rich and powerful people who encroach on people’s lands [in Ratanakiri].”

VIOLATIONS OF LAW

The Kong Yu and Kong Thom case contains flagrant violations of Cambodian and international law. Cambodian contract law requires that contracts be entered into freely, among informed parties with an absence of fraud, deception, or duress, “so as to abolish the exploitation of one party by another.” (articles 1 & 2, Contracts Law). Contracts resulting from fraud, where acts of deception, dishonesty, or misrepresentation are used, are invalid. (article 19, Contracts Law). The land transaction in Kong Yu was predicated on two lies: that land was needed for disabled veterans of Hun Sen’s army, and that villagers had no rights to the land. Furthermore, thumbprints were gathered without informing residents about their use (and in one instance after villagers had become drunk). Cambodian law also provides progressive protections for indigenous lands (e.g., articles 23-28, Land Law), including, *inter alia*: collective ownership; and access to land and natural resources. Importantly, management of land—including any transference of rights—must be free from official interference. Despite this prohibition, several government officials, including commune council members and village chief, facilitated the land transfer. Officials have publicly admitted to receiving cash benefits from the transaction, leaving them criminally liable under the criminal code and land law. In addition to lying to villagers, the buyer and local officials committed fraud in drafting certain land transference documents, including backdating contracts to appear to be executed prior to the enactment of the Land Law. These fraudulent acts also violate criminal statutes.

International law also provides for the protection of indigenous rights, as expressed through the International Labor Organization Indigenous and Tribal Peoples Convention No. 169 (1989) and the Draft Declaration on the Rights of Indigenous Peoples. Although Cambodia is not a signatory to these instruments, they recognize traditional and indigenous customs, including collective ownership, and the obligation of governments to protect these rights.

CONTEXT: Illegal Alienation of Indigenous Land

Given that approximately 85% of the Cambodian population lives in rural areas, access to natural resources and land tenure security are critical for poverty reduction and stable development. Despite this, as much as 80% of rural households that own land do not have land titles, access to natural resources is declining, and landlessness (20%) is rising. Of particular concern are widespread land disputes, fueled by rising land prices in recent years. Highly publicized forced evictions have accelerated in the past year, and alienation of indigenous lands remains a key problem in the northeast. With lower levels of health, education, and access to information, indigenous communities are highly vulnerable to illegal land grabs. Coupled with the fact that indigenous communities' culture and animist practices are embedded in their surrounding land and environment, land grabs disproportionately affect indigenous peoples. As a recent report indicates, land alienation is "devastating the social fabric of indigenous communities" and threatens their continued existence in Cambodia.

ACTIONS ALREADY TAKEN

At the request of Kong Yu and Kong Thom villagers, Community Legal Education Center and Legal Aid of Cambodia filed a lawsuit on January 23, 2007 to regain possession of their land. Several NGOs have worked together with the community to support their case, including the Cambodia Human Rights Action Committee, ADHOC, Community Forestry International, and other NGOs. Prior to this, villagers had gathered at local commune offices to demand the return of their land and requested dissolution of their local commune council following the transaction. Villagers have also requested that the prosecutor pursue criminal actions against those who facilitated the land deal.

HOW YOU CAN HELP

This is Kong Yu and Kong Thom's last stand. If the villagers lose this case, they will lose their land. When an indigenous village loses its land, the community, its culture, its religion—its traditional way of life—will cease to exist.

With your support we can help these villagers get back their land and protect their way of life.

Please send the attached letter "A" to help Kong Yu and Kong Thom villagers regain possession of their indigenous lands.

*****If you are a member of the following countries please also send the attached letter "B" to your Ambassador in Cambodia and representative of aid agency as noted in "B":***

- *Australia, Canada, Denmark, France, Germany, Japan, New Zealand, Sweden, United Kingdom, United States.*