

HOUSING IS A HUMAN RIGHT

AMNESTY
INTERNATIONAL



EVICTED AND RESISTANCE IN CAMBODIA

FIVE WOMEN TELL THEIR STORIES

RECOMMENDATIONS

Tens of thousands of people are caught in the grip of forced evictions across Cambodia. In Phnom Penh alone, an estimated 10 per cent of the city's population was evicted between 1990 and 2011. Development projects and land disputes are often the precursor to eviction, with the welfare of the affected communities ultimately being trumped by the demands of big business.

“FORCED EVICTIONS, LAND GRABBING AND THE EXPLOITATION OF NATURAL RESOURCES ARE UNDOING THE HARD-WON GAINS MADE IN REDUCING POVERTY IN CAMBODIA IN THE PAST TWO DECADES.

The homes and livelihoods of thousands of families are also being threatened by the rapid destruction of Cambodia's forests and other natural resources. As these resources deteriorate, families that depend on them for survival are forced to move away in search of alternative means of subsistence. At particular risk are some of Cambodia's Indigenous Peoples, whose economic, social and spiritual way of life is inextricably connected to the forest.

Forced evictions, land grabbing and the exploitation of natural resources are undoing the hard-won gains made in reducing poverty in Cambodia in the past two decades. They fly in the face of repeated commitments to reduce poverty and improve respect for the rule of law and human rights made by the Royal Government of Cambodia to its multilateral and bilateral development partners. These donors have provided billions of dollars in aid since the Paris Agreements were signed in 1991.

LEGAL PROTECTIONS AGAINST FORCED EVICTIONS

Cambodia is required under various international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), to refrain from and protect people from forced evictions. As part of their obligations to respect and protect the right to adequate housing, the Cambodian authorities must ensure that procedural safeguards are in place before any evictions are carried out. These include genuine consultation with affected communities to explore all feasible alternatives to eviction, giving communities adequate notice and legal remedies, and offering compensation for losses and adequate alternative housing to those who are unable to provide for themselves.

But Cambodia's weak administrative and judicial institutions consistently fail to uphold the rights of families and communities who face forced eviction by well connected land grabbers and beneficiaries of economic land concessions. Moreover, the perpetrators are rarely brought to justice for the human rights abuses they commit.

Although the Land Law of 2001 and the Expropriation Law of 2010 contain some important legal safeguards, they fail to protect all groups of people from forced evictions. People who have insecure tenure status (such as groups who are living in informal settlements on public land) have little protection under these laws. The legal protections that do exist are also poorly implemented.

INDIGENOUS PEOPLES

The Land Law vests the state with the power to grant collective ownership over land to Indigenous communities. Collective ownership includes all of the rights and protections of private ownerships. Under the law, Indigenous communities have the right to manage their land according to their traditions, as an interim protection measure before the community is formally registered. In practice, however, these legal provisions are consistently ignored.

The rights of Indigenous Peoples in Cambodia are protected under various international human rights treaties that Cambodia has ratified. Those rights are also protected under the UN Declaration on the Rights of Indigenous Peoples,

endorsed by Cambodia along with 143 other states in 2007. The declaration emphasizes the rights of Indigenous Peoples to their traditional lands, and their right to give or withhold their consent to developments on those lands.

PROTECTING WOMEN'S RIGHTS

In 1992, Cambodia ratified the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which along with the ICESCR guarantees women their human rights, including the right to housing. This obliges the government to respect housing rights, to provide an effective consultation process, and the right to a remedy when women's rights are violated.

Under CEDAW, Cambodia is also required to "eliminate discrimination against women by any person, organization, or enterprise". This includes actively challenging customary practices which reinforce gender stereotypes and the inferiority of one sex to another.

Women are at the forefront of the resistance to Cambodia's epidemic of lost homes and razed forests. They also experience great personal hardship if their struggles fail, with severe adverse impacts on their own and their families' housing situation, livelihoods and mental and physical well-being. Women face enormous barriers in trying to access justice through state administrative and judicial institutions that should, but rarely do, protect and uphold their rights under the law. Instead, laws and the courts are too often used as a vehicle of oppression to silence those who dare to defend their rights.

In *Eviction and resistance in Cambodia: Five women tell their stories* (Index: ASA 23/006/2011), Amnesty International shows the human face of a tragedy afflicting thousands across Cambodia. The following are recommendations arising from our interviews with these women and our recent research on the subject.

RECOMMENDATIONS

To the Cambodian government

1. End the practice of forced evictions and ensure that perpetrators of forced evictions are held accountable under the law, including by enforcing penal provisions of the Land Law (2001).
2. Suspend all mass evictions until:
 - a. A clear prohibition on forced eviction is adopted and enforced under national law.
 - b. Legislative guidelines are adopted, setting out legal safeguards that must be complied with prior to any evictions. These guidelines should be based on the UN basic principles and guidelines on development-based evictions and displacement and should comply with international human rights law.
3. Ensure that a comprehensive human rights and environmental impact assessment is undertaken, prior to any land concession being granted, to identify and reduce the impacts on the human rights of people who live on or rely on that land. If the land concession is granted, any evictions or diversion of land must be carried out in a manner that complies with international human rights standards.
4. Adopt and give effect to the draft National Housing Policy.
5. Ensure that evictions are only undertaken as a last resort and only after all feasible alternatives to evictions are explored in genuine consultation with affected communities.
6. Ensure that relevant authorities are properly trained and resourced to carry out meaningful consultations, including the provision of all relevant information in an accessible manner to those affected.
7. Develop procedures for women to have equal involvement in the consultation process and in household decisions about choosing compensation, resettlement and/or other forms of support, including, for example, requiring both men's and women's thumbprint on agreements to move and receive compensation or resettlement.
8. In cases in which households choose to be resettled, provide every opportunity for women to be equally involved in decision-making about the location of and conditions at the resettlement site. Wherever possible, a number of possible sites should be identified and those affected should be consulted on these sites. All resettlement sites must comply with criteria for adequate housing under international law. No one should be forced to move to the site until it is fully prepared with adequate housing, access to essential services, including potable water, private toilets, sanitation and waste disposal and electricity as well as access to facilities, including health services and schools. Ensure that location of the site facilitates access, for both men and women, to jobs, farming land, fisheries or other livelihood sources as appropriate so that all households are able to maintain an adequate income and standard of living. In this regard, ensure that relevant and effective livelihood support services are made available to both men and women, being mindful that women often require home-based work.
9. Give special attention to the particular physical and mental health needs of women during the resettlement process and following resettlement. This can include opportunity for regular check-ups by doctors, guaranteeing access to necessary medicines and ensuring that there is no disruption to nutritional food intake. Wherever possible, the resettlement process should provide an opportunity to improve nutrition and health of people whose former situation was inadequate. Strengthen community support networks, especially of women, and facilitate access to mental health services, such as to relevant NGOs, for those people who are finding it difficult to cope with the stress of eviction.
10. In cases in which households choose to receive cash compensation, ensure that the amount provided is sufficient to secure alternative adequate housing and/or productive land as appropriate, as well as all other costs

incurred in the transition. Develop mechanisms to encourage women to have at least equal control as men over compensation payments.

11. Following eviction and resettlement, monitor the situation of households to identify women at risk of violence or other forms of abuse or who are finding it difficult to cope with the readjustment. Provide or facilitate access to support and protection services as appropriate.
12. Recognize and protect the rights of Indigenous Peoples to traditional lands. Development activities such as logging and mining that may have a significant impact on Indigenous communities cannot proceed until affected communities give their informed consent. All procedures established for consulting and seeking the consent of Indigenous Peoples must ensure that women fully participate on an equal basis with other members of the community. These procedures, including information provided, must be appropriate (that is, use Indigenous languages, allow time for consensus-building, and use appropriate and accessible venues). These standards of protection must be provided for in national law that is prepared with the full participation of Indigenous Peoples.
13. Ensure that police and other security forces involved in evictions, or in policing protests relating to land disputes or evictions, strictly comply with international standards restricting the use of force by law enforcement officials.

To the international community

Bilateral and multilateral donors must ensure that they do not support projects and programmes that lead to, or contribute to, human rights violations, including forced evictions.

Bilateral and multilateral donors must ensure that where they are providing, or considering providing, financial and/or technical support for projects or programmes which may involve the displacement and resettlement of communities, they do so in a manner which is consistent with human rights standards. This includes:

- Making a clear commitment that they will not support activities that cause, or contribute to human rights violations.
- Securing effective guarantees from the Government of Cambodia that there will be no forced evictions or other human rights violations in any projects or programmes which they are supporting.
- Working with the government to ensure that any project or programme that involves displacement and resettlement is designed and implemented in ways that are consistent with protections against forced evictions and with human rights standards, including those on the right to adequate housing and on non-discrimination and equality.
- Working with the government to ensure that no development on traditional lands proceeds without the free, prior and informed consent of Indigenous Peoples.

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Read *Eviction and resistance in Cambodia: Five women tell their stories* (Index: ASA 23/006/2011) at www.amnesty.org



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