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Sahmakum Teang Tnaut Organization · a Cambodian Urban NGO

Fact and Figure #52

TRACES OF DEVELOPMENT ON THE BOEUNG TAMOK LAKE

“26 People Charged Over Protecting Their Lands and Houses”

The Case of Samrong Tbong Community

December 2024



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I. Summary



Picture 1: The housing of Samrong Tbong Community at the new location

From 2021 to 2024, 26 members of the Samrong Tbong community were sued, over seven lawsuits concerning the protection of the land and houses they once occupied. Of those, one was dismissed, five are pending at the court of first instance, and one is currently being appealed at the Supreme Court level. Most of the cases involve residents being charged with assaulting public officers during the demolition of their homes. The authorities claim that these homes were all built on land which is part of the lake surface area. Based on the legal status and area of land occupation by

the Samrong Tbong community, which is not part of the lake area, the residents should not be considered to have illegally occupied the land. If they were not accused of residing on public state land, there would have been no reason to prohibit or dismantle their households. Conversely, if the demolition had already been decided, there should not have been a lawsuit against them, as the conflict arose from disagreements over the terms of occupation. If the residents had legally occupied the land, they should be entitled to ownership according to the Land Law and Civil Code.

Despite receiving compensation through a policy-based resolution, the residents were perceived as having illegally occupied the area, even though their land might have been privately owned. This resolution resulted in some residents losing their rights and claims to the land.

The compensation varied significantly: the lowest received by a household was a one-story house (4.5 x 12 meters) on a 4.5 x 18-meter plot and \$10,000, while the highest was three houses on a 4.5 x 18-meter plot and \$40,000-valued between \$30,000 and over \$100,000. This compensation is relatively high compared to similar situations elsewhere and should be acknowledged. However, considering the residents' land occupancy did not impact lake land or road expansion, the compensation was inadequate and unfair. Based on the interviewed respondents, some families were pressured to accept the deal, negatively affecting their economic and mental well-being.

The following seven recommendations are provided for the relevant authorities: First, the designation of any area as state public property should be publicized, with sufficient time allowed for stakeholders to appeal. Second, the reclassification of any areas should involve public engagement and be widely disseminated, particularly during the procedural stages. Third, the settlement process should be open to

the public and widely disseminated, with people being allowed to raise questions to ensure a more transparent, fair, and acceptable resolution for both affected individuals and the public. Fourth, there should be a complaint mechanism allowing people to appeal the state authorities' decision on the legitimacy or illegitimacy of their occupancy through a civil action, with third parties being permitted to file a lawsuit as civil plaintiffs on their behalf. Fifth, when national authorities receive intervention requests from local residents, they should establish a monitoring and evaluation mechanism based on legal and social principles to build public confidence. Six - there should be a guarantee that the development prioritizes the benefits of local residents and Based on the foundation of sustainable development and human rights. If an on-site development is not feasible, any relocation must guarantee that citizens' living conditions and livelihoods are improved or at least maintained at the same level as before. Lastly, the court should take into deep consideration the allegations that the people have used violence.

II. Objectives of the Research



Picture2: The new location of community

Sahmakum Teang Tnaut Organization (STT) conducted this study and compiled this document to gather information about the Samrong Tbong community, which has been directly affected by the development of Boeung Tamok Lake, as a basis for the public and relevant authorities to better development practices. Sahmakum Teang Tnaut is focused on helping the public better understand the complaints against the community, which stem from their efforts to protect their land and homes. So far, 26 community members have been sued in seven cases, marking the highest number of such cases in Cambodia.

Furthermore, while many households have agreed to accept compensation, some of them have yet to receive any, making this report potentially useful for the remaining households. While the housing issues are close to being resolved, the criminal cases against the community members are still ongoing. This highlights the significance of this report as a valuable resource for both the community and the courts in reaching their decisions. Additionally, this case can serve as a precedent for similar situations in other parts of Cambodia, making this research study and its dissemination important for public awareness.

III. Research Methods

This research is based on Sahmakum Teang Tnaut's onsite and regular observations and collection of information from 2019 through November 2024. Sahmakum Teang Tnaut has always maintained a good relationship with community members, the information is regularly verified, and recorded. A meeting with affected community members was held in November 2024 to verify the accuracy of the data. Moreover, since compensation was negotiated and settled directly and subsequently from early 2023 through October 2024, Sahmakum Teang Tnaut's team collected and compiled data obtained from face-to-face interviews with families who had received the compensation. Legal documents related to the land, the information obtained from onsite observations, and the house-based data collected from 2019 to 2023 and updated in 2024; were used as an essential basis for analysis of community land occupation.

Sahmakum Teang Tnaut's team could only collect the compensation-related data from 32 out of the 98 households studied. This was due to several reasons, including some families declining to be interviewed due to security concerns, some families accepting the compensation and moving to other places, some being unreachable, and others not yet receiving the

compensation. Sahmakum Teang Tnaut submitted a letter to the Prek Pnov district authorities, but the Khan Hall office did not permit the interviews to be conducted as they required prior approval from Phnom Penh City Hall.

IV. Background of Samrong Tbong Community



Picture3: The previous Samrong Tbong community's location (Not yet evicted)

Samrong Tbong is a community currently situated in Samrong Village, Samrong Quarter, Prek Pnov District, Phnom Penh. Initially, the community was located in Samrong Village, Samrong Commune, Ponhea Leu District, Kandal Province. In 2012, the area was incorporated into Sen Sok District, Phnom Penh, and later became part of Prek Pnov District in 2015, where it remains today. The community was founded in 1996 with 17 houses and 35 families. The residents claim that the land they originally settled on was their dry paddy field, which they have utilized since 1996.¹ By 2019, the community had grown to 98 houses and 102 families.

In 2019, due to the development of Boeung Tamok Lake and other projects, the community was forced to relocate. They repeatedly sought help from major national institutions, including the National Assembly, the Prime Minister's Cabinet, and the Ministry of Land Management, Urban Planning, and Construction, to address their challenges. However, no satisfactory solution has been found for the community so far.

According to a 2016² sub-decree, Boeung Tamok Lake was designated as state public property, and the Samrong Tbong community was not within its boundaries.

1. The information obtained from an interview with the Samrong Tbong community's representative conducted in 2024.

2. Sub-Decree of the Boeung Tamok lake cutting, within around 3,239.7 Hectares, located in Phnom Penh as State Public Property, No. 20 ANK/BK, dated February 3, 2006



However, in 2023, authorities accused³ the community of residing on state public land designated for road expansion, intending to link Win-Win Boulevard to Street No. 151. In 2024, a new accusation emerged, alleging that the community was living on privately owned land. These accusations led to further evictions. Local authorities frequently dismantled community buildings, prompting residents to organize protests. Consequently, 26 community members are now being sued for assaulting public officers, committing violence, and incitement.

"Facing difficult living conditions, some households have eventually agreed to accept compensation". A respondent said.

3. Prek Pnov District Administration, Letter No. 057, Notification to Mr. Long Kim Yon and Mrs. Kong Tue, owners of the wooden workshop with iron fence and zinc roof, measuring 3.5 meters by 6 meters, which is being constructed without a permit and on the land of Road No. 151, located in Samrong Tbong Village, Samrong Commune, Prek Pnov District, Phnom Penh.

V. 7 Lawsuits against the Community

The Samrong Tbong community has faced a series of legal challenges from 2021 to 2024, resulting in seven lawsuits. Five of these cases are ongoing at the Phnom Penh Court of First Instance, one has been appealed to the Supreme Court, and one has been dismissed.

The first lawsuit, under Criminal Case No. 2957, was filed on July 29, 2021. Five residents were charged with "aggravated assault on public officers," committed on August 25, 2021, on Street 151 in Samrong Tbong Village. The court sentenced them to eight months in prison and fined them 1 million riels. This case continued until 2024, with the Court of Appeal upholding the initial judgment. On June 10, 2024, the community appealed to the Supreme Court, and a defense petition was filed on August 16, 2024. The residents involved are Oum Phoeun, female, 53 years old; Khon Choury, female, 28 years old; Suon Sao, male, 46 years old; Khon Choroa, female, 26 years old; and Sea Sambath, male, 35 years old.

The second lawsuit, under Criminal Case No. 2707, was filed on June 6, 2022, at the Phnom Penh Court of First Instance. Seven residents were summoned by the court on January 4, 2024, to testify in the case of "prevention and inciting anarchic activities on public roads," which took

place on Street 151, Samrong Tbong Village, on February 28 and May 3, 2022. This was based on a complaint by Mr. Meas Sambour and is still ongoing at the Phnom Penh Court of First Instance. The individuals summoned are Tann Khny, female; Prak Sophea, female; Kong Toeur, female; Phon Sokhom, female; Phon Som, female; Khen Sa Oy, female; and Om Yet, female. The third lawsuit, under Criminal Case No. 4961, was filed on October 7, 2022. Nine residents were charged with "aggravated violence and aggravated assault on public officers," committed on January 6, 2023, on Street 151. On December 25, 2023, the court issued a closing investigative statement, sentencing the nine residents to two years in prison with suspended sentences. The residents did not appeal this ruling. The accused include Say Sarith, male, 37 years old; Soeun Sreysoth, female, 32 years old; Prak Sophea, female, 43 years old; Kong Toeur, female, 61 years old; Tann Khny, female, 45 years old; Phon Sokhom, female, 48 years old; Yun Kimyoeun, female, 30 years old; Soeun Chamroeun, male, approximately 40 years old; and Heng Neang, female, approximately 50 years old.

The fourth lawsuit, under Criminal Case No. 2674, was filed on May 19, 2023, at the Phnom Penh Court of First Instance.

Ms. Oum Phoeun was sued by Mr. Nguon Mong for "intentional abuse of property possession and violence against rightful occupants of immovable property." The prosecution issued two summonses for her to testify: the first on June 12, 2023, and the second on July 10, 2023. Between July 10, 2023, and September 14, 2023, Ms. Phoeun's lawyer testified in court, and as a result, the Phnom Penh Court of First Instance upheld the case without further action.

The fifth lawsuit, under Criminal Case No. 2728, was filed on May 22, 2023. Three community members were charged with "aggravated intentional violence and aggravated assault on public officers," related to an incident on May 9, 2023, involving assaulting district working group officials with a wooden stick. On December 25, 2023, a closing investigative statement was issued, and on July 24, 2024, the court held a hearing in absentia, with a verdict issued on July 30, 2024. The accused are Soeun Sreysoth, female, 32 years old; Prak Sophea, female, 43 years old; and Sea Davy, female, 41 years old.

The sixth lawsuit, under Criminal Case No. 7437, was filed on December 29, 2023, at the Phnom Penh Court of First Instance. Seven residents were summoned on January 4, 2024, to testify in a case of "intentional violence, intentional damage,

and assault on public officers," filed by Sok Ban. The investigation is now closed, and on November 19, 2024, the Phnom Penh Municipal Court convicted three community members, including Ms. Kong Toeur, Ms. Yon Kimyun, and Ms. Yon Sambath, of "aggravated offenses against public officials" under Article 504 of the Criminal Code. They received six-month prison sentences and fines of one million riels each, but these sentences were suspended. The accused individuals include Yun Kimyun, male, 34 years old; Kim Yun, male, 61 years old; Yun Sambath, female, 19 years old; Kong Toeur, female, 61 years old; Yun Kimyoeun, female, 30 years old; Oum Phoeun, female, 53 years old; and Tanny.

The seventh lawsuit, under Criminal Case No. 1965, was filed on March 25, 2024, and involves charges against ten residents for "intentional violence," specifically pouring gasoline to ignite a mosquito net, causing a fire and resulting in injuries. On August 30, 2024, subpoenas were issued for nine individuals to testify, and the case is ongoing at the Phnom Penh Court of First Instance. The accused include Uth Ath, male, 46 years old; Sea Sambath, male, 39 years old; Yun Sambath, female, 19 years old; Kong Toeur, female, 61 years old; Sea Davy, female, 41 years old; Teuk Ouk, female, 46 years old; Yong Sreynoch, female, 24 years old; Oum Phoeun, female, 53 years old; Am Yuk, female, 60 years old; and Chanty, female, 35 years old.



Picture 5: The photo of 2 women in Samrong Tbong community is displayed in front of a house

Picture6: The view behind the Samrong Tbong Community



VI. Details of the Cases of the 26 Individuals Who Received Complaints

No.	Name of Accused	Gender	Names of the Charges	Court Order Issuance Date	Others
1	Oum Phoeun	Female	Aggravated Assault on Public Officers	Subpoena issued September 9, 2021	The Court of First Instance and the Appeal Court sentenced the defendants to eight months in prison and fined them 1 million riels. The community is filing an appeal with the Supreme Court.
			Intentional abuse of property possession and violence against rightful occupants of immovable property.	Summons issued on June 12, 2023	The Court dropped the charge.
			Intentional violence, intentional damage, and assault on public officers	Summons issued on January 4, 2024	The case is currently proceeding in the Court of First Instance.
			Intentional violence (pouring gasoline to ignite a mosquito net, causing a fire and resulting in injuries)	Subpoena issued July 9, 2024	The case is currently proceeding in the Court of First Instance.
2	Khon Choury	female	Aggravated Assault on Public Officers	Subpoena issued September 9, 2021	The Court of First Instance and the Appeal Court sentenced the defendants to eight months in prison and fined them 1 million riels. The community is filing an appeal with the Supreme Court.
3	Suon Sao	male	Aggravated Assault on Public Officers	Subpoena issued September 9, 2021	The Court of First Instance and the Appeal Court sentenced the defendants to eight months in prison and fined them 1 million riels. The community is filing an appeal with the Supreme Court.

4	Khon Choury	female	Aggravated Assault on Public Officers	Subpoena issued September 9, 2021	The Court of First Instance and the Appeal Court sentenced the defendants to eight months in prison and fined them 1 million riels. The community is filing an appeal with the Supreme Court.
5	Sea Sambath	male	Aggravated Assault on Public Officers	Subpoena issued September 9, 2021	The Court of First Instance and the Appeal Court sentenced the defendants to eight months in prison and fined them 1 million riels. The community is filing an appeal with the Supreme Court.
			Intentional violence (pouring gasoline to ignite a mosquito net, causing a fire and resulting in injuries)	Subpoena issued July 9, 2024	The case is currently proceeding in the Court of First Instance.
6	Say Sarith	male	Aggravated violence and aggravated assault on public officers	Summons issued on February 2, 2023	The Court of First Instance sentenced to two years in prison, with the sentences suspended.
7	Soeun Sreysoth	female	Aggravated violence and aggravated assault on public officers	Summons issued on February 2, 2023	The Court of First Instance sentenced to two years in prison, with the sentences suspended.
			Charged with aggravated intentional violence and aggravated assault on public officers (involving a wood-stabbing attack on district working group officials performing their duties to maintain public order)	Subpoena issued September 29, 2023	The case is currently proceeding in the Court of First Instance.
8	Prak Sophea	female	Aggravated violence and aggravated assault on public officers	Summons issued on February 2, 2023	The Court of First Instance sentenced to two years in prison, with the sentences suspended.
			Charged with aggravated intentional violence and aggravated assault on public officers (assault the district working group officials performing their duties to maintain public order, using a wood stick)	Subpoena issued September 29, 2023	The case is currently proceeding in the Court of First Instance.
			Prevention and inciting anarchic activities on public roads	Summons issued on June 14, 2022	The case is currently proceeding in the Court of First Instance.

9	Kong Toeur	female	Aggravated violence and aggravated assault on public officers	Summons issued on February 2, 2023	The Court of First Instance sentenced to two years in prison, with the sentences suspended.
			Aggravated violence and aggravated assault on public officers	Summons issued on June 14, 2022	The case is currently proceeding in the Court of First Instance.
			Intentional violence, intentional damage, and assault on public officers	Summons issued on January 4, 2024	The case is currently proceeding in the Court of First Instance.
			Intentional violence (pouring gasoline to ignite a mosquito net, causing a fire and resulting in injuries)	Subpoena issued July 9, 2024	The case is currently proceeding in the Court of First Instance.
10	Tann Khny	female	Aggravated violence and aggravated assault on public officers	Summons issued on June 14, 2022	The case is currently proceeding in the Court of First Instance.
			Aggravated violence and aggravated assault on public officers	Summons issued on June 14, 2022	The Court of First Instance sentenced to two years in prison, with the sentences suspended.
			Intentional violence, intentional damage, and assault on public officers	Summons issued on February 2, 2023	The case is currently proceeding in the Court of First Instance.
11	Phon Sokhom	female	Prevention and inciting anarchic activities on public roads	Summons issued on June 14, 2022	The case is currently proceeding in the Court of First Instance.
			Aggravated violence and aggravated assault on public officers	Summons issued on February 2, 2023	The Court of First Instance sentenced to two years in prison, with the sentences suspended.
12	Yun Kimyoeun	female	Aggravated violence and aggravated assault on public officers	Summons issued on February 2, 2023	The Court of First Instance sentenced to two years in prison, with the sentences suspended
			Intentional violence, intentional damage, and assault on public officers	Summons issued on February 2, 2023	The case is currently proceeding in the Court of First Instance.

13	Soeun Chamroeun	male	Aggravated violence and aggravated assault on public officers	Summons issued on February 2, 2023	The Court of First Instance sentenced to two years in prison, with the sentences suspended.
14	Heng Neang	female	Aggravated violence and aggravated assault on public officers	Summons issued on February 2, 2023	The Court of First Instance sentenced to two years in prison, with the sentences suspended.
15	Sea Davy	female	Charged with aggravated intentional violence and aggravated assault on public officers (involving a wood-stabbing attack on district working group officials performing their duties to maintain public order)	Subpoena issued September 29, 2023	The case is currently proceeding in the Court of First Instance.
			Intentional violence (pouring gasoline to ignite a mosquito net, causing a fire and resulting in injuries)	Subpoena issued July 9, 2024	The case is currently proceeding in the Court of First Instance.
16	Yun Kimyun	male	Intentional violence, intentional damage, and assault on public officers	Summons issued on January 4, 2024	The case is currently proceeding in the Court of First Instance.
17	Kim Yun	male	Intentional violence, intentional damage, and assault on public officers	Summons issued on January 4, 2024	The case is currently proceeding in the Court of First Instance.

18	Yun Sambath	female	Intentional violence, intentional damage, and assault on public officers	Summons issued on January 4, 2024	The case is currently proceeding in the Court of First Instance.
			Intentional violence (pouring gasoline to ignite a mosquito net, causing a fire and resulting in injuries)	Subpoena issued July 9, 2024	The case is currently proceeding in the Court of First Instance.
19	Phon Som	female	Prevention and inciting anarchic activities on public roads	Summons issued on June 14, 2022	The case is currently proceeding in the Court of First Instance.
20	Khen Sa Oy	female	Prevention and inciting anarchic activities on public roads	Summons issued on June 14, 2022	The case is currently proceeding in the Court of First Instance.
21	Om Yet	female	Prevention and inciting anarchic activities on public roads	Summons issued on June 14, 2022	The case is currently proceeding in the Court of First Instance.
22	Om Yuk	female	Intentional violence (pouring gasoline to ignite a mosquito net, causing a fire and resulting in injuries)	Subpoena issued July 9, 2024	The case is currently proceeding in the Court of First Instance.

23	Teuk Ouk	female	Intentional violence (pouring gasoline to ignite a mosquito net, causing a fire and resulting in injuries)	Subpoena issued July 9, 2024	The case is currently proceeding in the Court of First Instance.
24	Yong Sreynoch	female	Intentional violence (pouring gasoline to ignite a mosquito net, causing a fire and resulting in injuries)	Subpoena issued July 9, 2024	The case is currently proceeding in the Court of First Instance.
25	Uth Ath	male	Intentional violence (pouring gasoline to ignite a mosquito net, causing a fire and resulting in injuries)	Subpoena issued July 9, 2024	The case is currently proceeding in the Court of First Instance.
26	Chan Ty	female	Intentional violence (pouring gasoline to ignite a mosquito net, causing a fire and resulting in injuries)	Subpoena issued July 9, 2024	The case is currently proceeding in the Court of First Instance.

VII. Compensation

The minimum compensation received by Samrong Tbong community members for their land includes a one-story house measuring 4.5 x 12 meters on a plot of 4.5 x 18 meters, plus a payment of \$10,000. On the higher end, the maximum compensation involves three one-story houses on the plots of 4.5 x 18 meters, and \$40,000⁴. According to residents and local authorities, the land is valued at approximately \$23,000, while each house costs about \$6,000⁵. This means the total compensation value ranges from about \$30,000 to over \$100,000. The compensation was not determined by fixed principles but varied based on negotiations and mediation with each affected household. Factors influencing the settlement amount include the size of the actual land, the number of family members, and the residents' roles within the community.

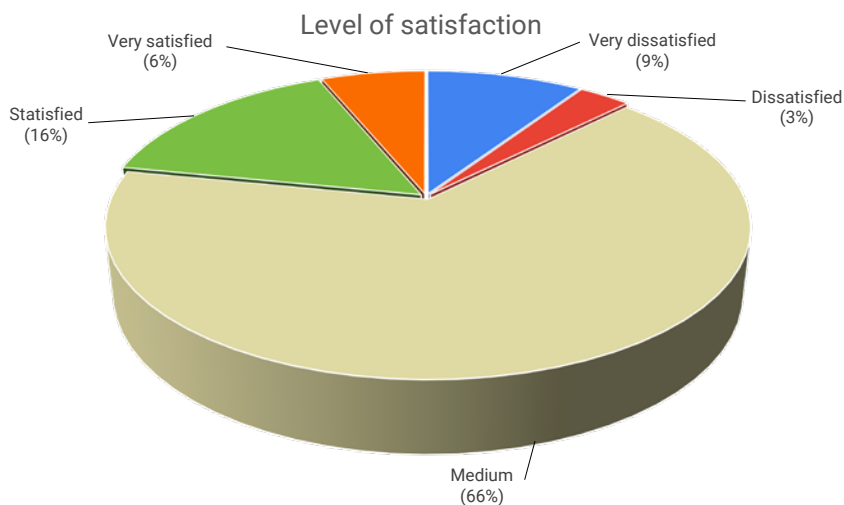
Despite the seemingly substantial compensation, some community members remain dissatisfied. Information collected indicates that 10 out of 32 compensated households find the amount unacceptable because the land provided does not equate to the value of their previous properties, and the new buildings suffer from poor quality,

such as cracks and sewage blockages. Furthermore, much of the compensation money is spent on repairs, leading to additional challenges like loss of employment, decreased income, and anxiety over relocation.

The survey results show that out of 32 households interviewed, three households (9%) were not at all satisfied, while two households were very satisfied (3%) with the compensation they received. Notably, the majority of respondents rated their satisfaction as moderate or normal, with 21 households or 66%. The results of the survey suggest that they are not yet completely satisfied with the compensation they received, which is related to the duration of tenure, the title deed, the actual size of the land and housing in their previous location and lack of jobs assessment. In fact, out of 32 households interviewed, 13 claimed that their family's income had dropped by 20% to 75% of what it had previously earned.

4. Some houses next to the main road, although smaller in size, may be priced similarly or even higher, depending on actual sales.

5. Based on the results of the group discussion, participants shared their knowledge and experiences regarding the prices of buying and selling land.



Graph 1: Level of satisfaction and dissatisfaction on compensation

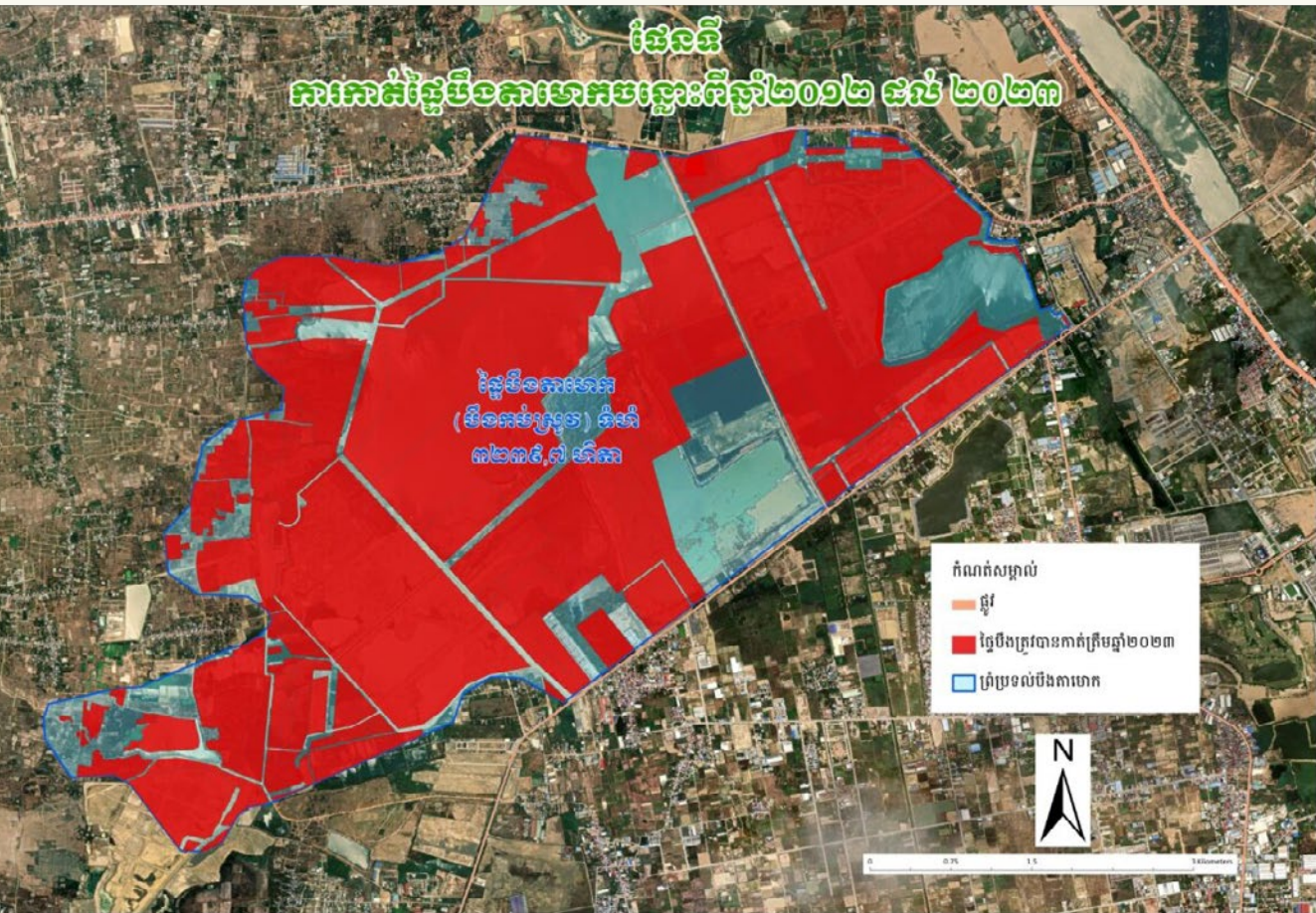


Picture 7: A motorcycle repairer in Samrong Tbong is at risk of losing his job.

VIII. Update on Cutting of Lake Surface

As of August 2024, the area of Boeung Tamok Lake has undergone 80 instances of land cutting or reclassification, totaling 2,427.3048 hectares, which is equivalent to 74.92% of the lake's total surface area. This figure does not include the loss of lake area resulting from reservations for infrastructure developments that serve the newly reclassified lands. This significant alteration may represent the largest instance of land reclassification in Cambodia, surpassing other cases

involving protected state public lands across the country. According to Article 16 of the 2001 Land Law, the reclassification of state public land into state private land must be determined by legislation after the land is deemed no longer in the public interest. To date, no state public land reclassification has been approved by the National Assembly.



Map 1: Map is showing Boeung Tamok lake cuted between 2012 until 2023

VIII. Legal Analysis of the Conditions of Community Land Occupation

As mentioned in the section on the community background: Is the land where the Samrong Tbong community currently resides classified as state public land, private land, or community private land? Can the Samrong Tbong community's land be used for on-site development?

As mentioned in the section on the community background: Is the land where the Samrong Tbong community currently resides classified as state public land, private land, or community private land? Can the Samrong Tbong community's land be used for on-site development?

The Constitution of the Kingdom of Cambodia (1993) and the Land Law (2001) set out the legal principles under which individuals (both natural persons and legal entities) of Khmer nationality may acquire private ownership of land or immovable property.⁶ Private ownership of land or immovable property on state private land can be acquired through various methods, including gifts, social land concessions, exchanges, or other means of access allowing occupancy of parts of state private land for the purpose of acquiring ownership⁷. According to the 2001 Land Law, to

become a legal possessor and to be entitled to apply for a definitive title of ownership, a possessor must meet certain legal requirements, such as having peaceful, uncontested possession of immovable property for at least five years from August 30, 2001⁸. Additionally, to qualify as an owner of immovable property, the possessor must have actual occupation that is non-violent, publicly recognized, uninterrupted, and in good faith⁹. Moreover, the 2007 Civil Code further provides the right to acquire ownership of land abandoned by its original owner after a specified period. Possession is categorized into two types; type 1: Any individual who possesses another's property wrongfully and in default and type 2: Any individual who possesses property in good faith and without default.

First, an individual who wrongfully and in default possesses another's property may acquire ownership of that property if they have occupied it peacefully, publicly, and with the intent to own it for 20 years¹⁰. Second, a person who possesses immovable property in good faith and without fault may acquire ownership if they have occupied it peacefully, publicly,

6. The Constitution of the Kingdom of Cambodia, 1993, Article 44, and the Land Law of 2001, Article 1

7. The law on land 2001, Article 17

8. The law on land 2001, Article 30

9. The land on law 2001, Article 38

10. The Civil Code of 2007, Article 162

and with the intent to own it for 10 years¹¹. The Constitution of the Kingdom of Cambodia (1993) and the Law on Expropriation (2010) stipulate the right to fair and just compensation for privately owned land confiscated by the state for public use.¹²

The Land Law guarantees the same possession rights to legal occupants. In cases where officials or authorities abuse their power to confiscate immovable property from peaceful occupants, they shall be fined between 10 million and 25 million riels and may face administrative penalties. If the confiscation is committed with violence, the perpetrator shall be punished with imprisonment of 6 months to 2 years, and any person who ordered the abuse shall face the same penalties as the person who committed it.¹³

The land of the Samrong Tbong community is likely classified as private community land. This classification is based on several factors: the land is not within the officially designated lake area established in 2016,¹⁴ it does not interfere with the widening of Road 151, and it has been occupied by some residents since before 2001, when it was still a dry paddy field.

In 2016, the Royal Government issued Sub-decree No. 20, S.P., designating the area of Boeung Tamok or Boeung Kob Srov as state public property with a total area of 3,239.7 hectares.¹⁵ Through this Sub-decree, authorities once claimed that the residents lived on the surface of Boeung Tamok Lake, which is state public land. However, verification of the coordinates determining the area of the lake suggests that the location where the Samrong Tbong community resides is not on the surface of Boeung Tamok Lake. The official boundary lies approximately 40 to 70 meters behind the houses where the residents currently live (see map below).¹⁶ This indicates clearly that it is incorrect to claim that the community resides on land defined by the sub-decree. Additionally, it has been suggested that community members reside along Road 151, which is planned for expansion. Even if the road is widened to 50 meters, the community can relocate further back, ensuring they still maintain a safe distance of approximately 50 meters from the expanded road. (See map below).

11. The Law on Land 2001, Article 38, and the Civil Code 2007, Article 162: The interpretation of the law for the implementation of these articles is applicable only to the possessor acquiring ownership of immovable property (as the original possessor or right holder) who are occupying land already registered in the land register. Legal occupation seems to mean occupation certified by authentic documents verified by a competent official following the procedure of the land registration process.

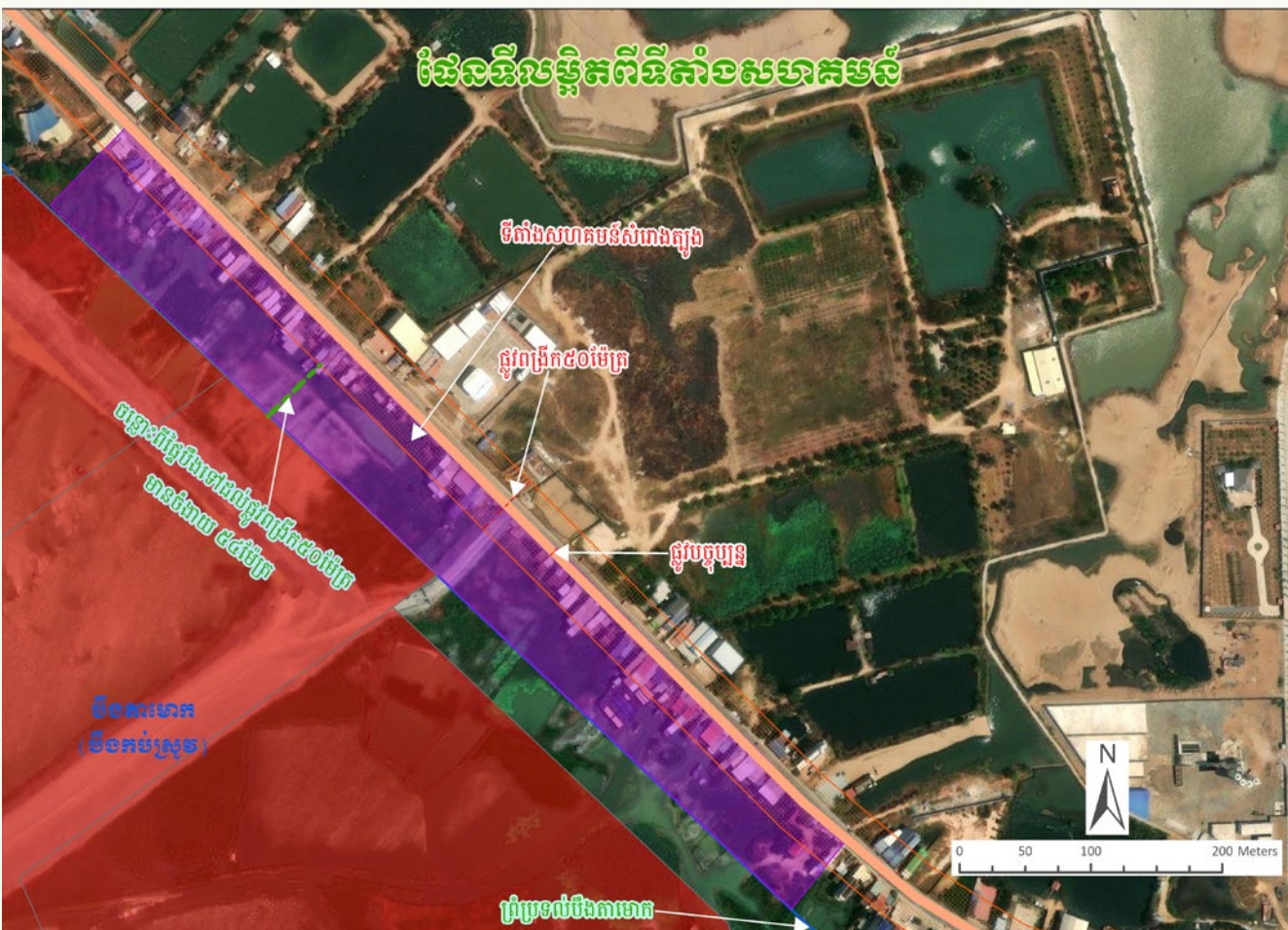
12. The Constitution of the Kingdom of Cambodia, 1993, Article 44, and the Law on Expropriation 2001, Article 1

13. The Law on Land 2001, Article 261

14. Sahmakum Teang Tnaut, Boeung Tamok map, <https://teangtnaut.org/km/map-layer> (Review on 18 July 2024)

15. NCDD, Sub-decree No. 20, S.P., designating the area of Boeung Tamok or Boeung Kob Srov as state public property with a total area of 3,239.7 hectares, <https://library.ncdd.gov.kh/detail/4083>

16. Sahmakum Teang Tnaut, Samrong Tbong Community Update 2024



Map 2: Map showing that the community is not located in the lake area and there is opportunity for on-site development.

Samrong Tbong community first settled in this area in 1996.¹⁷ The community's peaceful possession and occupation of the land was free of charge, with the initial landowner having occupied the area before August 30, 2001. Moreover, many community members possess various forms of documentation certified by local authorities, including applications for land occupation, land certificates, land survey records, certificates of land history, and residence certificates.¹⁸ These documents demonstrate that

local authorities recognize the Samrong Tbong community's legal residency. Since the initial settlement, residents have publicly claimed ownership of their land and houses to authorities and other third parties, consistently maintaining and caring for their properties.

The Samrong Tbong community's assertion of land ownership to third parties indicates they have met the requirements for land occupation, both in terms of public acknowledgment

17. The Law on Land 2001, Article 38, Paragraph 6

18. Samrong Tbong Community Land Data Collection, 2024

and actual occupation.¹⁹ Since 1996, the community members have peacefully resided in their current location without any violence, demonstrating their role as possessors under the conditions outlined in the 2001 Land Law.²⁰ They continue to live there today, engaging in activities such as vending, fishing, raising fish, and cultivating lotus, without any interruption in their land occupation.²¹

Despite the Royal Government's reclassification of portions of the Boeung Tamok Lake area 80 times,²² granting them to companies, private individuals, and other institutions, the Samrong Tbong community, which has lived in the area since 1996 and is situated outside Boeung Tamok Lake, was evicted without being granted legal title.

From both legal and social perspectives, the Samrong Tbong community should be recognized as legitimate possessors, eligible to acquire ownership and exercise the same rights as landowners to use, manage, and benefit from the land they occupy.

They should also be able to apply for systematic land registration or request on-site development.

If the state requires the site for development, it should implement the Law on Expropriation to reach a settlement with community members, as they have not resided on land within Boeung Tamok Lake.

19 The Law on Land 2001, Article 38, Paragraph 2 and Paragraphs 4

20 The Law on Land 2001, Article 30

21 The Law on Land 2001, Article 38, Paragraph 5

22 Sahnakum Teang Tnaut, Interaction Map of Boeung Tamok Lake, <https://teangtnaut.org/km/map-layer> (accessed on July 18, 2024)

X. Recommendations

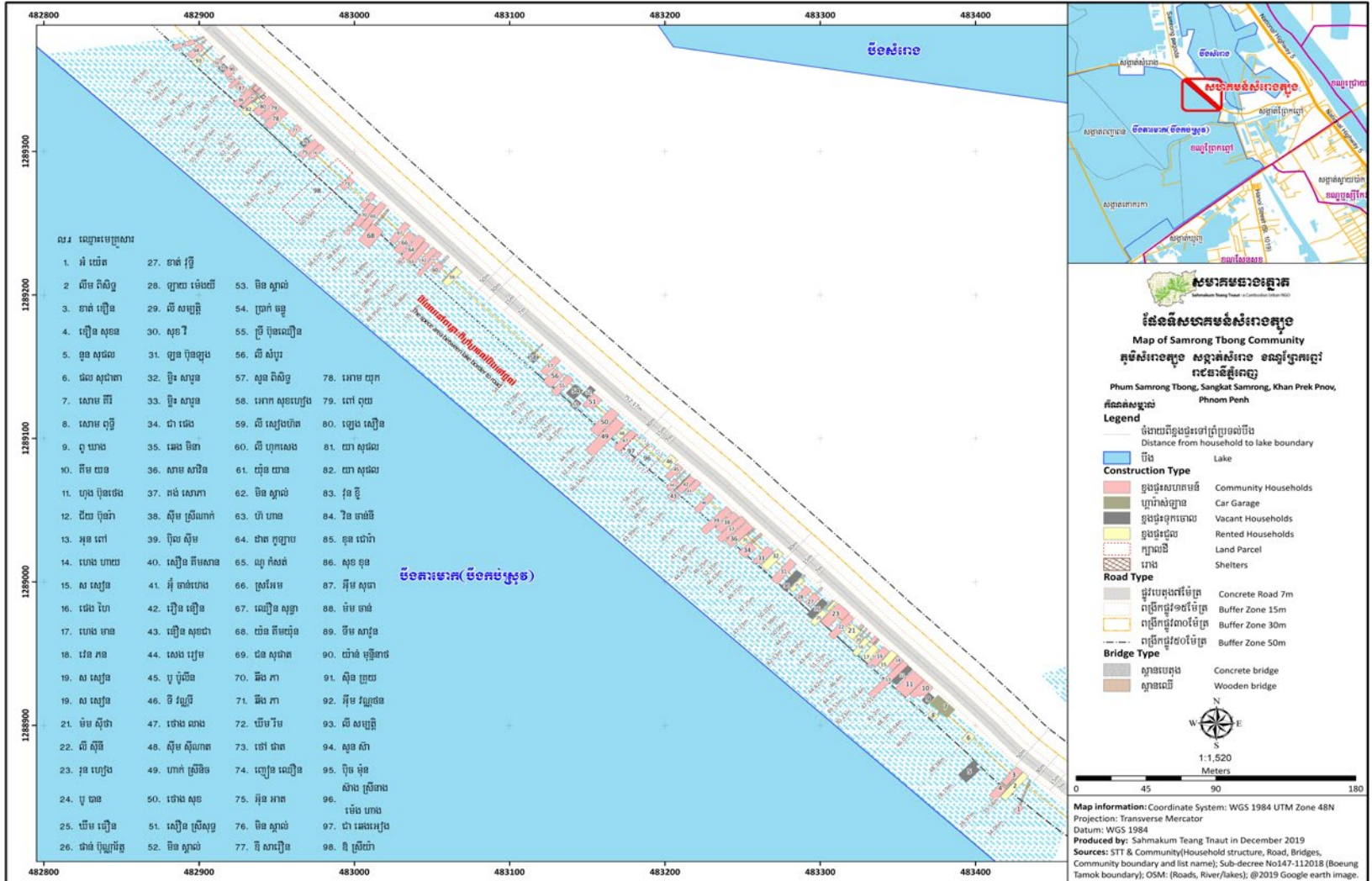
- ❑ In principle, the designation of an area as the state public property must be publicized, and stakeholders must be given appropriate time to file a complaint. However, this mechanism was never implemented or was incompletely implemented, leading some residents to lose their rights and interests in previously occupied land. Therefore, in addressing this matter, relevant authorities shall ensure public involvement and widespread publicity when designating any location as state public property, particularly during its process.
- ❑ Some land disputes may involve civil cases requiring a litigation, which is time-consuming and requires court fees. This creates economic hardship and time constraints that prevent the poor from using the litigation mechanism to protect their rights and interests. Therefore, the government should establish a special mechanism for such cases as an administrative complaint process and ensure residents do not bear case-related costs. Additionally, third parties should be permitted to serve as plaintiffs.
- ❑ Similar to the recommendation above, but specific to reclassification: So far, local residents have often seemed unaware of the processes and various reclassifications affecting their interests. Therefore, relevant authorities shall ensure public participation and publicity when determining any site for reclassification, especially during the procedural stages.
- ❑ When national authorities receive intervention requests from local residents, they should establish a monitoring and evaluation mechanism based on legal and social principles to build public confidence. Interpretations should be widely communicated to the people and all stakeholders.
- ❑ Public forums should be held to disseminate information and allow questions, promoting more transparent, fair, and acceptable settlements for both directly affected individuals and the general public.
- ❑ Relocating any residential area for development should ensure that local people benefit from that development. This means that the first option should be on-site development; however, if on-site development is not possible and relocation is necessary, authorities must ensure that the

affected people's living conditions are improved or, at a minimum, equal to those of their previous location.

- ❑ Accusations of citizens using violence against authorities or against public officials should be based on circumstantial evidence and carefully assessed for their factual basis. This is especially true of community activists that are acting to protect their land or housing, as in some cases it is the exercise of rights that should not be accused of opposing public officials. On the other hand, if the conditions of the community's occupation are legitimate, then it is also wrong for the authorities to obstruct citizens.

Annex

Samrong Tbong Community Map - 2024 Update





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