



Addressing the economic, social and cultural root causes of violence

OMCT ACTION FILE (KHM 230210.DESC)

**CAMBODIA: FORCED EVICTION OF INDIGENOUS FAMILIES
FROM THEIR ANCESTRAL LANDS**

***FEAR FOR VIOLENCE AND HARRASSMENT AGAINST ACTIVISTS OPPOSING ECONOMIC LAND
CONCESSIONS IN SREY CHA COMMUNE, SNOUL DISTRICT, KRATIE PROVINCE, CAMBODIA***

The International Secretariat of the World Organisation Against Torture (OMCT), on the basis of reliable information received, expresses its concern at the situation faced by 270 families in Srey Cha Commune, Snoul District, Kratie Province, Cambodia. Many of these families have already lost and other are at risk of losing their ancestral lands owing to Government's land concessions for economic exploitation. OMCT is further concerned that violence and intimidation will be inflicted on those communities activists that, in the attempt to defending their economic, social and cultural rights, protest against concessions of their lands.

Following Economic Land Concessions (ELC) issued by the Royal Government of Cambodia in favour of private companies for exploitation for a rubber plantation, approximately 270 families in four villages have already been forcibly evicted from some of their lands or are at risk of eviction. According to the information received - in issuing the ELC - the Royal Government of Cambodia failed to respect national and international obligations, in particular in respect to eviction policy and the rights of indigenous peoples. Local communities were not previously consulted nor were they duly informed. To oppose the procedure in which land concessions were issued, the affected communities organised a peaceful protest. This protest turned out to be the ground for criminal charges against three local activists, who are now living in fear of being arbitrarily arrested.

OMCT express deep concern at the economic policy undertaken by the Royal Government of Cambodia aimed at granting ELCs over indigenous and non-indigenous lands for economic exploitation by private companies. This policy necessarily entails a severe negative impact on the livelihoods of rural communities and indigenous peoples living on these lands, and thus it exacerbates their already poor living conditions. The UN Committee on Economic, Social and Cultural Rights, in its General Comment No. 7 stated that "evictions are, *prima facie*, incompatible with the principles of the International Covenant on Economic, Social and Cultural Rights (ICESCR)".¹ In the same line, the Special Rapportuer on Adequate Housing emphasised that forced evictions "involve gross violations of a range of internationally recognized human rights, are justifiable only in the most exceptional circumstances and in the full respect of international standards."²

¹ *The right to adequate housing (Art.11.1): forced evictions* : 20/05/97. CESCR General comment 7. [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/959f71e476284596802564c3005d8d50?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/959f71e476284596802564c3005d8d50?Opendocument)

² A/HRC/4/18 5 February 2007, Annex 1, paragraph 6.

OMCT calls upon the Royal Government of Cambodia to abide by international standards on forced evictions and to respect international and national law on indigenous peoples. OMCT also calls upon the Royal Government of Cambodia to suspend existing ELC and set a moratorium on new ELCs until an independent commission sheds light on the current ELC procedures. OMCT also calls upon the Royal Government of Cambodia to dismiss ungrounded charges against community leaders struggling for their economic, social and cultural rights.

Economic land concessions, landlessness and fear of violence in Cambodia

Srey Cha Commune in Snoul District of Kratie Province, Cambodia is the home for Stieng indigenous people. These communities have been living from traditional agricultural methods for generations. On May 27, 2008 the Kratie Provincial Governor signed a 769 hectare Economic Land Concession for rubber plantation with a private company, the CIV Development Company. This economic agreement affects approximately 270 families in four villages that are being evicted or will be at serious risk of eviction in the near future. The affected communities assert that they were not adequately informed nor were they adequately consulted. Families that have already been evicted reported that no notice was given to them, and that they learnt they were about to be evicted directly when bulldozers cleared their fields.

Unfortunately, the case of Srey Cha commune in Kratie is not an isolated case in Cambodia. Land concessions for economic exploitation are a widespread phenomenon in Cambodia. In this respect, in June 2007, the Special Representative of the Secretary-General for Human Rights in Cambodia published the report "Economic land concessions in Cambodia: A human rights perspective"³, in which he pointed out that approximately 1,000 hectares of land in rural Cambodia have been granted to private companies for agro-industrial plantations and economic exploitation. The Special Representative indicated that the judicial system failed to uphold the rights of affected communities and to hold companies accountable for their actions. The poor and most marginalised are systematically excluded from all decisions that affect them and in particular from the enactment of development policies that undermines their lives. It is reported that thousands of families have already lost - or are at risk of losing - their homes and livelihoods because of ELCs, mining concessions, special development zones, logging concessions, hydro-electricity dams.⁴ As a result, ELCs continue to impact negatively upon the human rights and livelihoods of rural communities.

Cambodia is a country where 80% of people live in rural areas and have a high degree of dependency on natural resources. Therefore, OMCT fears that the conflict over land will turn into the root cause of other clashes and lead to further violence. OMCT is also concerned that, even though on paper, law in Cambodia defends indigenous peoples' economic, social and cultural rights, ELC may represent a concrete threat to indigenous lands and therefore to the livelihoods and well being of these communities. OMCT is also concerned that economic policies aimed at attracting foreign investment in Cambodia are frequently not balanced with the human rights of communities affected. The absence of adequate protection leads communities to struggle for their rights and defend their traditional economy, structures and cultural values. This, in turn, can provoke violent reactions, including arbitrary actions and harassment, against activists and economic, social and cultural rights defenders. OMCT is concerned that an unscrupulous policy of land concessions will exacerbate the already poor living conditions of the affected communities and lead to ill-treatment, harassment and other forms of violence against those who struggle for their basic economic, social and cultural rights. Therefore OMCT calls upon the Royal Government of Cambodia to review its policy and uphold human rights whenever issuing ELCs or other concessions.

Harassment and intimidation against economic, social and cultural rights defenders

OMCT is particularly concerned that those struggling for their economic, social and cultural rights are targeted both by the Government and by private companies and therefore are vulnerable to violence, harassment and other human rights abuses. In this respect, according to information received, OMCT is concerned about the following reported episodes:

After filing a complaint with the provincial Government and later with the Council of Ministers, representatives and other people of the four affected villages organised a peaceful protest against the CIV Company. According to the information received, five witnesses from local human rights

³ http://cambodia.ohchr.org/report_subject.aspx

⁴ http://www.sithi.org/index.php?url=landissue/mapping_dev.php

organizations attended the protest and reported that villagers did not cause any damage to the company. On 8 October 2008, a village activist, Mr. Keth Sorooun, participated to a national press conference, held in Phnom Penh, about the hardship faced by those communities whose lands were the object of Economic Land Concessions. Mr. Sorooun drew the attention on his community and the hardship resulting from land concessions to CIV Company for rubber plantation.

On 22 October 2008, five villagers were summoned to appear in court on charges of robbery and destruction of property stemming from the protest. Amongst these five people, one was non-existent and another activist was reportedly accused on false charges (not present at the protest – the charges were not pursued). Mr. Van Vy was the one who the community asked to make a list of people that took part to the protest and Mr. Keth Sorooun is known to be the leader. Mr. Rath Kowet, was thought to be chosen at random for being charged. The robbery charge stemmed from the company's claim that the villagers stole 10 million Cambodian riel (\$2,500). The three men live in fear of arrest. Due to his leading role in the protests, Mr. Keth Sorooun feels insecure and lives in a situation of unrest, fearing for reprisals. He is afraid to be arbitrarily arrested or killed. Mr. Rath Kowet's life is also threatened. He is afraid to be arrested by the police. He does not feel any longer secure in travelling freely around the district and for this reason he had to quit working and accepting precarious jobs that would allow him to earn his daily livelihoods.

Breach of domestic law

The land concession granted by the Government is considered inconsistent with a number of national provisions. In particular, it is thought to contravene the 2001 Land Law provisions aimed at protecting the rights of indigenous communities to use and live in their lands in accordance with traditional customs. The 2001 Land Law contains also instruments aimed at preventing these lands from being sold to third parties.⁵

Furthermore, the procedure by which the eviction in Srey Cha Commune has been reportedly carried out, including the absence of prior consultation, breaches the Cambodian Environment and Forestry laws. Article 16 of the 1996 Law on Environment Protection and Natural Resource Management states that "The Ministry of Environment shall, following proposals of the public, provide information on its activities, and shall encourage participation of the public in the environmental protection and natural resource management." In addition, Article 4 of the Law on Forestry provides that "Consistent with the Cambodian code of forest management and the Environmental Protection and Natural Resources Law, an Environmental and Social Impact Assessment shall be prepared for any major forest ecosystem related activity that may cause adverse impact on society and environment. Documents of the Environmental and Social Impact Assessment shall be made available for public comment."

The procedures under which the ELC was granted in Srey Cha commune is also not consistent with Article 35 of the Sub-decree on Economic Land Concessions providing that the Government shall receive inputs from the community on all proposed ELCs. The contracting authority has the obligation to send a copy of the ELC to every Commune Council within 28 days from reception of proposal and to organize public consultations with representatives of the local communities whenever a proposal for an ELC is received. The affected communities report that these requirements were not met and that they did not receive any prior notice of on-going ELC until bulldozers started clearing Stiang land.

⁵ Article 23 of the Land Law states, "An indigenous community is a group of people that resides in the territory of the Kingdom of Cambodia whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possession according to customary rules of collective use."

Economic, social and cultural rights and International human rights standards

OMCT recalls that the Royal Government of Cambodia is falling short of its obligations under a number of international human rights instruments, notably the International Covenant on Economic, Social, and Cultural Rights (ICESCR), that the Government ratified in 1992, the International Convention on the Elimination of Racial Discrimination (ICERD), ratified in 1983, and the International Covenant on Civil and Political Rights (ICCPR), acceded in 1992.

More specifically, OMCT recalls that Article 11 of the ICESCR enshrines the right to adequate standards of living, including adequate housing. According to the *Basic principles and guidelines on development-based evictions and displacement* prepared by Miloon Kotari, Special Rapporteur on Adequate Housing, “Forced evictions constitute gross violations of a range of internationally recognized human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. Evictions must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law.”⁶ OMCT recognises the right of states to pursue development goals or to make use of the resources within their territory. However, that should be done in full respect with human rights.

In its Concluding Observations to the Royal Government of Cambodia in May 2009,⁷ the Committee on Economic, Social and Cultural Rights expressed its concerns over the impact of economic land concessions on indigenous rights and the need to protect indigenous land by stating “The Committee is also concerned about the reports that the rapid increase in economic land concessions in the last several years even within the protected zones, is the major factor for the degradation of natural resources, adversely affecting the ecology and biodiversity, resulting in the displacement of indigenous peoples from their lands without just compensation and resettlement, and in the loss of livelihood for rural communities who depend on land and forest resources for their survival”. On that occasion the Committee recommended the Royal Government of Cambodia to “implement the 2001 Land Law without further delay and to ensure that its policies on registration of communal lands do not contravene the spirit of this law.” The Committee further emphasized the need for carrying out “environmental and social impact assessments and consultations with affected communities with regard to economic activities including mining and oil explorations, with a view to ensuring that these activities do not deprive the indigenous peoples to the full enjoyment of their rights to their ancestral lands and natural resources.” The Committee also urged the Royal Government of Cambodia to “implement a moratorium on all evictions until the proper legal framework is in place and the process of land titling is completed, in order to ensure the protection of human rights of all Cambodians, including indigenous peoples.”

Cambodia also voted for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). UNDRIP clearly states that “control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs.”⁸ More specifically, Article 8, section 2 of the UNDRIP protects indigenous peoples from “any action which has the aim or effect of dispossessing them of their lands, territories or resources.” Furthermore, Article 10 of UNDRIP provides that “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.”

OMCT recalls that forced evictions are, *prima facie*, incompatible with the principles of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and, that they involve gross violations of a range of internationally recognized human rights, are justifiable only in the most exceptional

⁶ A/HRC/4/18 5 February 2007, Annex, paragraph 6.

⁷ See U.N. doc E/C.12/KHM/CO/1.

⁸ UN Declaration on the Rights of Indigenous Peoples. Adopted by UN General Assembly Resolution 61/295, September 13, 2007.

circumstances and in the full respect of international standards.⁹ Furthermore, forced evictions are frequently directed at the poorest and most marginalised sectors of society, and result in physical and psychological injury to those affected. In this respect, OMCT emphasises that eviction policies result in homelessness and loss of livelihood, and hence exacerbate the already poor living conditions of the individuals and communities that are targeted.

⁹ Also stated in General Comment 4 of the Committee on Economic, Social and Cultural Rights (CESCR).

Recommendations

Please write to the **Royal Government of Cambodia** asking it to:

- Immediately dismiss all ungrounded charges against local activists and ensure that no other abusive action is taken against those who struggle for their economic, social and cultural rights.
- Undertake a thorough independent investigation into the procedure by which the Government is granting ELC to private companies. Make the findings of this investigation available in a public report (including appropriate language versions) and abide by the recommendations of this report. Request assistance from the UN Office of the High Commissioner for Human Rights to help ensure that the investigation is in conformity with international standards.
- Impose a moratorium on any other land concession and suspend activities on disputed lands, until the full impact on human rights and the environment of this activity has been assessed.
- Order a human rights and environmental impact for on-going and planned ELCs and ensure the full and informed participation of all local communities.
- Fully respect international human rights standards in any subsequent ELCs in the region concerned or elsewhere. This includes engaging in meaningful prior consultation with affected populations, ensuring that they are fully informed of the project proposals and their own rights in this regard, and providing fair and adequate compensation for loss of land, housing or livelihood where displacement is unavoidable. Ensure in all such cases an adequate and appropriate resettlement programme.
- Ensure that the Government will take steps to fully implement the Concluding Observation of the Committee on Economic, Social and Cultural Rights.
- Ensure the full implementation of the Land Law as well as all other national laws.
- Ensure that any ELC granted by the Government strictly adheres to international human rights standards and to international principles relating to forced evictions and indigenous peoples rights.

OMCT calls upon the **Royal Government of Cambodia** to ensure that the CIV Company:

- Fully respect the land rights, resources and livelihood of all local communities affected by any subsequent mining activity, and provide fair and adequate compensation wherever appropriate.
- Take all necessary measures to minimise the environmental impact of any activity.
- Comply fully with national laws and international human rights standards in all aspects of its activities, in particular as regards the adverse effects of these activities on indigenous and local communities.

OMCT also asks the UN Special Rapporteur on the human rights and fundamental freedoms of indigenous people, the UN Special Representative on the issue of human rights and other business enterprises, and the UN Special Rapporteur on adequate housing to monitor closely developments land concessions in Cambodia.

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