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## COLONIAL PROCESSES IN THE LAND CONFLICT BETWEEN INDIGENOUS BUNONG, THE SOCFIN COMPANY AND THE CAMBODIAN STATE

Speech at the annual meeting 2024 of FIAN Germany

A story from France will serve as an introduction. In 2008, the French government granted a Chinese company a land concession in a remote region in the south of France to establish a huge eucalyptus plantation. As the local peasant population was considered backward and politically negligible, neither the government nor the company considered it necessary to obtain the legally required free and informed consent of the affected population. The ancestral pastures and commons, the forests and the fields scattered in between were confiscated and the farming families were excluded from their further utilisation. The company had the forests cut down by a third-party company, which did not spare the scattered cemeteries either.

After the company had to admit that the concession land was not empty of people after all, it offered the peasant families three options: Either to accept financial compensation for the lost - and previously unsurveyed - land. Or to become contract farmers within the eucalyptus plantation and cultivate eucalyptus on a piece of land, whereby a debt was first incurred as compensation for the investment made by the company. Or to accept replacement land of the same size but lower quality somewhere in the neighbourhood or further afield. Many peasant families refused to be fobbed off with these options. Those who accepted one of these options found that it was implemented poorly, late or not at all. The peasant families soon suffered from impoverishment, uprooting, destruction of social cohesion, cultural disorientation and a lack of prospects. Those who could no longer make ends meet had to humiliate themselves by hiring themselves out to the hated corporation as day labourers or seasonal workers and working in precarious conditions under the harsh Chinese working system.

This left the peasant communities with little more than their villages with some neighbouring remnant areas, a few strips of land along the streams and scattered compensation plots. In the meantime, the eucalyptus forests have moved threateningly close to the villages.

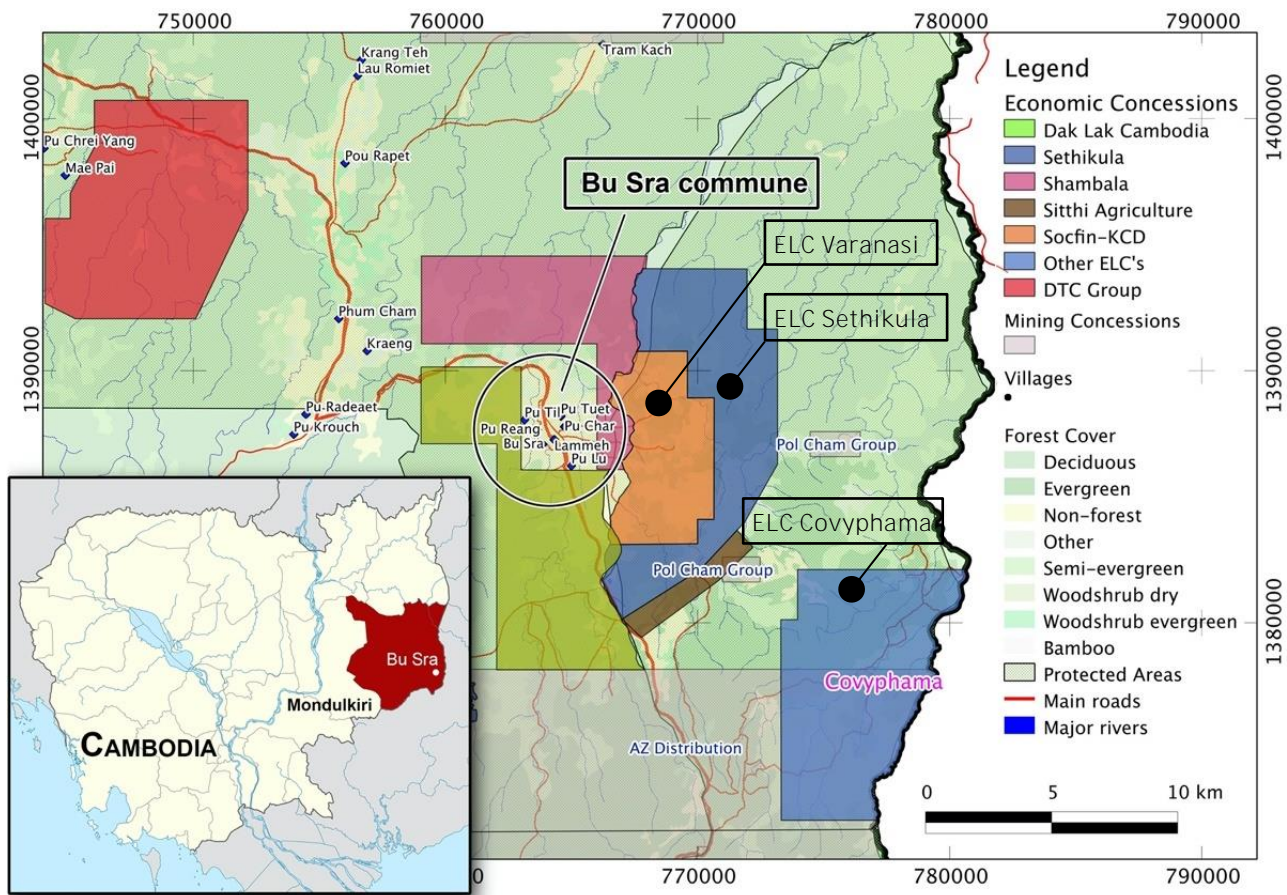
From the beginning, the peasant families protested vehemently to the company, to the local authorities, then to the departmental authorities and finally to the national authorities. But even though a delegation occasionally turned up, held a meeting or assembly and the company set up a unit for exchanges with the locals, nothing came of it, no injustice was recognised and no land was returned. Some of the peasant families joined a class action lawsuit in the company's home country. This has remained unsuccessful to this day, after the court in Beijing had already rejected the French peasants' right to sue.

After years of conflict, a foreign development agency based in France and financed by South Korea, Japan and China decided to organise mediation between the affected farming families and the Chinese company. Due to mistrust and also because of the ongoing legal proceedings in China, only a quarter of the affected families joined the mediation. The negotiations between the representatives of the families and the company took place in English and the results were recorded in Chinese characters. One premise was that the parties had to maintain confidentiality about the results of the mediation. And so we still know very little about the results. In any case, after years of procrastination, the mediation came to an end with the participating peasant families accepting the status quo in return for the promise of small budgets for community development projects. The East Asian donor states and France celebrated the mediation not only as a solution to the entire land conflict, but also as a model

for future conflict resolution. In the meantime, the donor communities are so exhausted by the protracted conflict and the extreme power imbalance that they no longer have the strength to continue their struggle.

This outrageous, almost unbelievable story did at least not take place in France and not with the actors mentioned. But it provides an insight into the story from a perspective that is close to us, a story that actually - and exactly like this! - happened in faraway Cambodia and is still not over, and in which Germany is also involved.

This story - or rather tragedy - began when Socfin, a palm oil and rubber company from Belgium, registered in Luxembourg and controlled from Switzerland, was granted Economic Land Concessions (ELC) totalling over 12,000 hectares by the Cambodian government between 2008 and 2013.



*The Economic Land Concessions Varanasi, Sethikula and Covyphama owned by Socfin*

These concessions are located in the eastern highlands of Cambodia in the province of Mondul Kiri and concern a densely forested area that was mainly populated and utilised by the indigenous Bunong people at the time.



*Left: The area during deforestation (with a saved sacred forest); right: Over a decade later: a rubber-growing monoculture (Photo: Jack Brook/CamboJA)*

Neither the Cambodian government nor Socfin sought, let alone obtained, the required «Free, Prior and Informed Consent» from the affected indigenous people. In addition, the land was not available for concession under the Cambodian Land Law, and the state and the company committed further procedural errors in implementing the terms of the contract. The granting of the concessions must therefore be classified as illegal. Socfin knew about these shortcomings or was made aware of them, among other things through a legal memorandum submitted in 2009 and through its own environmental and social impact assessment from 2010, which was kept under lock and key and which we fortunately obtained from another organisation under the table. Socfin's behaviour in acquiring the concessions was a massive breach of its human rights due diligence obligations.

Here we are confronted with a first colonial pattern, of which a whole series will now be analysed: The acceptance of the obviously illegal land concessions demonstrates indifference or disregard for the law and the local population. The company knowingly appropriated land to which it had no right.

The Bunong practised shifting cultivation, some pastoral farming and gathered wild fruits, wild vegetables, medicinal herbs, honey, resin, rattan and bamboo. The area also included sacred forests, spiritual sites and burial grounds. The concession areas thus represent the actual (former) living, economic and cultural space of the Bunong, even if the villages lie outside the concession areas. Socfin gradually cut down the forests, which was of course a catastrophic process also in terms of climate protection. The company literally destroyed the habitat of hundreds of Bunong families, and it was only with great difficulty that the Bunong were able to save the last remnants of sacred forests. The company replaced the natural and extremely species-rich forests with monocultures of rubber trees. On the small remaining areas around their villages, the Bunong could no longer practise their previous form of shifting cultivation and had to learn a new form of stationary agriculture on small residual areas.

This is a second colonial pattern, indeed an act of colonial violence: The exclusion of the indigenous population from their ancestral living, economic and cultural space, its almost total destruction and transformation into a monoculture of exotic trees by a foreign corporation.

We assume that Socfin exports all or at least a large proportion of the rubber extracted from the plantations to industrialised countries. The raw material is not needed and utilised in the region and is therefore of no practical use to the region. Tyre manufacturers, among others, are important buyers of natural rubber. In the confiscated area of the Bunong, a raw material is thus produced that is diverted from the region and used in tyres and other products, primarily in the global North. In real terms, this represents an abuse of the agricultural land.

The proceeds from the sale of rubber originate in the global North. Only a presumably small proportion is likely to flow back into the highlands of Cambodia and a devastatingly small proportion into the pay packets of the value-adding plantation workers. A significant portion is likely to swell the bank accounts of the shareholders in the global North, who sit back and relax. The company thus withholds most of the value – generated by the extraction, export and sale of rubber – from the region and the workers. This also exposes the euphemism of the term «value chain»: the value created by the plantation workers, which is converted into realisable revenue in the global North, is primarily channelled into the accounts of managers and shareholders. As a representative of Alliance Sud recently put it: «The colonial business model of exploiting raw materials and labour from other countries in order to promote economic growth in the capitalist societies of the North has still not been overcome.»

In this we recognise a third colonial pattern: the cultivation of agricultural commodities on confiscated land, their export and marketing and the extensive retention of the proceeds in the global North. The abuse of indigenous territory for the profit of European managers and investors, accepting the uprooting and impoverishment of the indigenous population.

Governments and companies regularly claim that land concessions and plantations create new employment opportunities. But this limited view ignores the fact that the establishment of plantations has previously destroyed numerous livelihoods. And it also ignores the fact that the Bunong do not seek this wage labour, but are forced to accept it after losing their original livelihood. For the Bunong, it is deeply humiliating to work as day labourers or wage labourers for a company that has previously taken away their living space. Moreover, this type of work is completely alien to them. In the past, they worked self-determinedly to the rhythm of nature and with nature, and according to their needs and possibilities. In the plantations, they are subjected to a rigid framework, heteronomy, monotonous work and strict daily targets. Working for the company is almost like being a slave to the company. Almost all Bunong who were interviewed as part of the environmental and social impact assessment stated that they would prefer to return to their traditional form of shifting cultivation.

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This is a fourth colonial pattern: the destruction of the livelihood of the local population or their self-determined economic activity, and the replacement with a few (and probably mostly) precarious jobs in a capitalist, rigid system, where workers, according to their own testimony, feel like slaves.

In 2014, the affected communities succeeded in initiating a tripartite negotiation process with Socfin and the local authorities using traditional conflict resolution methods. The process was promising and led to some solutions, but by 2016 the communities' financial resources for the process were exhausted and many conflicts remained unresolved.

In this situation, the Mekong Region Land Governance ([MRLG](#)) project, co-financed by Switzerland, Germany and Luxembourg, commissioned the Cambodian organisation Independent Mediation Group (IMG) to conduct a mediation in 2017.

This mediation process contradicted basic human rights principles from the outset: Firstly, the state as a human rights duty bearer - and main culprit - was not a party to the mediation; there were only local authority representatives as observers. The mediation only took place between representatives of the participating families and Socfin. Secondly, the principle of transparency was contravened, as the family representatives were pressurised into signing a confidentiality agreement at the beginning. For fear of breaking this agreement, they adhered to it so strictly that they did not even inform the represented families sufficiently. After a long delay, the mediation was finally concluded in 2022 with a [joint statement](#). Confidentiality is still being maintained, meaning that the 210 participating families are still inadequately informed about the results and the more than 800 other families almost not at all. This is scandalous because, among other things, some of the agreements also concern communal land, which most probably does not only belong to the families who took part in the mediation. Furthermore, the European institutions providing the funds do not appear to have any detailed knowledge of the results. Thirdly, the elementary aspect of accountability and enforcement has obviously been forgotten, if not deliberately ignored. According to MRLG, the agreements can at best be enforced with the help of local officials or courts - how much this option is worth in view of the endemic corruption does not need to be explained further.

The analysis of the joint statement comes to the following shocking conclusion:

- in relation to communal land: the status quo is officialised.
- in relation to the land along the streams: The status quo is fixed.
- in relation to the rubber (contract farmers): The handling of grievances is postponed to a future agreement (!), and Socfin repairs 100 metres (!) of roads every year.
- in relation to agricultural land: the status quo regarding land and compensation is fixed. Socfin promises project budgets for 'community development' (but only for the families involved in the mediation), with varying scope and duration depending on the village.

We were given an insight into the agreements of one village. In the agreements, which are written in strict legal terms and in the foreign language Khmer, the family representatives give up all claims to compensation and land and confirm that they «are willing to enter into the Agreement without coercion or threat», that they have «received an explanation» and that they «fully understand of the contents of this Agreement from the beginning until the date of signing».

With regard to the economically, socially and culturally decisive issues of access to and use of land, the result is: nothing changes as a result of mediation, no land is returned.

Socfin thus scored a complete success: The status quo is cemented and ostensibly legalised (even if it remains illegal due to the illegal land concessions). What the affected families actually receive in return from this process is the promise of unclear and limited 'community development' budgets and negligible road repairs. In this way, Socfin has bought the entrenchment of the status quo and its 'legalisation' on the cheap.

We can only draw the following conclusion: Instead of the state, the Bunong were put forward in the negotiations, bamboozled by the company and burnt out in the mediation process.

The endeavour was probably a well-intentioned attempt by the donor states Switzerland, Germany and Luxembourg. But tragically, they supported - probably unintentionally, but uncritically - the conclusion and white-washing of a colonial process in the present without resolving the land conflict and providing reparations to the disenfranchised and uprooted communities. This places a significant responsibility on the donor states.

In the mediation, we recognise further colonial patterns: an extreme imbalance of power between the multinational corporation and the indigenous population and interaction in a culturally alien way.

The client of the mediation, which had been criticised for some time, subsequently commissioned the Australian Disputes Centre itself to evaluate the mediation. Their [report](#) praises mediation to the skies in the manner of an advertising and justification brochure. It raves about values such as «commercial opportunities», «cash crops» and «income streams» for the Bunong, who could finally become «efficient farmers». We strongly criticise the report for its fundamentally tendentious approach and numerous methodological and content-related flaws. Overall, the report whitewashes the mediation process, which in turn whitewashed the colonial land grab.

The colonial attitude also continued in the evaluation: a western capitalist company was commissioned with the evaluation. The company did not engage with the specific culture of the Bunong, nor did it respect it. The agency imposed foreign «values» and naively assumed that these corresponded to the attitudes and needs of the Bunong.

Nevertheless, the report reveals an unspoken premise of the mediation: «[...] the Community was pragmatic. They recognised that the land now in Socfin Cambodia rubber plantations would not be returned to them» with the strange explanation that «the land was no longer in its original state».

The mediation and evaluation are obviously based on the unquestioned assumption that the indigenous population and their living, economic and cultural space are worth less than a European corporation, its plantations and economic interests. The indigenous population is obviously seen as second class to the European shareholders of the corporation.

We are shocked to discover other fundamental patterns of colonialism: classism and, ultimately, racism - even if it is structural racism, which in no way excuses it.

Capitalist business interests have clashed and continue to clash with indigenous life. Business against life. The order of priorities should actually be clear. But here it is the other way round: the business interests of the foreign corporation count more - officially certified by the mediation - than the vital needs and the rights of the indigenous population, which are enshrined in international and national law. Even if the livelihoods of Socfin's shareholders would not be affected in the slightest by any restriction of their revenues.

This becomes more tangible when we return to the fictitious story from the beginning: Would the French peasants have to accept the betrayal by their own government, the land grab by the Chinese corporation and the entrenchment of the status quo in a failed mediation? Would we accept that? Of course not, because French peasants are people and citizens just like us! But for many decision-makers, an indigenous people in a remote part of Cambodia is simply second-class and has to subordinate itself to the economic interests and facts of a transnational European corporation. This is, if I may say so, state-accepted and protected structural racism!

We must therefore shatter the racist premises on the basis of which the land conflict has been handled up to now. Land restitution is neither unthinkable nor unfeasible in and of itself. Where a plantation has been established, it can also be abandoned, if not transformed back towards the previous state. And there are good legal reasons for this: The [Varanasi land concession contract](#) alone states that Socfin must «restore and rehabilitate the forestry environment» if the contract is terminated because of faults.

**14.3 In the case that the contract terminated because of fault of Party "B", this party shall bear responsibilities in accordance with the law and regulations to the damages of environment, such as forest, and Party "B" must restore and rehabilitate the forestry, environment to become same condition as before contract implementation.**

*Extract from the contract for the Varanasi land concession*

At the international level, the United Nations Declaration on the Rights of Indigenous Peoples ([UNDRIP](#)) states that they have the right to redress – including through restitution – for lands that they have traditionally owned and that have been confiscated without their free, prior and informed consent – which is fully applicable here. And both Cambodia and Germany and Switzerland voted in favour of the adoption of this declaration in 2007, thereby committing themselves to its content.

## Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

*Excerpt from the UN Declaration on the Rights of Indigenous Peoples*

In its [General Comment No. 26](#) on land and economic, social and cultural rights of 2022, the United Nations Economic and Social Committee even goes one step further by stating that this right to restitution also exists in the event of a lawful transfer of the land to third parties – which was not even the case in the present case:

rights of Indigenous Peoples to their lands and territories.<sup>22</sup> Both the Inter-American Court of Human Rights and the African Commission on Human and Peoples' Rights have taken the view that Indigenous Peoples who have unwillingly lost possession of their lands without their free and prior consent after a lawful transfer to third parties “are entitled to restitution thereof or to obtain other lands of equal extension and quality”.<sup>23</sup>

*Excerpt from General Comment No. 26 of the UN Committee on Economic, Social and Cultural Rights*

I am aware that the ideas of land restitution and restoration seem utopian and hopeless in the current situation. But to achieve this, we need to change the current situation, namely the mental situation of as many people involved as possible: to make aware the colonialist and racist way that people have thought and acted up to now; to make aware what is actually right and fair; and to make the previously unthinkable conceivable. Then the supposedly hopeless becomes a little more feasible. No matter how utopian it may seem now, we cannot and must not simply say nothing and do nothing.

In conclusion, let us summarise what we have learned from this tragic story, which is just one among thousands of similar ones, with regard to colonialism:

- It is important to differentiate between military colonialism (in the sense of direct rule of states over another territory), political, economic, cultural and climate colonialism. While military colonialism has probably largely come to an end, political, economic, cultural and climate colonialism are far from it. They still have a hidden or repressed but enormous impact.
- Colonialism as a basic phenomenon - whether political-military, economic or cultural - has therefore never ceased. Colonialism - a complex, heterogeneous phenomenon since its inception - has only ever changed.
- Terms such as «post-colonial» and «neo-colonial» obscure this fact, even if they were probably justified in the context of their emergence. I therefore prefer to speak of «contemporary» or «persisting» colonialism.
- With its almost worldwide expansion and its continued existence over the centuries, colonialism is not a spatially fragmented and temporally isolated phenomenon of history. It is – unfortunately – the basis of our current world order.

► More information on the land conflict: FIAN Switzerland [website](#)

