

IPN REQUEST RQ 09/08

September 24, 2009

NOTICE OF REGISTRATION

Re: Request for Inspection

CAMBODIA: Land Management and Administration Project (LMAP) (IDA Credit No. 3605-KH)

On September 4, 2009, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) related to the Cambodia: Land Management and Administration Project (LMAP) (the “Project”). The Requesters state that members of one of the communities affected by the Project have suffered serious harm from the design and implementation of the Project and claim that the issues of the affected community need to be urgently addressed because further, severe harm may be caused by the Project in the very near future. The Requesters have asked the Panel to keep confidential their names, the names of the people they represent, and the name of the community.

The Project

According to the Development Credit Agreement, the Project is aimed at assisting the Borrower in its efforts to implement a “*program of actions, objectives and policies designed to improve land tenure security and promote the development of efficient land markets.*”¹ In this regard, the Project objectives include: “(i) *the development of adequate national policies, a regulatory framework and institutions for land administration; (ii) the issuance and registration of titles in rural and urban areas in the Project Provinces; and (iii) the establishment of an efficient and transparent land administration system.*”²

These objectives are to be achieved through five components: development of land policy and regulatory framework (part A of the Project); institutional development (part B); land titling program and development of land registration system (part C);

¹ Development Credit Agreement (DCA) (Land Management and Administration Project) between Kingdom of Cambodia and International Development Association, Dated March 27, 2002.

² DCA, Schedule 2 (Description of the Project).

strengthening mechanisms for dispute resolution (part D) and land management (part E). The land titling program under part C of the Project will cover both urban and rural areas in ten provinces and in the municipality of Phnom Penh. The Project is partially financed by an IDA Credit in an amount of nineteen million three hundred thousand Special Drawing Rights (SDR 19,300,000), about US\$ 23.4 million equivalent.

The Request

Land Titles and Evictions The Requesters represent a community within a ‘commune’ in Cambodia. According to the Request, following public notice that the commune area would become an adjudication zone for purposes of land registration under the LMAP, residents of the community that the Requesters represent requested that their land claims be investigated, as the legal procedure developed under the LMAP and adopted by the Government provides. It is claimed that people were, however, denied their requests for land claims investigations on the ground that these lands were within a development zone. The Request adds that in 2007, on the same month when the adjudication record was posted in the commune, a lease agreement was signed between the municipality to which the commune belongs and a private developer, affecting many families in the area. According to the Request, Bank staff claimed that a number of titles in the adjudication area (the commune) were issued to residents and that *"it can be assumed that most if not all [the plots titled] fall outside the development zone."* [Text in brackets in original] Local authorities later announced that the land of the community that is subject of the Request had been demarcated as a development zone.

The Requesters state that in 2008, when the developer began its works, residents of the community started facing pressure and intimidation to leave the area and, a year later, many families received formal eviction notices giving them a one-week deadline to accept one of three compensation options. These options were: cash compensation, relocation in a site many kilometers away, and, finally, onsite housing coupled with temporary relocation while waiting for the construction of the houses to be completed in about four years.

According to the Requesters, residents of the community *“regard themselves as owners of the land”* and have documents that recognize their ownership under customary tenure. The Requesters argue that the Project, which aims at creating a centralized and formal land registration process, has in fact weakened and degraded the land tenure of the customary land owners because the Project *“failed to formalize their tenure “* and did not *“transfer their customary rights under formalized land titles.”*

With respect to the above-noted lease agreement between the municipality and a private developer, the Requesters state that *“the adjudication process, at a minimum, resulted in a de facto determination of the status of the land to be State-owned.”* In any event, the Requesters argue, whether the land is now State land or not, residents started to be and continue to be evicted. The Requesters state that the possibility of evictions was envisaged in the IDA’s Development Credit Agreement, which, in this regard, required the application of the Bank’s environmental and social policies, including a Resettlement Policy Framework. The Requesters contend, however, that in the case of the community they represent the framework was not applied.

The Requesters also claim that they brought these issues related to the adjudication process to the attention of Bank staff during a supervision mission to the area in 2008, but no remedial actions were taken following this visit.

Public Awareness According to the Requesters, other sub-components of the Project have remained unimplemented. They refer to the Public Awareness Community Participation (PACP) sub-component, according to which Project affected people were to be informed and involved in the registration and adjudication process and NGOs were to be contracted for the implementation of the PACP. The Requesters claim that to date no NGO was ever contracted for this purpose and many Cambodian people lack any knowledge about their land rights and the registration system.

Dispute Resolution Mechanism The Request also mentions the lack of a functioning dispute resolution mechanism that was envisaged under the Project. The Cadastral Commission set up to resolve disputes in the area has not performed satisfactorily and, according to the Requesters, poor communities are in a highly disadvantaged position in the land dispute process. The Requesters note that this problem had been recognized in the LMAP Project Appraisal Document (PAD) and, as a result, legal aid was to be offered to poor communities. The Requesters claim that to date, seven years into the Project implementation, no legal assistance has been provided under the LMAP.

Bank compliance According to the Requesters, the claims they describe in their Request demonstrate the lack of compliance by the World Bank with the policy on project supervision and other policies. They add, nonetheless, that since February 2009, after they again raised their complaints, the Bank undertook actions such as an Enhanced Supervision Mission followed by a Safeguards Review Mission, during which the Requesters “*requested the urgent intervention of the World Bank Management in their case.*” With subsequent letters to the Bank, the Requesters asked about the applicability of Bank’s safeguards policies and requested again urgent actions due to further eviction notices received by community residents.

Urgency of Request The Requesters state that they welcome the Bank’s efforts since February 2009 but note that “*the harm caused by seven years of inadequate supervision of the project has in no way been mitigated by the Bank’s recent efforts.*” They reiterate that hundreds of families have already been evicted from their land and had to accept “*inadequate compensation under conditions of duress*” because they lacked legal assistance. The Requesters add that there is no indication that those families that were given eviction notices with a fast approaching deadline will be treated differently. They also state that the community they represent is not an isolated case and other communities in Cambodia have suffered the same harm under the LMAP.

The Requesters ask that the Panel conduct an investigation of the matters described in the Request for Inspection.

The above claims may constitute, *inter alia*, non-compliance by the Bank with various provisions of the following operational Policies and Procedures:

OP/BP 4.12 Involuntary Resettlement
OP/BP 13.05 Project Supervision

In accordance with paragraph 17 of the Panel's Operating Procedures (the "Operating Procedures"), I am notifying you that I have, on September 24, 2009, which is also the date of the dispatch of this notice, registered this Request in the Inspection Panel Register. Please note that the Panel's registration is an administrative procedure and it implies no judgment whatsoever concerning the merits of the Request for Inspection.

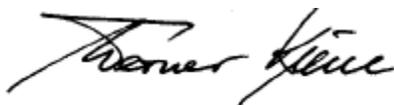
The Panel has notified the Requesters that all communications in connection with the Request will be sent to the address stated in the Request.

As provided in paragraph 18 of the IDA Resolution that established the Panel ('Resolution'), paragraphs 2 and 8 of the "*Conclusions of the Board's Second Review of the Inspection Panel*" (the "1999 Clarifications"), and paragraph 18(d) of the Operating Procedures, Bank Management must provide the Panel, no later than October 26, 2009 with written evidence that it has complied, or intends to comply, with the Bank's relevant policies and procedures in relation to the above-referenced Project. The subject matter that Management must deal with in a response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarifications.

After receiving the Management response, the Panel will, as outlined in the 1999 Clarifications and as provided by paragraph 19 of the Resolution, "*determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 [of the Resolution] and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.*"

The Request has been assigned IPN Request Number RQ 09/08.

Yours sincerely,



Mr. Robert B. Zoellick
President
International Development Association

The Executive Directors and Alternates
International Development Association