FACT SHEET: FORCED EVICTION IN CAMBODIA

Snapshot: Since the outbreak of the COVID-19 pandemic, United Nations (“UN”) experts have warned against the rise of forced evictions as a gross violation of human rights. This factsheet will examine forced eviction in Cambodia and the human rights obligations requiring both States and businesses to protect against it. It will also look at the rise in forced eviction during COVID-19, and provide tangible recommendations to the Royal Government of Cambodia to cease forced evictions and improve respect for land rights and fundamental freedoms.

1. Introduction

In recent years, Cambodia has witnessed great economic growth, giving rise to escalating land value, large scale developments and the granting of sizeable economic land concessions and special economic zones to domestic and international companies. As a result, land disputes have skyrocketed in Cambodia with the number of people forcibly evicted or displaced rising every year. Despite domestic and international legal protections, waves of forced evictions continue to occur and it is estimated that over half a million people have been forcibly evicted in Cambodia since 2003. Moreover, since the outbreak of the COVID-19 pandemic, UN experts have noted a significant rise of forced evictions across the globe, and Cambodia has been no different, with reports of hundreds of families being forcibly evicted since January 2020.

Forcible eviction constitutes a gross violation of human rights, often leaving people homeless and/or unable to earn a livelihood, intensifies inequality, and invariably affects poor and marginalized communities. This factsheet will examine forced eviction and the human rights obligations which require both States and businesses to protect individuals and communities against it. It will also look at the rise in forced eviction during COVID-19 both around the world and in Cambodia, and provide tangible recommendations to the Royal Government of Cambodia (“RGC”) to improve respect for land rights and to protect against forced eviction in Cambodia.

What is forced eviction?

The Committee on Economic, Social and Cultural Rights defines forced eviction as the “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”. Forced eviction constitutes a gross violation of human rights law. Forced eviction particularly violates the right to housing, but also violates a wide range of internationally recognized rights including the right to life, the right to security of person, and the rights of indigenous peoples to their traditional lands and territories, as noted in the legal framework section.

Protection against forced evictions is not dependent on a person’s land tenure status, and extends to all individuals, including those living in informal settlements, in rural areas, and renters. While evictions

2 See section ‘Forced Eviction in Cambodia during COVID-19’ for details.
may be permissible under international human rights law in certain circumstances (for example, for long-term non-payment of rent), evictions must be fully justifiable, authorized by law, in full compliance with international human rights law, and full legal recourse and remedies must be available to those affected.\footnote{ICESCR (n 3) para. 11.} Prior to any evictions, states must consider alternatives, follow due process, and respect the rights to information, meaningful consultation and free and prior informed consent. Evictions must not result in homelessness,\footnote{Ibid, para. 16.} all steps must be taken to minimize the impact of evictions, compensation must be paid in advance, and appropriate remedies must be provided.\footnote{For examples of appropriate remedies, see OHCHR, Land and Human Rights Standards and Applications (n 5) p. 29.}

It is the responsibility of the State to protect against forced evictions, ensure evictions permissible under human rights law are carried out in the appropriate manner, and remedies are provided.\footnote{OHCHR, Forced Evictions Factsheet No 25/Rev 1 (n 4) p 21.} States are also required to protect against forced evictions carried out by third parties, including businesses. Businesses are under an obligation to respect human rights, including to not forcibly evict individuals.\footnote{OHCHR, Land and Human Rights Standards and Applications (n 4) p. 81.}

2. Forced eviction in Cambodia

Forced evictions have unfortunately long been occurring in Cambodia. While forced evictions are protected against in national and international law in Cambodia, there is a disconnect between such protections and practice, with widespread land conflict, land grabbing and evictions making systematic land rights violations one of the most prevalent human rights issues in modern Cambodia.\footnote{CCHR, 'Preventing, Mitigating and Remediying Land-Related Rights Violations in the Kingdom of Cambodia’ (December 2018) https://cchrcambodia.org/admin/media/analysis/analysis/english/20181219%20BHR%20Briefing%20Note%20ENG-Final.pdf.} Significant portions of land are now used for infrastructure developments, creating factories and plantations, and developing economic zones. This land is often leased to foreign and domestic companies and the political elite in economic land concessions, through which over two million hectares of land has been granted.\footnote{LICADHO, ‘Cambodia’s Economic Land Concessions’ (6 March 2020) http://www.licadho-cambodia.org/land_concessions/.} This has proved problematic when combined with Cambodia’s fractured land registration system, and due to insecurity of land tenure, a lack of formal titles and a weak rule of law, a wave of land grabs and forced evictions have occurred.

As of March 2014, more than half a million people were reportedly involved in land disputes.\footnote{LICADHO, ‘Renewed surge in land disputes must be addressed, not denied’ (15 February 2015) http://www.licadho-cambodia.org/pressrelease.php?perm=374&english.} While there is no official data available on forced evictions, it was estimated between 2003 and 2012 approximately 400,000 Cambodians had been forcibly evicted,\footnote{Faine Greenwood (n 1).} with numbers now expected to be much higher. A recent report from Sahmakum Teang Tnaut (“STT”) showed that in Phnom Penh alone, nearly 10,000 families (approximately 40,000 people) had been evicted without due process since the 1980s.\footnote{Sahmakum Teang Tnaut ("STT"), ‘Eviction and Relocation’, (June 2020) http://teangtnaut.org/eviction_relocation_site_report/?lang=en.} A report released by CCHR in 2018 examined three land disputes impacting more than 1600 households, and found that forcible and violent evictions occurred in every case, with reports of homes being bulldozed and torched by authorities and companies, land and crops being cleared without prior notice, and the use of violence and threats of criminal charges against land rights defenders, in grave violation of human rights.\footnote{CCHR, (n 11).}
3. Legal framework on forced eviction

**International Law**

Protections against forced evictions are enshrined in a number of the legally binding treaties ratified by Cambodia, including the International Covenant on Economic, Social and Cultural Rights (“ICESCR”) and the International Covenant on Civil and Political Rights (“ICCPR”).

⇒ Article 11 of ICESCR: “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

⇒ Article 17 ICCPR “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation”

Forced eviction may also constitute a violation of the right to life, freedom from cruel, inhuman and degrading treatment, the right to security of person (ICCPR Article 6, 7 and 8), the right to health, education and work (ICESCR Article 6, 12 & 13) and more. Forced eviction of indigenous people is also a violation of their indigenous rights and the principle of Free, Prior and Informed consent.

**Domestic Law**

These human rights treaties are incorporated directly into Cambodia’s domestic law through Article 31 of the Constitution of the Kingdom of Cambodia (“the Constitution”). In addition, Cambodian national law provides for numerous protections against forced evictions. The Constitution and the Land Law 2001 both recognize the right to own immovable property, and provide that land/property expropriation can only occur in the public interest, with the requirement that fair and just compensation be paid in advance. The Land Law further provides possession rights and rights to request land title in certain circumstances, and contains provisions protecting against forced eviction of private owners and occupants. The 2010 Law on Expropriation further provides requirements for fair compensation.

4. Forced Eviction during COVID-19

Since the outbreak of COVID-19 in January 2020, land rights violations and forced evictions have been increasingly reported around the world, at a time when people need housing and security the most. The United Nations Special Rapporteur on the Right to Adequate Housing (“UNSRRAH”) reiterated on 28 April 2020 that all States must ensure that everyone is protected against eviction during this time, as housing is the frontline defense against the virus, explaining: “forced evictions are a violation of international human rights law, including the right to housing, as are any evictions that result in homelessness. In the face of this pandemic, being evicted from your home is a potential death sentence. The right to adequate housing is not subject to derogation in times of emergency”. The
UNSRRAH released a guidance note on a prohibition of evictions during COVID-19, and recommended concrete measures by states to protect against evictions, including:25

- Immediately ceasing all evictions of anyone, anywhere for any reason until the end of the COVID-19 pandemic and for a reasonable time thereafter, with minimal exceptions;
- End forced eviction or displacement of informal settlements, and follow guidance on protecting residents in informal settlements; and
- Ensure access to justice for individuals, families or communities that have experienced an eviction and are seeking access to effective remedies.

### Forced Eviction in Cambodia during COVID-19

Since the start of the COVID-19 pandemic, which primarily started impacting Cambodia around January-October 2020, forced evictions have continued across the country. Examples include:

- **24 April** – Authorities bulldozed a site in Boeung Samrong, Phnom Penh where 18 families claimed to have lived since 1979. While authorities report it was state land, the families say there was no consultation and reported authorities used violence in the eviction.26
- **24 May** – 12 local indigenous communities in Ratanakiri province were forcibly evicted from their land by a Vietnamese rubber company, Hoang Anh Gia Lai. Despite promising to return the land to the communities in September 2015, the Vietnamese rubber company unilaterally cleared the land which included spirit mountains, hunting areas and burial grounds.27
- **27 May** - Authorities carried out measures to bulldoze and demolish fence and container-houses of a family at national road number 6 in the Satellite City Development Zone of Overseas Cambodia Investment Corporation located in Preaek Lieb, Khan Chaoy Chongvar, Phnom Penh. The bulldozing of the land took place as part of a road extension project, even though the landowner did not accept the offered compensation.28
- **11 June** – 100 families were forcibly evicted from their houses on Boeung Tamok lake, Phnom Penh by local authorities and police. The authorities arrived early in the morning without notice or consultation to demolish the homes. Some homes were even burnt down.29
- **11 June** – Kratie provincial authorities used machinery to clear the houses of three households after the owners refused to sell their land to the company Rithy Granite Cambodia Co. Ltd. Local villagers reported that three villagers were arrested, and the authorities threatened to shoot and arrest people who dared to protest the move.30
- **12 July** – 150 families living in Tumnup Teuk, Chamkarmon, Phnom Penh, were told to evacuate and had their homes demolished. According to authorities, these families were living on public land.31 The families report they have lived there for over 20 years. Out of the 150 families, 51 families did not receive any form of compensation.

25 Ibid.
29 Ibid.
• 20 July – Authorities announced they would dismantle and demolish all structures, including homes and businesses, that encroached on a public road in Sihanoukville to make way for a new road development. The structures included at least 15 homes/parcels of land, and the authorities only gave 10 days’ notice.\(^\text{32}\)

• 23 September - Deputy Prime Minister Tea Banh announced that people living in Siem Reap province where the RGC plans to start construction on 38 roads covering 100 kilometers must immediately move and dismantle their homes. He said there would be no compensation for the impacted families as it is state land.\(^\text{33}\) It is unknown how many people this will effect, but approximately 300 - 400 families have reportedly already dismantled their buildings.\(^\text{34}\)

5. Conclusion & Recommendations

Forced eviction constitutes a gross deprivation of human rights and is unfortunately continuing at alarming rates in Cambodia, even throughout the COVID-19 pandemic. The RGC should address the issues outlined above, and CCHR makes the following recommendations:

R1. Immediately **cease all forced evictions and the use of force** by State authorities in evictions, and protect against forced evictions and use of force by third parties, particularly businesses;

R2. **Cease all forms of evictions during the COVID-19 pandemic**, and for a reasonable time afterwards, in line with UN recommendations;

R3. **Implement the UN recommendations** in the COVID-19 Guidance Note on the Prohibition of Evictions\(^\text{35}\) and COVID-19 Guidance Note Protecting Residents of Informal Settlements;\(^\text{36}\)

R4. Ensure that any necessary evictions in the future comply with international human rights law, particularly, ensuring that families are provided with **adequate compensation**, that evictions are only used as an **absolute last resort**, and to **prohibit the use of excessive force**;

R5. Ensure that any necessary evictions comply with the **Basic Principles and Guidelines on Development-based Evictions and Displacement**;\(^\text{37}\)

R6. Effectively **remedy all human rights violations** due to forced eviction, and ensure that any remedy respects international standards and meets the effectiveness requirements of Principle 31 of the United Nations Guiding Principles on Business and Human Rights;

R7. Ensure that **meaningful consultations with affected communities** take place prior to any contract designated for developments and that communities are kept informed in accordance with the principle of **Free Prior and Informed Consent**; and

R8. **Stop all forms of monitoring, harassment and punishment** of human rights defenders in relation to land disputes and forced evictions; and **release land rights activists** currently imprisoned for exercising their freedoms of expression and assembly.

For more information please contact CCHR’s Business and Human Rights Project Coordinator, Mr. Vann Sophath, by phone at (+855) (0)12 941 206 or email at vann.sophath@chrcambodia.org.

\(^\text{32}\) Pech Socheary, ‘In ten days, Sihanoukville authorities will dismantle the building on public road’ (Khmer Times, 20 July 2020), https://www.khmertimeskh.com/50746611/2202007201419/.

\(^\text{33}\) ‘All construction on 38 roads in Siem Reap is required to be relocated without compensation’, (Thmey Thmey, 23 September 2020) https://thmeythmey.com/?page=detail&id=95874.


\(^\text{35}\) OHCHR, ‘UN Special Rapporteur on the Right to Housing COVID-19 Guidance Note: Prohibition of Evictions’ (n. 25).


\(^\text{37}\) OHCHR, Basic Principles and Guidelines on Development-Based Evictions and Displacement (n 17).