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Cambodia: Making the poor homeless

12 March 2008

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“Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.”

UN Committee on Economic, Social and Cultural Rights,
General Comment 4: The right to adequate housing

“They burnt my house. Now I am staying under a tarpaulin on the roadside.”

Forcibly evicted villager

On 20 April 2007, 105 families of fishermen and beach vendors were forcibly evicted from Mittapheap 4 village,¹ on the outskirts of the coastal town of Sihanoukville. They were made homeless.

Some 150 members of the security forces, including military, shot in the air and on the ground, while demolishing and burning down houses and beating people with electric batons. Eighteen villagers, 13 men and five women, and two policemen were injured.

Arbitrary detention

Following the violence, the 13 injured men were arrested, beaten and taken to prison, where they were interrogated. The detainees were charged with "battery with injury"

¹ The village is also called Spean Ches, which translates to Burning Bridge.

(Article 41 of the so-called UNTAC Law, which remains in force²) and "wrongful damage to property" (Article 52). The men were tried on 3-4 July 2007 for their role in the violence that took place during the eviction, which had destroyed their houses and most of their belongings.³

The legality of the eviction was not examined at the hearing and there was no attempt to establish responsibility for the violence and destruction.

Nine villagers were found guilty, despite a failure by the prosecution to produce evidence linking them to the crimes they were accused of. No witnesses could identify any defendant with alleged injuries or damage to property. Three were convicted for "battery with injury" and "wrongful damage to property." Four were found guilty of complicity, for having "gathered stones" to assist those who threw stones at the intervention force or for throwing stones at a fire truck.

Two men were sentenced, one in absentia, to eight months, four of which were to be suspended. Seven others were sentenced to 75 days each, completed on 4 July 2007. Five people were acquitted, including one minor who according to trial monitors claimed in court that he had been forced to confess to involvement.

The prosecutor appealed against the nine sentences, which he perceived as too light.⁴ As of mid-March 2008, those convicted have not been released, even though they have now served their term. Their cases are pending a hearing at the Court of Appeal, which could take up to several years to be scheduled. This clearly constitutes arbitrary detention, and Amnesty International calls for their immediate release.



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Living on the roadside

As a result of the eviction, the families, mostly small-scale fishermen and beach vendors, lost most personal possessions,

² *“Provisions Relating To The Judiciary And Criminal Law And Procedure Applicable In Cambodia During The Transitional Period”* The Supreme National Council, Decision of September 10, 1992.

³ *Nine Convicted, Five Acquitted in Trial of Sihanoukville Villagers*, The Cambodia Daily, 5 July 2007.

⁴ *Sentences of Sihanoukville Villagers Are Appealed*, The Cambodia Daily, 11 July 2007.

including their fishing nets and other equipment, as well as the shelter of a home. As of March 2008 over 90 of the families live in basic shelters on the roadside near their former village; they lack drinking water and basic sanitation, and struggle to make ends meet after losing the land on which they previously relied for subsistence rice and vegetables. Before, much of the farming was done by the women, who took the small children along to the nearby fields, while the men earned a living outside the home as hired workers. Now, without any land to tend, most women are unable to supplement the family livelihood. Instead, they must stay in the roadside shelters, caring for the children.

Many of the children are unwell with cold, fever or diarrhea as a result of the cramped and unsanitary conditions. NGOs have provided humanitarian assistance, but villagers told Amnesty International that no representatives from the government or the authorities had come to assess their current situation.

Mittapheap 4 illustrates a pattern of forced evictions in Cambodia: the villagers were not given timely notice ahead of the eviction or given a chance to be involved in meaningful consultation prior to the decision about their community. They had no opportunity to challenge the eviction order, which was issued without due process. And following the eviction, they were not provided with adequate alternative accommodation.

Background

Thousands of Cambodian families have been forcibly evicted from their homes in recent years, and there are at least 150,000 people throughout Cambodia who are currently living at risk of forced evictions because of misguided development projects, land disputes and land grabbing. This appears to be contrary to the “pro-poor” policies of the Cambodian government. Forced evictions, which are carried out in situations of a lack of transparency and outside the framework of the law, are causing great hardships for already poor communities, in violation of their fundamental rights.

As a state party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Government of Cambodia is legally obliged to respect, protect, and progressively fulfil the right to adequate housing, guaranteed in Article 11 (1) of the Covenant. This includes the duty to ensure ‘security of tenure which guarantees legal protection against forced eviction, harassment and other threats,’ as clarified by the Committee on Economic, Social and Cultural Rights. The government has legal obligations to protect everyone within its jurisdiction from forced evictions, especially when such evictions render affected persons homeless.

The ICESCR and other international human rights treaties prohibit forced eviction and related human rights violations, including the excessive use of force. Forced evictions have also been recognized by the UN Commission on Human Rights as a gross violation of human rights.

Article 31 of the Cambodian Constitution explicitly requires that the Kingdom of Cambodia ‘shall recognize and respect human rights as stipulated in the United

Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women's and children's rights.'

Recommended Action

Please send appeals in English or your own language:

Urging the government to end all forced evictions as a matter of urgency and to introduce a moratorium on all mass evictions until legislative and policy measures are in place to ensure that any evictions are necessary and conducted only in full compliance with international human rights law and standard;

urging the authorities immediately to allow the evictees to return to their land and ensure access to emergency shelter pending the resolution of the land dispute in accordance with domestic law and international human rights law and standards;

calling on authorities to ensure access to effective remedies following the grave human rights violations on 20 April 2007, including reparations and compensation for all property destroyed or damaged during the eviction;

urging the authorities to initiate an urgent impartial and independent inquiry into the violence of 20 April 2007, promptly make the findings public, and bring those responsible to justice;

calling for the immediate release of the convicted villagers who have served their sentences, but remain in custody pending appeal.

Appeals to:

His Excellency Say Hak <u>Governor</u> <u>Sihanoukville Municipality</u> Street Ekareach, Sangkat 3 Khan Mittapheap Sihanoukville Kingdom of Cambodia Fax: + 855 34 933 657	His Excellency Sar Kheng <u>Minister of Interior and Deputy Prime</u> <u>Minister</u> No 75 Norodom Blvd. Khan Chamkamon Phnom Penh Kingdom of Cambodia Fax: + 855 23 212 708/726 052 Email: moi@interior.gov.kh
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Local elected representative (member of parliament) of your government

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