

## ‘What Other Country Would Do this to Its People?’ Cambodian Land Grab Victims Seek International Justice

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*“It started when some people from the government came around the community telling us that we were illegally occupying the land,” **Chhae Kimsrour** said in June 2020. “I’ve lived here since 1995, but six months later they came back and started filling in my lake. They said it was their land now – many families in the area have been affected.”*

At the time, Kimsrour was raising fish and crocodiles in Beoung Samrong, a small community on the northwestern outskirts of Phnom Penh. Living with three generations under one roof, he said his aquaculture enterprises were sustaining his family – until the government filled in two of his three lakes, claiming that the land was in fact state-public land that the authorities were requisitioning, reportedly to build a park.

“They built a road right through my property, everything I own, I earned through sweat and blood – what other country would do this to its people?” said a visibly distraught Kimsrour.

In March 2021 Kimsrour confirmed that, despite going through the bureaucratic administrative processes set out by the Municipal Department of Land Management, he has now lost over a hectare of his land and was unable to afford a lawyer.

“The government has been promising compensation since last year [2020] but I’ve had nothing. When is it coming? That land was mine for decades” he said.

Meanwhile, in July 2020 Touch Soeun awoke each morning in fear that the bulldozers would return. The month prior, a fleet of bulldozers flanked by local authorities and police officers arrived to inform him that the Boeung Chhouk A village – a small hamlet in northern Phnom Penh – was illegally occupying land that was owned by an unnamed property developer.



Touch Soeun gazes at his land, which was cleared without his consent in June 2020. Image by Gerald Flynn.

By that time, six houses had been torn down and one homeowner had had a heart attack as the bulldozers tore through his home, according to Soeun.

“I’ve still not heard back from the complaint I submitted to City Hall last month [June 2020], but I don’t know what will happen if they [the bulldozers] return,” he said in July. “The community is united. We’re prepared to stop the authorities from taking our homes.”

But now Soeun said that the remaining 22 families of Boeung Chhouk A live in limbo. As of March 2021, his community’s case has not moved forwards and the authorities maintain they are illegally occupying the land, but would be compensated if they left.

“We’re living as normal now; it’s been nine months since they first tore down houses. We don’t know what is happening, but we don’t want to leave,” he said in March 2021.

### **The potential for international justice**

Kimsrour and Soeun’s stories are all too common in Cambodia, where the International Federation for Human Rights (FIDH) in 2014 estimated that at least 770,000 people had been affected by land grabs that cover some 4 million hectares of land – 145,000 of them in Phnom Penh alone.

The well-documented politicization of Cambodia’s judiciary has rendered justice elusive and land disputes – as frequent as they are – rarely even make it to court. But FIDH aims to bring a case against land grabbing to the International Criminal Court (ICC) in The Hague.

FIDH, along with Global Witness and Climate Counsel, [submitted an open letter dated March 16](#) to Fatou Bensouda, the current prosecutor at the International Criminal Court (ICC), urging her to open a preliminary examination into land-grabbing in Cambodia.

“The Cambodia situation offers a unique opportunity for the ICC to engage with the single greatest threat facing humankind – the climate and environmental emergency,” the authors write in their letter. “Land grabbing is not only about the violent forced evictions of residents, or the beatings, murders, or unlawful imprisonment of land activists.”

While FIDH, Global Witness and Climate Counsel began the process in [October 2014](#), when the first communication was sent to the Office of the Prosecutor at the ICC – which was followed up by a second in [July 2015](#) – progress has remained slow. But FIDH’s latest letter suggested that a decision will be made by the end of Bensouda’s term as prosecutor on June 15, 2021.

“Obviously we can’t make a decision for the prosecutor,” said Andrea Giorgetta, FIDH’s Asia Desk director.

“This case has been brought to her attention for many years, so the decision is overdue – we’re hopeful that the decision will be made one way or another,” he said in a telephone interview.

The Office of the Prosecutor at the ICC did not respond to requests for comment on the matter, but a [December 2020 report on Preliminary Examination Activities](#) stated that Bensouda’s office will send responses to communications that warrant further analysis this year, including the case of land grabbing in Cambodia.

Indeed, on Feb. 17, [Bensouda delivered a keynote speech at the Institute of International & European Affairs](#) where she again confirmed that a decision would be made on Cambodia before her term ends on June 15, 2021.

“We also do have an issue that we’re dealing with currently in respect to Cambodia – the land grabbing issue – we are dealing with that and we’ll provide responses to that,” she said in her speech.

Cautious optimism among those seeking justice for land grabs in Cambodia was somewhat renewed following the publication of a [policy paper by the ICC on Sept. 15, 2016](#) that effectively broadened its processes for selecting and prioritizing cases.

“[T]he Office will give particular consideration to prosecuting Rome Statute crimes that are committed by means of, or that result in, inter alia [among other things], the destruction of the environment, the illegal exploitation of natural resources or the illegal dispossession of land,” the policy paper states.

“That’s why we’re hopeful,” Giorgetta said. “[B]ecause in fact it falls within what the policy paper describes as one of the types of situations that they’d want to look into.”

This being said, Giorgetta was quick to point out that the ICC has not expanded its mandate

and the Office of the Prosecutor is still only able to investigate crimes that fall under the [Rome Statute](#). Rather, the court could prioritize cases where currently listed crimes have contributed to environmental degradation, illegal exploitation of natural resources or the illegal acquisition of land.

There had been hope, both among the ICC and the NGOs involved, that the submission of communications to the Office of the Prosecutor alone would have had some impact and altered the behavior of those involved in land grabs across Cambodia; but as Giorgetta observed, this hasn't been the case.

“The opposite has happened,” he said. “The government has dismissed this communication and seems to be ignoring it, which reinforces the message that there is no political will, particularly in the lack of independence of the judiciary to address the issue.”



Touch Soeun's home, where trees once stood. Image by Gerald Flynn.

When asked for comment on the potential for land grabbing to be examined by the ICC, spokesperson for the Ministry of Environment Neth Pheaktra said he wasn't the right person to speak to. Seng Lot, spokesperson for the Ministry of Land Management could not be reached for comment and holds a reputation – even among government-owned media in Cambodia – for never speaking publicly.

Likewise government spokesperson Phay Siphon declined to comment on how the government was feeling about the ICC's progress, as did Cambodian People's Party (CPP) spokesperson Sok Eysan, Foreign Affairs Ministry spokesperson Koy Kuong and Council of Ministers spokesperson Ek Tha.

As such, it's impossible to know whether anyone within Prime Minister Hun Sen's administration is especially concerned about being targeted for involvement in land grabs, but as Giorgetta noted, the government has previously buckled slightly at the prospect of international sanctions.

“Here we’re not talking about sanctions, we’re talking about criminal accountability, but when the international community has acted to target individuals, that’s when the government has reacted,” he said, adding that he believes some officials and tycoons are likely concealing their concerns.

### **Historic problems, inadequate solutions**

Land ownership has long been a sensitive social issue in Cambodia after the genocidal Khmer Rouge regime abolished land titles – a move that would lead to surviving land titles being voided in the 1980s, but the value of land concessions became apparent during the bitter conflict that consumed Cambodia for much of the 1990s.

Between 1991 and 1997, the government allocated some 7 million hectares of land as forest concessions as various political factions sought to fund their bids for supremacy in the wake of the United Nations Transitional Authority in Cambodia mission.

While people like Kimsrour and Soeun settled on Phnom Penh’s outskirts in 1995, the Land Management Ministry didn’t even exist until 1999 and the 1992 version of Cambodia’s Land Law suffered from weak-to-no enforcement [until its 2001 amendment](#).

But despite requesting the support of international donors to issue land titles in 1995, the [World Bank in 2001](#) estimated that 80% of Cambodia’s land area was deemed property of the state and as few as 600,000 of the 4 million applications for land titles had been processed.

By 2010, the United Nations Capital Development Fund found that 30% of Cambodia’s land was owned by just 1% of the population, largely due to the 2001 amendments to the Land Law that made possible the conversion of land from state-public to state-private, which allows land to be sold if certain criteria were met.

“Right now, with widespread issues of forced evictions and land grabbing – especially following international attention – the government has been forced to shift the way it deals with land concessions,” said Eang Vuthy, director of local land rights NGO Equitable Cambodia.

“More state-public land is being privatized, we’re seeing the filling in of rivers, lakes and wetlands, it’s heartbreaking to see,” he said, adding that this trend of privatization isn’t just happening in cities, but across the country, especially in coastal regions.

Some 400 Cambodians travelled from three provinces to Phnom Penh on Sept. 22, 2020 to protest outside the Ministry of Land Management over unresolved land disputes – many of which had arisen from the government allegedly reclaiming people’s land.



A protest against land-grabbing held in front of the Land Management Ministry in September, 2020.  
Image by Gerald Flynn.

Vuthy said land grabs are justified by the government as land concessions, housing developments or infrastructure projects, but noted that residents often have no idea until construction – or demolition – begins.

He said that justice in these cases is both rare and slow. Land disputes that arose in 2010 over sugar plantations in Oddar Meanchey, Koh Kong, Kampong Speu and Preah Vihear provinces remain unsolved.

Of the 700 families affected in Oddar Meanchey province, Vuthy said that fewer than half had received a 2-hectare plot of land in compensation, while more than 1,000 families were given 1.5-hectare plots in Koh Kong province. In both cases the relocation and compensation packages were inadequate for the needs of the community, he added.

Vuthy said that even those solutions haven't been offered to the 2,130 families in Kampong Speu and Preah Vihear who lost their land to sugar companies owned by or connected to Ly Yong Phat – a wealthy and powerful CPP senator.

Similarly, in Ratanakiri province, Vietnamese rubber giant HAGL has [been accused of illegally clearing the sacred land](#) of some 2,000 indigenous families.

Indigenous communities are more adversely affected by land grabs, Vuthy said, because the land is often central to their animist beliefs and their livelihoods, and they are even less likely to be afforded justice than ethnically Khmer victims.

“The problem is that these bigger cases drag on due to the inadequacy of the solutions offered,” Vuthy said. “People in Koh Kong province managed to get

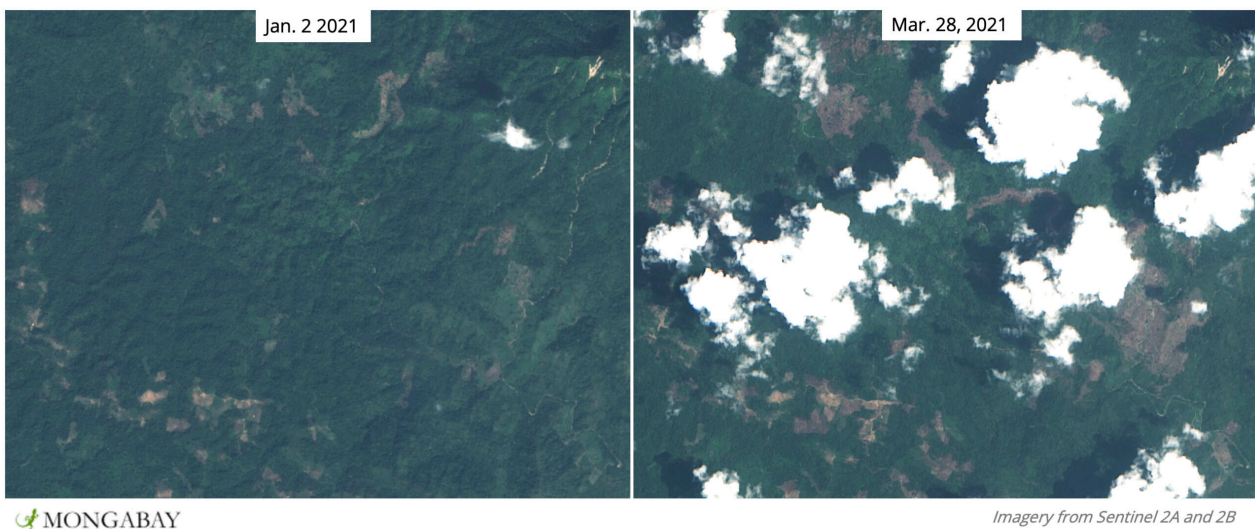
some of their land back after being evicted years earlier, but simply getting their land back doesn't restore their livelihoods - they're often facing high indebtedness, they cannot restore their businesses and often end up selling the land back to whoever took it from them."

### Land grabbers accused of ecocide

One element that remains absent from communications sent to the ICC regarding land grabbing in Cambodia is the intrinsic relationship between the illegal acquisition of land and environmental degradation.

This is an issue that the ICC has also pledged to address, according to the 2016 policy paper and as recently as December 2020, when international lawyer Philippe Sands and Florence Mumba - a judge at the Extraordinary Chambers in the Courts of Cambodia - announced they were [drafting a definition of ecocide to be included on the list of international crimes](#) that includes such atrocities as genocide and crimes against humanity. Their definition is expected early this year and could mean perpetrators of environmental destruction could be brought to international justice.

"The very process of industrial development creates conditions for cultural genocide and ecocide," said Courtney Work, an assistant professor at the National Chengchi University's Department of Ethnology. "Perpetrators don't explicitly intend to kill people or the environment - at least proving they do is difficult - but they do intend to make a profit."



Recent deforestation inside Phnom Samkos Wildlife Sanctuary.

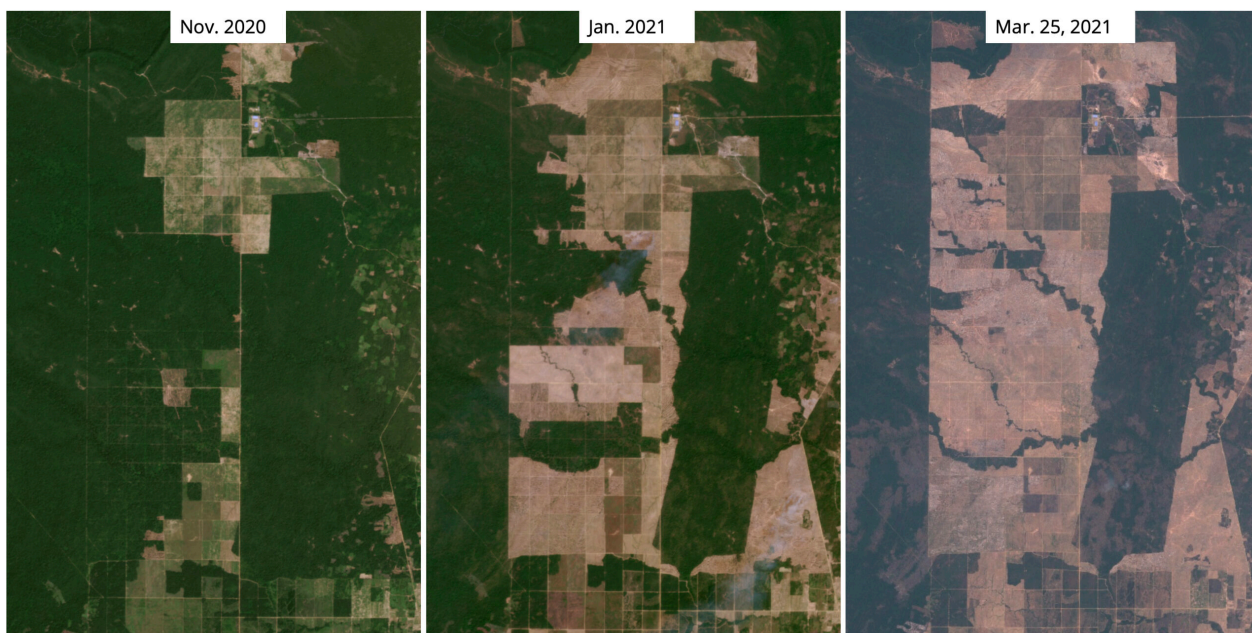
Speaking at a webinar hosted by the [Center for Khmer Studies on March 12](#), Work said that the flurry of land concessions that the Cambodian government handed out in the 2000s resulted in widespread environmental destruction. She referenced a Cambodian saying: while Khmer Rouge leader Pol Pot killed the people, current developments - much of which Work linked to land concessions - are killing everything else.

"There's a possibility that new rumblings at the ICC could make some difference," she said. "But we need a change of perspective, not a new law."

One area of interest for Work is [Prey Lang Wildlife Sanctuary, where rampant logging has been tied to economic land concessions](#) awarded to companies that enjoy close relationships with each other and the government.

Chu-Chang Lu, chairman of Think Biotech and on the board at Angkor Plywood – two companies operating within the protected area of Prey Lang – denied his company was involved in illegal logging and was unconcerned by the prospect of legal action, in Cambodia or internationally.

“Why stop me? I’m not the one burning everything, causing air pollution,” Lu said. “The forest should be protected by the government – we’re businessmen, we’re not here to stop illegal logging.”



Satellite imagery from Planet Labs and Sentinel 2B shows recent large-scale deforestation of primary forest inside Think Biotech’s timber concession, which abuts Prey Lang Wildlife Sanctuary.

Work’s research in Cambodia began in 2009 and has covered the social and ecological consequences of land concessions in their many forms across Cambodia, including Pursat, Kampong Chhnang, Kampong Speu and Stung Treng provinces, where the dispossession of land and destruction of the environment remained pegged to the economic land concessions granted in each province.

“These were more rapacious than the previous forest concessions [of the 1990s],” she said, adding that, at their height, economic land concessions took up more than 2 million hectares of land in Cambodia until they stopped being awarded in 2012.

### **Has international development failed Cambodia?**

Economic land concessions gave way to social land concessions, an initiative introduced by the World Bank that was designed to ensure land tenure for Cambodia’s growing landless population. But rights activists warn that this, like almost all well-intentioned programs pertaining to land titling, has been bastardized.

[Reports from local land rights advocates](#) suggest that social land concessions are not only being used instead of proper compensation mechanisms for communities who've been evicted in the wake of land grabs, but have even been abused to provide land to military officials, along with the friends and family of local authorities.

As recently as June last year, [the World Bank announced another \\$93 million](#) would go to fund the third phase of its land tenure project in Cambodia, despite mounting allegations of abuse within the system that has led critics to accuse the World Bank of being complicit in land grabbing and the environmental damage it has caused.

“The extent to which the World Bank is not benevolent is astounding,” Work wrote in an email. “And the reason the Cambodian government continues to get funding from them, despite being ‘extreme extractors,’ is a sign of the priorities of the bank.”

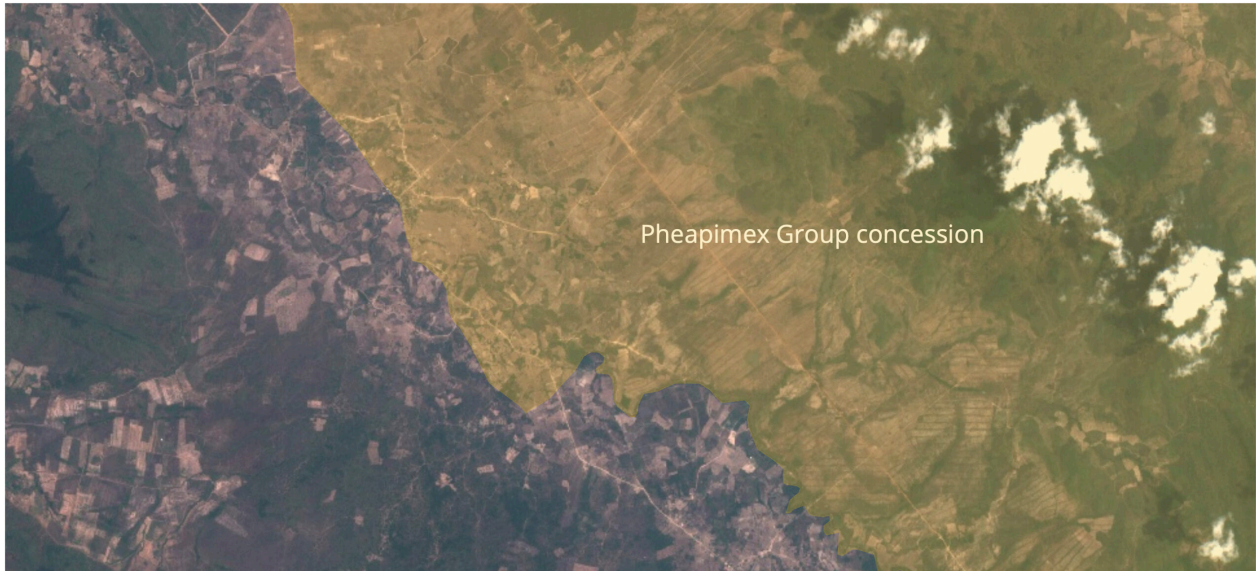
Representatives of the World Bank in Cambodia said that they were “not aware of serious issues with the land allocated through the LASED projects” adding that the success of LASED I and LASED II had prompted increased funding for the third phase.

“As illustrated by its long-term engagement with the government SLC program, the World Bank has been keen to support securing access to land for poor households,” the World Bank representative wrote in an email, adding that land secured was proving a valuable safety net during the COVID-19 pandemic.

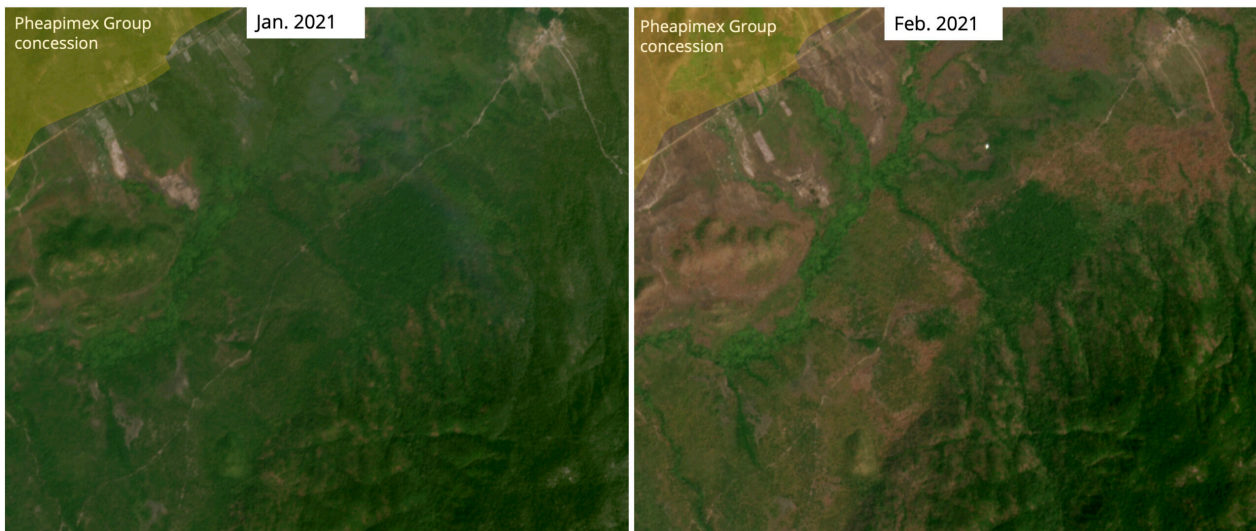
The first two phases of LASED have so far cost \$39.86 million and have been running since 2008 – LASED III is set to run from 2021 to 2026 and will bring the total cost to \$146.8 million – but so far just 17,000 hectares have been allocated to 5,091 previously landless families. Of them, only 3,362 land titles have been issued, meaning the World Bank has spent nearly \$12,000 for each land title acquired.

On March 12 the [World Bank published findings from the Ecosystem Accounting framework](#), which aims to attach a dollar value to ecosystems in a bid to help preserve them.

The Cambodian government reportedly requested the World Bank provide economic data to support a decision to preserve 65% of Cambodia's forests. The analysis found that economic gains from preserving forests were five times higher than cutting them down for charcoal production or agriculture and that other sectors linked to forest ecosystems would benefit by as much as 20 times more than the cost of maintaining the forests.



Deforestation appears to spill out of the Pheapimex Group concession near Phnom Samkos Wildlife Sanctuary.



Satellite imagery shows recently burned areas of primary forest in another area outside the Pheapimex concession. According to data from U.S. space agency NASA, fire activity began in the concession.

But critics remain unconvinced by the World Bank’s motives and are skeptical of even the ICC’s ability to stimulate change in Cambodia’s relationship with conservation.

“Honestly, the fact that they [the World Bank] are talking about recognizing ecological value and not doing what is necessary to actually value ecological systems is frightening,” said Work. “We are seeing very little change to practices on the ground, even though there’s a lot of talk about change and value... and the value is only economic. There seems to be no intrinsic value for our collective life support system.”

She added that so far the government hasn’t changed their response to any form of provocation – whether from development partners, NGOs, activists or the potential ICC case – but said that maybe the ICC could have some government officials “sweating just a little.”

“I am not convinced that the whole global development project has much to show for itself,” she said. “[B]ut it is all so starkly visible in Cambodia, which stands as a shining example of everything that’s wrong with our global economic system.”

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