



***Addressing the economic, social and cultural root causes of violence***

OMCT ACTION FILE (KHM 260310.DESC)

**CAMBODIA: SUY INDIGENOUS PEOPLES AT RISK OF EXTINCTION**  
***ANOTHER LAND CONCESSION JEOPARDISES THE SURVIVAL OF THE LAST SUY INDIGENOUS GROUP LIVING IN O RAL DISTRICT, KOMPONG SPEU 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 1200 peoples living in O Ral District, Kompong Speu Province, Cambodia. The Suy indigenous group is losing its ancestral lands due to Economic Land Concession (ELC) issued by the Government of Cambodia to private companies for economic exploitation of corn agribusiness. 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, and thus their survival, protest against concessions of their lands. 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 has a severe negative impact on the livelihoods of rural communities and indigenous peoples living on these lands, and thus exacerbates their already poor living conditions. In its very recent Concluding Observations<sup>1</sup>, the United Nations Committee on the Elimination of Racial Discrimination (CERD) expressed deep concerned at the Economic Land Concession policy in Cambodia and its impact on indigenous peoples.

OMCT recalls that 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)”<sup>2</sup>. 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.”<sup>3</sup>

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. OMCT also calls upon the HLH Groups Limited - the Singaporean Company to which was granted the indigenous land - to comply with international law and to fully respect the economic, social and cultural rights of all local communities affected by its economic activities.

<sup>1</sup> UN Committee on the Elimination of Racial Discrimination (CERD), Seventy-sixth session, 15February –12 March 2010 , CERD/C/KHM/CO/8-13

<sup>2</sup> *The right to adequate housing (Art. 11.1): forced evictions : 20/05/97. CESCR General comment 7.* [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/959f71e476284596802564c3005d8d50?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/959f71e476284596802564c3005d8d50?Opendocument)

<sup>3</sup> A/HRC/4/18 5 February 2007, Annex 1, paragraph 6.

### **The Suy indigenous group**

The Suy people are one of the smallest indigenous group in Cambodia, numbering approximately only 1200 peoples. There are only ten Suy communities in Cambodia. The majority, amounting to 900 peoples, live in five villages in Trapeang Chor commune, O Ral District. These villages are all around the Mount O Ral Wildlife Sanctuary, established in 1997. The Sanctuary includes also their agricultural lands, resin trees, and other customary-use forest, including the four Suy spirit forests and a sacred hot spring, home of the suy goddess Yeay Te. The Suy's people's livelihood has been traditionally based on non-timber forest products and swidden (shifting) cultivation. In early 2004 local NGOs and the local community begun discussing the development of a community-based eco-tourism to manage the hot springs and generate community income.

### **Economic Land Concessions and the struggle of Suy people against private companies for their ancestral lands**

In spite of the community-based initiative on eco-tourism, in May 2004 the Royal Government of Cambodia granted a 900-hectares-tourism concession to the Chinese Company New Cosmos for a period of 75 years. The concession was disguised as an eco-tourism project, however, as a matter of fact, the company was to develop a large modern resort and a golf course. Consequently, in October 2004 local groups engaged in the community-based eco-tourism project were ordered to stop their activities. The communities responded to the events by organising two national land forums and by trying to resist to the concession. Those indigenous leaders and local authorities that continued to speak out were consistently threatened.

Under the pressure of the community's advocacy, New Cosmos suspended its operation in 2005. However, in 2009, a broader area of approximately 10.000 hectares involving five Suy's villages was granted for a period of 70 years to another Company: the Singaporean Company HLH Groups Limited. This time the concession was aimed at the investment development in the agro-industrial sector and HLH claims to use the entire land to produce and processing genetically modified corn. In order to do that, a Government's sub-decree transformed the public land in question from State Public Property to State Private Property. Notwithstanding numerous protests and attempts to block the operation, two Suy's villages have already lost, so far, 25 hectares of recognised community forest and were even prevented from accessing the forest and thus their daily livelihoods.

Throughout 2009, the Suy community continued to resist the HLH encroachment through protests and night watches, until the Deputy Governor of O Ral District intervened in the situation and the HLH operations had to move to another area. However, in December 2009, representatives from the Royal Government of Cambodia urged the communities affected to cooperate with HLH and to accept some form of compensation. The communities refused the proposal, claiming their rights over their traditional lands.

### **The Environmental Impact Assessment**

An Environmental Impact Assessment (EIA), commissioned by the HLH Company, was undertaken only after the beginning of operations. Whereas the EIA makes clear the opposition by local communities owing to the loss of their daily livelihoods, the report fails to address the real concerns of local communities and fails to acknowledge that the majority of those affected belong to the last group of Suy people in the world.

A further concern that was raised by Suy people is represented by access to water. Shortage of water was already a concern for local communities even before the concession of the area. Now, the HLH concession exacerbates the problem, since the land granted would entail 23 streams that serve local farms. The EIA itself admits that the availability of water is low and that they envisage diverting water from other streams. Seventy-nine Suy community members organised a protest claiming their access to water and demanding to halt the irrigation work. This protest was met with police force and protesters were ordered to return their homes.

In addition, the EIA indicates that the Company will hire more than 1000 people as farm labour. However, so far none of the Suy village has been hired, instead it is reported that the majority of the farm labourers were brought from other areas.

### **Economic policy, landlessness and fear of violence in Cambodia**

Unfortunately, the case of Suy indigenous group is not an isolated case in Cambodia. Last February 2010, OMCT had already issued an appeal<sup>4</sup> on forced evictions of indigenous families from their ancestral lands in Cambodia due to Government policy on economic land concessions. On that occasion OMCT expressed further concern about the risk of violence and harassment against activists opposing economic land concessions in Srey Cha Commune, Snoul District, Kratie Province.<sup>5</sup>

Indeed, 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"<sup>6</sup>, in which he pointed out that approximately 1,000,000 hectares of land in rural Cambodia have been granted to private companies for agro-industrial plantations and economic exploitation. 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.<sup>7</sup> As a result, ELCs continue to impact negatively upon the human rights and livelihoods of rural communities.

OMCT recalls that Cambodia is a country where 80% of people live in rural areas and have a high degree of dependency on natural resources. OMCT is 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. 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.

This aspect has been recently emphasised also by the, the UN Committee on the Elimination of Racial Discrimination (CERD):<sup>8</sup>

*17. The Committee is concerned by reports of intimidation and acts of violence against indigenous peoples during forced evictions or land disputes affecting them. The Committee is also concerned with reports of a tendency to press charges against and arrest indigenous villagers, when they protest against their*

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<sup>4</sup> OMCT ACTION FILE (KHM 230210.DESC)

<sup>5</sup> See [www.omct.org](http://www.omct.org)

<sup>6</sup> [http://cambodia.ohchr.org/report\\_subject.aspx](http://cambodia.ohchr.org/report_subject.aspx)

<sup>7</sup> [http://www.sithi.org/index.php?url=landissue/mapping\\_dev.php](http://www.sithi.org/index.php?url=landissue/mapping_dev.php)

<sup>8</sup> UN Committee on the Elimination of Racial Discrimination (CERD), Seventy-sixth session, 15 February – 12 March 2010, CERD/C/KHM/CO/8-13, paragraph 17.

*forced eviction or contest the granting of a concession on indigenous land (article 6)*

***The Committee urges the State party to provide full protection to vulnerable groups against physical attacks and intimidation as they seek to exercise their rights as they relates to communal lands. It urges the State party to bring perpetrators of such violations to justice. In its effort to improve the judiciary, the State party should ensure greater efficiency of the judicial system to ensure equal access to justice for all, including minorities and indigenous peoples, in conformity with the Committee's general recommendation no. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.***

Therefore OMCT joins the CERD and calls upon the Royal Government of Cambodia to review its policy and uphold human rights.

### **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.<sup>9</sup> This is also inconsistent with the procedure by which the Government converted Suy's ancestral lands from State Public Property into State Private Property. Furthermore, 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."

### **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."<sup>10</sup> 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.

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<sup>9</sup> 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."

<sup>10</sup> A/HRC/4/18 5 February 2007, Annex, paragraph 6.

In its very recent Concluding Observations<sup>11</sup>, the UN Committee on the Elimination of Racial Discrimination (CERD), expresses deep concern at the Economic Land Concession policy in Cambodia, by stating the following:

*The Committee is concerned however that the quest for economic growth and prosperity is pursued, in some cases, to the detriment of particularly vulnerable communities such as indigenous peoples. The Committee is particularly concerned about reports of the rapid granting of concessions on land traditionally occupied by indigenous peoples without full consideration, or exhaustion of procedures provided for, under the land law and relevant sub-decrees (articles 2 and 5).*

***The Committee recommends that the State party ensure that a proper balance between development and the rights of its citizens is achieved and ensure that its economic development does not come at the expense of the rights of vulnerable persons and groups covered by this Convention. It further recommends that the State Party develop appropriate protective measures, such as a delay in the issuance of a concession on lands inhabited by indigenous communities who have applied to be registered legally in order to obtain land titles until the issue of collective ownership titles and indigenous peoples' rights to possess, develop, control and use their communal lands, where at issue, has been assessed and determined and after consultation with and the informed consent of the indigenous peoples.***

***The Committee further encourages corporate business entities when engaging in economic land concessions to take into consideration their corporate social responsibility as it relates to the rights and well-being of local populations.***

Furthermore, in its Concluding Observations to the Royal Government of Cambodia in May 2009,<sup>12</sup> 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 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.”

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<sup>11</sup> UN Committee on the Elimination of Racial Discrimination (CERD), Seventy-sixth session, 15 February – 12 March 2010, CERD/C/KHM/CO/8-13

<sup>12</sup> See U.N. doc E/C.12/KHM/CO/1.

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.”<sup>13</sup> 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 circumstances and in the full respect of international standards.<sup>14</sup> 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.

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

<sup>14</sup> 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 halt any on-going ELC on Suy's ancestral lands and take concrete steps to ensure the protection and the survival of Suy people.
- 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.
- Order a genuine human rights and environmental impact assessment for on-going and planned ELCs throughout the country and ensure the full and informed participation of all local communities.
- 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.
- Ensure that the Government will take steps to fully implement the Concluding Observations of the UN Committee on the Elimination of Racial Discrimination and of the Committee on Economic, Social and Cultural Rights.
- 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 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.
- Publish a report that shows all activities undertaken by the government aimed at ensuring that the human rights of Suy peoples and of other communities affected are respected.

OMCT calls upon the HLH Company:

- Fully respect the economic, social and cultural rights, including land rights, access to resources and livelihood of all local communities affected by any subsequent activity.
- Take all necessary measures to minimise the environmental impact of any activity and grant access to water and livelihoods to Suy people.
- 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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