Fact Sheet: Case Study Series: The use of prison labor in land evictions
Timeline: 23 May 2012
Snapshot: The use of prisoners to carry out a forced eviction in Sihanoukville highlights the irresponsible and abusive manner in which the State is administering prison labor and carrying out forced evictions, breaching the legal and human rights of both prisoners and land occupants.

Introduction
In May, occupants of land in Sihanoukville suffered the destruction of their homes in yet another example in a myriad of violent land evictions that have occurred in recent years in the Kingdom of Cambodia (“Cambodia”). This eviction differs in that prisoners were used to carry out the eviction, in breach of relevant laws and international human rights conventions. Whereas prison labor is criticized for being exploitative of prisoners, the use of prisoners in a forced eviction creates two potential categories of victims: the prisoners themselves who are asked or even ordered to engage in potentially violent conduct and abuses of human rights, and the evictees who are the subject of the violence. This fact sheet is written by the Cambodian Center for Human Rights (“CCHR”), a non-aligned, independent, non-governmental organization (“NGO”) that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout Cambodia.

The incident
On 23 May 2012, approximately 70 mixed military forces carrying weapons and 20 prisoners evicted residents from village 16, Sangkat number 1, Sihanoukville town, Kampong Som province (reported on the news website CamNews, 23 May 2012). The prisoners were ordered to demolish the occupants’ houses and crops on land that was earmarked for a prison. At least one occupant, Mam Vanna, 52, suffered a head injury and lost consciousness after he attempted to prevent his house and crops from being demolished by the prisoners. Occupants stated they had received no compensation or other form of redress, and it is unclear whether prior consultation was carried out with the occupants.

Prison labor
Work for prisoners is generally considered to be an important part of the prison regime. Where it is beneficial to the prisoner, rather than punitive in nature, it avoids idleness and can provide prisoners with skills that may facilitate their successful reintegration into society, which in turn can operate to prevent recidivism (repeat offending). Use of prison labor in Cambodia for private commercial gain has been broadly criticized, but this case of prison labor was arguably more exploitive and abusive.

The twin objectives of the Law on Prisons of 2011 (the “Prison Law”) are to provide for “the education, reformation, and rehabilitation of prisoners to reintegrate them back into the society and to prevent recidivism” and “the safe and secure custody, good health and humane treatment of prisoners in accordance with the international principles...”. Prison labor is regulated by Article 68, which provides that “low risk convicted prisoners who have been assessed as physically capable, shall be assigned to work as part of the prison’s daily routine, or to perform any work in the public interest and for the benefit of the community, or assigned to participate in prison industry, prison handicraft and prison farming programs.” Of those categories the participation of the prisoners in the eviction could plausibly only fall within the “public interest” category of work, on the grounds that a public work (a prison) is proposed for the land, but that analysis is tenuous and based on an expansive interpretation of an inherently vague term. The term “public interest” ought to be interpreted so
that it includes only work that contributes directly to public good, say the maintenance of public properties or the construction of classroom furniture.

International law is slightly more prescriptive regarding the conditions or type of work that can be carried out by prisoners. The Standard Minimum Rules for the Treatment of Prisoners (adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977) stipulates that prison labor must not be of an "affictive nature" and that so far as possible the work should "maintain or increase the prisoners’ ability to earn an honest living after release", consistent with the twin objectives of the Prison Law outlined above. Requiring a prisoner to participate in an eviction, by nature a distressing event, and to act as an agent of the State in perpetuating possible breaches of human rights against other citizens clearly has the potential to be “affictive”. Nor did this work enable the prisoners to acquire skills that would assist them in earning a living. On the contrary, participating in an act of State-endorsed violence to secure an outcome would seem to nurture disrespect for others and only encourage recidivism.

Evictions
Regardless of the legal property rights of the occupants, international laws and conventions on forced evictions require that any use of force must be a matter of last resort, and that the force itself must also be reasonable and proportional. While Cambodia does not yet have a comprehensive set of rules and regulations governing forced evictions, Article 253 of the Land Law of 2001 provides that it is an offense to use violence against “a possessor in good faith of immovable property; whether or not his title has been established or it is disputed.” Additionally, both the Land Law of 2001 and the Expropriation Law of 2010 provide that only “competent authorities” acting on behalf of the state and public legal entities may carry out evictions. Even when acting under the supervision of, or alongside, officials, prisoners cannot constitute “competent authorities” capable of acting on behalf of the State: it is entirely inappropriate for those who have been convicted of offenses against law and order to be co-opted into executing acts of the State that perpetuate injustice and disorder and may constitute breaches of human rights. The nature of the prisoners’ offenses is unclear, but it has not been ruled out that some of the group may have been convicted for violent offences. Adding such persons to an already volatile situation can only increase the risk that an eviction will end in violence and that harm will be inflicted upon the occupants.

Conclusion
The involvement of the prisoners in the eviction was a breach of the Prison Law, international law on conditions of work for prisoners, and provisions of the Land Law 2001 and the Expropriation Law regarding who may carry out evictions and the use of violence. Leaving aside the lawfulness of other aspects of the eviction, the use of prisoners to carry out the eviction was entirely inappropriate and an indefensible abuse of the State’s coercive power over the prisoners, breaching both the letter and the spirit of the laws regarding evictions and prison labor. It demonstrates complete disregard for both groups of victims - the prisoners and the occupants of the land - and their inherent dignity as human beings. CCHR calls for an immediate halt to such practices and for an investigation into this particular eviction and other similar instances.

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