

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

Snapshot: Development projects continue to threaten the existence of community fisheries (“CFi”) living in coastal areas, whose land they depend on for survival is being encroached on and destroyed over tourism ambitions on Cambodia’s coasts. This factsheet builds upon a previous fact sheet on CFI released by CCHR in 2021 and focuses on development projects threatening CFI in the coastal areas of Kampot and Kep provinces. It mainly focuses on a project involving the company *OMNI Kampot Development Co., Ltd* (“OMNI company”) that, if moving forward, will affect several of the CFI living in these two provinces. This fact sheet concludes with tangible recommendations to the Royal Government of Cambodia (“RGC”) and businesses in order to improve respect for fishing and land rights and fundamental freedoms along the coast and across the country.

1. Introduction

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

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

2. Key Issues: The threat of development for CFI in Kampot and Kep Provinces

In March 2021, the Kampot Provincial Governor rejoiced that despite the COVID-19 pandemic, investment continued to pour into Kampot and stated that any small or large development project would be positive for the population and economic growth of the province and the country overall.³ Further, the inauguration of Bokor town - the second town in Kampot province - in August 2021 in order to promote socio-economic prosperity and people’s livelihoods according to the Governor,

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

² RGC Statement on Fisheries, (*Cambodian Fisheries Administration’s website*, accessed on 17 March 2022).

³ Thong Sotha, “Paper mill lifts Kampot’s hopes” (*Khmer Post Asia*, 5 March 2021).

brought with it high hopes for large-scale investment projects in the province.⁴ These attempts to increase tourism and boost economic development in the provinces has indeed led to the approval of various development projects besides Bokor town, such as the ambitious French Riviera Marina,⁵ the Kampot International Tourism Port,⁶ the development of beaches in Kep,⁷ the construction of a logistic center and multi-purpose port,⁸ and the building of a seaport and satellite city or of artificial islands with recreational and golf areas as well as resorts (see Section 4), to name a few.

While the benefits for the economy are undeniable, some of these development projects are located along the coast of Kampot and Kep and overlap with the land of local communities living in coastal areas. This includes that of various CFi, whose fishing grounds and rights and the natural resources and biodiversity they depend on for survival and as protection from natural disasters are threatened by such projects. In addition, the rights granted to CFi are secured through their registration with the Ministry of Agriculture, Forestry and Fisheries, which does not provide them with ownership of the land they occupy and can be withdrawn at any time. The insecurity of land tenure that CFi live in is therefore exacerbated by the fear that they will be dislodged without notice for the benefit of lucrative development projects in the RGC's efforts to bolster tourism in coastal areas.

Government initiatives protecting against negative development impacts

In addition to the **establishment of CFi to protect fisheries** and manage the resources of natural fisheries in the country and the **legal obligation** for development projects to conduct **Environmental and Social Impact Assessments ("ESIA")**,⁹ the RGC has also created a specific institution to manage and protect coastal areas in the Kingdom:

➔ **National Committee for Coastal Areas Management and Development ("NCCMD")**: the NCCMD¹⁰ was established by Royal-Decree in 2012, under the direct supervision of the RGC. It is composed of government members from different ministries, including the Minister of Land Management, Urban Planning and Construction as the Committee's president, the Minister of Environment as the vice-president, the Minister of Tourism as the permanent vice-president, and the Prime Minister as the honorary president.

The **main missions** of the NCCMD include, among others, the following:

- To prepare policies, strategic planning, master plan, action plans, programs and projects related to the management and development of coastal areas;
- To monitor and evaluate all development projects and project implementation in coastal areas to ensure their conformity with Government guidelines for the development of coastal areas;
- To monitor, prevent, and take necessary actions to prevent any inactivity which may harm the environmental and natural resources in coastal areas;

⁴ Ry Sochan, "Kampot inaugurates Bokor town" ([The Phnom Penh Post](#), 7 August 2021).

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

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

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

⁸ Hin Pisei, "\$1.9B in new projects get CDC nod" ([The Phnom Penh Post](#), 18 January 2022).

⁹ See CCHR 'Fact sheet: Community fisheries and development projects in coastal areas' ([CCHR](#), Feb. 2021) (CCHR's Fact Sheet #1).

¹⁰ Royal Decree on the Establishment of a National Committee on Coastal Area Management and Development, [unofficial translation](#).

- To mainstream knowledge to sub-national administration, private sector, and any relevant parties to comprehend the development of coastal areas.

The NCCMD was also granted the power to request the intervention of forces in order to implement its missions if necessary.¹¹

There also appears to be provincial branches to the NCCMD. However, information about the provincial committees is scarce.

Despite these government initiatives, CFi remain largely unprotected (See Section 3) and their existence is being endangered by development projects, as is the case for the five CFi of Kampong Samaky and Trapeang Sangkae in Kampot and Phum Thmei, Kampong Tralach and, Ou Krasar in Kep, who are all threatened by the development plans of the OMNI company (See Section 4).

3. Legal Framework on CFi, Land and Environmental Rights

The destruction of or encroachment on the fishing grounds on which CFi depend to survive without adequate consent or consultation breaches several international rights enshrined in a number of legally binding treaties ratified by Cambodia. Under these treaties, CFi are entitled to these rights and protection is needed more than ever, such as the right to adequate housing, amid the ongoing COVID-19 pandemic. In addition, several international soft law instruments offer guidance on land and fisheries or on the duty of businesses to respect human rights. Finally, the Cambodian legal framework contains several instruments regulating CFi and protecting land rights, as outlined in the table below:

International Law	International Soft Law	Domestic Law
<ul style="list-style-type: none"> • International Covenant on Civil and Political Rights (ICCPR): <ul style="list-style-type: none"> - Article 19: Right to information, as a corollary of freedom of expression. • International Covenant on Economic, Social and Cultural Rights (ICESCR): <ul style="list-style-type: none"> - Article 6: Right to work; - Articles 11: Right to an adequate standard of living, right to food and right to housing; 	<ul style="list-style-type: none"> • United Nations' Guiding Principles on Business and Human Rights (UNGPs): outline the duty of businesses and private actors to respect human rights and act with due diligence, conduct ESIA's and public consultations. • Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security: recognize the central role of fisheries in the realization of human rights and provide, <i>inter alia</i>, for the involvement of fisheries users in participatory processes of tenure governance and in decision-making. • Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication: outline the necessity for States to regulate activities of non-state actors that 	<ul style="list-style-type: none"> • 2007 Sub-Decree on Community Fisheries Management: states the rules and procedures to establish CFi in Cambodia. • 2006 Law on Fisheries: ensures the rights on traditional use of fishery resources for CFi. • 2008 Law on Natural Protected Areas: provides the framework for the management, conservation and development of

¹¹ *Ibid*, Article 5 and 7.

- Article 15: Right to take part in cultural life.	affect small-scale fisheries to ensure their compliance with international human rights standards.	protected areas, some of which include fisheries.
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While the ICCPR and ICESCR are binding and directly applicable in domestic law through Article 31 of the Cambodian Constitution, international soft law is non-binding and the UNGPs and other guidelines are unfortunately far from being fully complied with by the RGC and businesses operating in Cambodia. Similarly, Cambodian domestic law regulating CFI and land rights does not sufficiently protect CFI¹² and is not properly implemented by Cambodian authorities.¹³ Furthermore, domestic law, such as the controversial *Law on Preventive Measures Against the Spread of COVID-19 and Deadly Infectious Diseases* (“COVID-19 Law”), has at times, been used by the RGC to target land and environmental activists or citizens affected by land disputes with the authorities or private companies protesting to defend their land rights.¹⁴

4. Case study: Kampong Samaky, Trapeang Sangkae, Kampong Tralach, Phum Thmei, and Ou Krasar CFI and OMNI Kampot Development Co., Ltd.¹⁵

Kampong Samaky and Trapeang Sangkae are two coastal fishing communities situated in Koun Satv and Trapeang Sangkae communes, Tuek Chhou district, Kampot province. Established in 2006, the Kampong Samaky CFI covers 537 hectares of fishing grounds and comprises 403 members and the Trapeang Sangkae CFI, which was officially established in 2009, covers 337 hectares of fishing grounds and comprises 758 members. The coastal fishing communities of Kampong Tralach, Phum Thmei, and Ou Krasar are located in Kep commune, Kep province, where they were established in 2005. The Kampong Tralach CFI covers 422 hectares of fishing grounds and comprises 155 members, the Phum Thmei covers 198 hectares of fishing grounds and comprises 110 members and the Ou Krasar CFI covers 446 hectares of fishing grounds and comprises 236 members.¹⁶

In these communities, fishing is the main occupation, which means that most community members depend on fishing to sustain their livelihoods and secure food for their families and the community.¹⁷ The community members of the three CFI interviewed by CCHR expressed that fishing is crucial for their CFI as it is their primary source of income. Fishing also enables other neighboring communities, whose members come fishing in the area, to feed themselves, especially vulnerable communities living nearby. The interviewed CFI members also stressed that beyond being a regular source of income for them, fishing is also a family tradition passed on from generation to generation; most

¹² For more details on the domestic framework, please see CCHR’s Fact sheet #1.

¹³ MoE, GEF, UNDP & PEMSEA “National State of Oceans and Coasts 2018: Blue Economy Growth Cambodia” (MoE, Dec. 2019), §4.10, p. 46.

¹⁴ CCHR, “Fact sheet: Forced evictions in Cambodia during COVID-19” (CCHR, Oct. 2021).

¹⁵ The information provided in this section comes from CCHR’s interviews unless otherwise specified. Due to the COVID-19 pandemic, CCHR was not able to conduct field research in Kampot and Kep provinces in 2021 as originally planned. Instead, CCHR conducted online interviews with three of the five CFI impacted by the OMNI project - the Kampong Samaky, Trapeang Sangke and Ou Krasar CFI - sub-national authorities and local non-governmental organizations (NGOs) in July and August 2021. To inform this case study, CCHR notably interviewed five members of the Kampong Samaky CFI, two members of the Trapeang Sangke, five members of the Ou Krasar CFI, two local authorities and two provincial authorities as well as three local NGOs. Furthermore, CCHR submitted interview requests to several other local and provincial authorities, who declined the invitation. CCHR also attempted to contact the OMNI company for an interview, without success. Similarly, CCHR reached out to the consulting company that conducted the ESIA of the OMNI project, who after accepting CCHR’s interview request, stopped all communications with CCHR’s team. Besides these interviews, further information was obtained from the “Report of Environmental and Social Impact Assessment: Impact of Development Projects on Marine Environmental Resources in Kampot and Kep provinces” jointly released by ActionAid Cambodia, CWDCC and CCHR in October 2021.

¹⁶ Joint report released by ActionAid Cambodia, CWDCC and CCHR in October 2021, p. 3.

¹⁷ Ibid, page 15-16, confirmed by CCHR’s interviews.

community members have learned to fish and have been fishing since they were born. Losing their CFi would not only cause massive job losses for them but also threaten their children's future. A female interviewee highlighted that fishing was particularly important for women and children who heavily rely on fishing for survival and that fishing activities prevented migration and labor exploitation abroad. Another female interviewee revealed that her CFi had experienced land loss in the past, forcing male community members to migrate en masse abroad for work, leaving their wives alone to take care of the children. Some never returned, leaving windows behind who struggled to feed their children and to survive.

In 2018, the ambitious development plans of the OMNI company in the area came to threaten the five CFi. The OMNI project is set to be developed over approximately 3,910 hectares of land in Kampot's Tuek Chhou district and in Kep into artificial islands for tourism purposes, which overlap with the land occupied by the CFi. If the project goes through as originally planned, it will be devastating for the more than a thousand members of the five CFi as it will impact anywhere from 47% to 78% of their land.¹⁸

Business registration with the Cambodian Ministry of Commerce shows that the OMNI company, which has been registered since 6 October 2017, has two directors: Khem Rany, who is the wife of a high-ranking government official, and Meang Chanthy. The company has no website and information about its operations is scarce. Information collected by CCHR seems to indicate the existence of a connection between the OMNI company and the group *Pallas Brilliant Investment and Development Co., Ltd*, which is the developer of the large-scale French Riviera Marina project in Kampot. Both companies share a director, Khem Rany,¹⁹ and the OMNI project is planned to be developed on land belonging to the Pallas group.²⁰ However, CCHR was unable to find an official source attesting to the nature of the relationship between the two companies.

According to the information collected, the OMNI company commissioned an ESIA of its project, which was conducted by the consulting company *Creative Green Design Co., Ltd*.²¹ However, CCHR could not obtain the full assessment report or more details about the ESIA findings from any of the two companies. The interviewed CFi reported having been invited to several meetings in 2018 and 2019 facilitated by provincial authorities or representatives of the OMNI company. The Kampong Samaky CFi stated that their chief was invited to four different meetings: the first was organized in December 2018, and the three others in 2019. The Trapeang Sangkae and Ou Krasar CFi reported having been invited to only one meeting in 2019. According to the CFi who attended those meetings, the OMNI company presented their project plans, the findings of their ESIA, and the job opportunities that the project would bring to their communities. However, they never asked the communities for their opinion on the project. Representatives of the Kampong Samaky CFi stressed that they had informed the authorities and the company during the meetings that they disagreed with the project and wanted the company to build it in another area. Representatives of the Trapeang Sangkae CFi made similar statements, reporting having raised their concerns about the impact of the project on their CFi. All

¹⁸ Information obtained from the presentation of the preliminary results of the ESIA of the OMNI project conducted by the Creative Green Design Co.,Ltd that CCHR was able to access.

¹⁹ Business registration of Pallas Brilliant investment and development Co., Ltd and of OMNI Kampot Development Co.,Ltd, Ministry of Commerce (website accessed on 6 April 2022).

²⁰ Information obtained from the presentation of the preliminary results of the ESIA of the OMNI project conducted by the Creative Green Design Co.,Ltd that CCHR was able to access.

²¹ According to the Ministry of Commerce's business registration, the company has been registered with the Ministry of Commerce since 18 June 2007 (website accessed on 6 April 2022).

claimed that the company dismissed their concerns. However, according to the Trapeang Sangkae CFI, the ESIA conducted by the OMNI company was rejected in 2019 after a high-ranking official from the Ministry of Environment, who attended one of the meetings, stated that the ESIA had not been done properly and requested that a new assessment be conducted. CCHR was not able to verify this information with the relevant authorities.

None of the local and provincial authorities interviewed by CCHR were able to provide information on the OMNI project. The local non-governmental organizations (“NGOs”) interviewed reported having heard about the company’s project plans. One of them stated that the project started in 2018 and confirmed that the company held several meetings in 2018 and 2019 in which they presented their ESIA findings and made job promises to the concerned CFI. One of the interviewed NGOs attended one of the meetings and also confirmed that only the ESIA findings and positive aspects of the project were presented to the stakeholders. However, most of the affected CFI were not invited to this meeting, later reporting that they were not even aware that the company held these meetings.

When asked about the job promises that the company made to the CFI, the interviewed community members answered that past experiences have shown that companies' job and high salary promises could not be trusted as they were mostly made to obtain the CFI's approval to their projects but were rarely followed through by companies. Even if employment would indeed be proposed, most of the community members are poorly educated, could not access the well-paid jobs, and would depend on their employer to sustain their livelihoods, with the risk of losing their jobs at any time. In addition, companies would not hire the eldest community members. They highlighted that the land they live on, and their fishing activities allow the CFI to be independent and self-sufficient for generations to come, with their members earning a regular and stable income and participating in the CFI activities regardless of their age and education. They also emphasized that their CFI is much more than a means of survival; it is also an essential means to protect the environment and its natural resources.



Source: (CC) CCHR -2019



Source: (CC) CCHR -2019

Mangrove forest in Trapeang Sangkae CFI in Kampot province.

The interviewed CFI and local NGOs recognize that development projects can positively impact the local and national economies and create job opportunities for other communities in the area. However, all agree that the negative impacts of such projects, especially the irreversible damage to the environment and destruction of coastal natural resources and biodiversity they would cause, far outweigh these positive impacts.

The concerns over the detrimental impacts of development projects on the environment and on local communities living off natural resources were echoed by the interviewed authorities, who stated that proper ESIA's must be conducted before any project is approved, as required by domestic law.

The opacity surrounding development projects is another serious concern. Information about these projects in the area is scarce, with a blatant lack of knowledge about them from the affected communities, who stated hearing about projects that might impact them mainly from local NGOs or the companies themselves when they show up in their communities to seek their approval. They rarely obtain information from local or provincial authorities, who appear to lack information themselves. The lack of transparency of development projects was echoed by a local NGO that deplored the lack of information available to the public regarding these projects.

The same seems to be echoed with the NCCMD. While some of the interviewees reported having heard about the Committee's existence or knew who some of its members are, almost none - authorities included - appeared to have a clear idea of its role and activities in Kampot and Kep provinces, which raises questions as to the effectiveness of the NCCMD and its proactivity in managing and protecting coastal areas. One local NGO, who appeared to have better knowledge of the NCCMD and its provincial branches, lamented its lack of action as well as the overall lack of implementation of the existing legal framework protecting CFI and coastal areas despite one of the interviewed provincial authorities considering that the legislation in place was sufficient to safeguard CFI. One local authority, however, stressed the need to raise awareness on the legal framework protecting CFI by authorities and NGOs.

The company appears to have gone silent since the last meeting held in 2019. None of the interviewees, including local and provincial authorities, clearly know whether it is still operating and what the current status of the OMNI project is. The CFI are concerned that if this project goes through, they will lose everything, from the land and natural resources they live off to their fishing traditions and children's future.

5. Conclusion & Recommendations

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

Recommendations to the RGC

- R.1.** Implement **appropriate legal reforms** to align national law, including the Law on Fisheries, with best practice as set out in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security and the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication. This should include a formal process to recognize, protect and facilitate the legitimate rights of CFI to their fishing grounds and surrounding lands;

- R2.** Take measures to **strengthen the capacity of local authorities and key actors** to understand the **legitimate tenure rights of CFI**, including developing guidelines for local authorities to certify or issues licenses of tenure rights to CFI;
- R3.** **Effectively remedy all human rights violations**, and ensure that any remedy meets the effectiveness requirements of Principle 31 of the UNGPs;
- R4.** Ensure that **meaningful consultations with affected communities** take place prior to any contract designated for developments and that communities are kept informed and give consent prior to the granting of state or private rights over fishing grounds;
- R5.** **Clearly require ESIA's before allowing any development, infrastructure project or special economic zone**, and ensure that they are made available to affected communities and to the public in a timely manner, and that implementation mechanisms used are in accordance with international human rights standards, including Principle 18 of the UNGPs; and
- R6.** Develop and adopt a **National Action Plan on Business and Human Rights**, in consultation with civil society, to disseminate and implement the UNGPs.

Recommendations to businesses

- R7.** **Exercise due diligence prior** to starting any operation in Cambodia, in accordance with Principles 15, 17, and 18 of the UNGPs;
- R8.** **Conduct ESIA's**, make them available to affected communities and to the public in a timely manner, and put into place mechanisms to monitor their implementation, in accordance with international human rights standards such as Principle 18 of the UNGPs;
- R9.** Consult with **affected communities, key stakeholders and authorities**, in a meaningful, timely and transparent manner to take into account and address their concerns;
- R10.** **Effectively remedy all human rights violations**, and ensure that any remedy meets the effectiveness requirements of Principle 31 of the UNGPs; and
- R11.** Establish an **effective, accessible, and transparent operational-level grievance mechanism** for those adversely affected by business activities, in line with Principle 29 of the UNGPs.

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