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Cambodia: Bracing for development

June 2008

AI Index: ASA 23/009/2008

“States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons [...].”

UN Committee on Economic, Social and Cultural Rights,
General Comment 7: The right to adequate housing: Forced evictions

“We have seen the development plan and of course we get worried because it is clear that we are affected. According to the plan we have disappeared.”

Village 12 representative, Boeung Kak II

On 6 February 2007 the municipality of Phnom Penh entered into a 99-year lease contract with a company whose development plan risks displacing between 3,000 and 4,200 families, or up to 20,000 people. Many of those affected have lived on the land for a long enough period to have strong claims to formal land title deeds under Article 30 and 31 of the 2001 Land Law.

According to the contract, which has been approved by the Council of Ministers, a concession of 133 hectares has been granted to company, including almost 90 per cent of Boeung Kak Lake which is to be filled and dried.

This new landfill and the rest of the area is to be turned into “pleasant, trade, and service places for domestic and international tourist”, in the words of the Municipality.¹ Beyond that, few details have been disclosed. According to a map provided to the affected persons by local authorities, the areas currently housing over 4,200 families will be converted into roads, a drainage canal and the widened railroad track.

¹ <http://www.phnompenh.gov.kh/english/2007/March/March-14-2007.html>

“We have seen the development plan and of course we get worried because it is clear that we are affected. According to the plan we have disappeared,” a representative of Village 12 in Boeung Kak II, told Amnesty International.

The agreement between the company and municipality was reached without any consultation with the affected population, many of whom live in squalid conditions on the edge of the lake. Early 2008 representatives of those affected told Amnesty International that they had learnt about the agreement and the plans through the television news. Only after seeking advice from non-governmental organisations had they been invited to the first of a series of three consultation meetings with the authorities. In the first such meeting they had been prompted to present suggestions and amendments to the plan. This, some said, had been very difficult given the limited information available, in particular on resettlement and compensation. Others felt pressured by time constraints.

“The deputy chief of the district asked us [in the meeting] if we agreed with the plan so that he could pass on that message to the Municipality. Our commune chief has told us that we only get three meetings to reach an agreement,” said one representative from the affected community.

The presence of the company appeared to have caused by far the deepest concerns in the community: On 8 February 2008, less than a month after the first “consultative” meeting, the company did a first test-run of the equipment to fill the lake, pumping sand into the lake’s south-eastern corner.



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Many villages around the lake are in urgent need of development.

“The commune officials have promised to help if we vote for them. They say ‘don’t worry, we will solve this after the elections’, but the company has already moved in with their materials”, said another representative, with reference to the National Assembly elections scheduled for 27 July 2008.

Lack of information is combined with conflicting messages surrounding the plans.

Some representatives of the authorities have assured NGOs and communities that there will be no eviction, while others have escorted villagers to a newly built housing complex to which some future evictees ostensibly would be moving. Some villagers have been asked how much they would seek in compensation for their current housing. The municipality, meanwhile, has announced the proposal from a private construction company to construct alternative housing on the basis of a ten-year long lending scheme, in which residents would pay an estimated 1,850 USD for new houses.

The agreement appears to be in breach of international law and standards in that the process leading up to it excluded affected communities from participation and consultation, and has so far failed to detail schemes for fair and just compensation and/or adequate alternative housing.

The contract further appears to be in breach of domestic legislation, implementing regulation and government policy: No environmental impact assessment was undertaken – or at least not made public; no bidding procedure preceded the agreement; and according to the 2001 Land Law the lake is inalienable state land (so-called state public property) so its ownership cannot be transferred for longer than 15 years during which the function [of the property] must not change.

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 to already poor communities, in violation of their human 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 fulfill 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, Khmer or your own language:

Urging the government of Cambodia:

- to protect all Cambodians, including between 3,000 and 4,200 families living around the Boeung Kak Lake, against forced evictions and other threats and harassment;
- to review the contract with the developer to ensure that it is annulled if in breach with domestic or international law;
- calling on the authorities to guarantee that, in case eviction is proved to be necessary, all those affected are ensured an effective remedy, including alternative accommodation, fair and just compensation to be developed with the genuine participation and consultation of all those who would be affected.

Appeals to:

His Excellency Kep Chuktema <u>Governor</u> <u>Phnom Penh Municipality</u> # 69 Blvd. Preah Monivong Phnom Penh Kingdom of Cambodia Fax: + 855 23 426 101 Email: phnompenh@phnompenh.gov.kh	His Excellency Sok An <u>Deputy Prime Minister</u> <u>Office of the Council of Ministers</u> #41, Russian Federation Blvd. Phnom Penh Kingdom of Cambodia Fax: + 855 23 880624 Email: ocm@cambodia.gov.kh
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- Diplomatic representatives of Cambodia accredited to your country
- Local elected representative (member of parliament) of your government

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