



International Network for Economic, Social & Cultural Rights
Red Internacional para los Derechos Económicos, Sociales y Culturales
Réseau international pour les droits économiques, sociaux et culturels
الشبكة العالمية للحقوق الاقتصادية و الاجتماعية و الثقافية

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the Tides Center*

TO: Samdech Hun Sen, Prime Minister of the Kingdom of Cambodia

CC: Sar Kheng, Minister of Interior and Deputy Prime Minister
Ang Vong Vathana, Minister of Justice
Hor Nam Hong, Minister of Foreign Affairs and International Cooperation
PA Socheatevong, Governor of Phnom Penh
Rhona Smith, United Nations Special Rapporteur on the situation of human rights in Cambodia

1 June, 2015

Your Excellency,

I write on behalf of the International Network for Economic, Social and Cultural Rights (ESCR-Net), the largest global network of organizations and activists devoted to achieving economic, social and environmental justice through human rights. ESCR-Net consists of over 270 organizational and individual members in 70 countries.

We wish to commend the Royal Government of Cambodia (RGC) for the decision to release ten land rights activists from Boeung Kak Lake after they received a royal pardon in April of this year. On 5 December, 2014, ESCR-Net sent a letter to the Government of Cambodia to express concern about the arrest, trial and conviction of Ms. Tep Vanny, Ms. Nget Khun, Ms. Song Sreyleap, Ms. Kong Chantha, Ms. Pan Chunreth, Ms. Bo Chorvy and Ms. Nong Sreng on 11 November 2014, following their participation in a demonstration to defend the human rights of families living around Boeung Kak Lake. Our letter also raised concern about Ms. Heng Pich, Ms. Im Srey Touch, Ms. Phuong Sopheap and a Buddhist monk, Venerable Soeung Hai, who were reportedly arrested in conjunction with the detention of the above-mentioned women. We understand that the activists were deprived of their liberty as a consequence of exercising their right to freedom of peaceful assembly and expression. According to information received, the activists were placed in detention following a short one-day investigation and hasty trial, which raised doubts about the independence of the judicial proceeding and respect for the due process of law.

The leaders of the Boeung Kak Lake communities have engaged in legitimate activities to defend and promote the human rights of thousands of families that have depended on the lake and surrounding land for their housing, sources of food and water, and livelihood. The detention of the above-mentioned activists allegedly related their participation in protests in response to severe flooding of their neighborhood. The flooding was reportedly prompted by the filling-in with sand of the natural water body of Boeung Kak Lake, to make way for commercial real estate development that stands to generate profit for politically-connected individuals. The protesters allege that after the forcible eviction of almost 20,000 people from the area in 2008, chronic flooding around the community has created negative impacts on affected families' health, homes and businesses.

The release of the above-mentioned land rights activists is a positive development which is consistent with Cambodia's obligations as party to the International Covenant on Civil and Political Rights (ICCPR). That treaty establishes the right to be free from cruel, inhuman or degrading treatment or punishment; the rights to peaceful assembly and of

association; freedom from arbitrary arrest or detention; and the right to equality before the courts, including the entitlement to a fair and public hearing by a competent, independent and impartial tribunal established by law. We are also pleased to note that the decision appears to uphold the standards contained in the UN Declaration on the Rights of Human Rights Defenders.

Notwithstanding these favorable developments, we wish to remind Your Excellency that Cambodia is also a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which establishes obligations to uphold, among others: the right to health; the right to an adequate standard of living, including adequate food, clothing and housing; and the right to the continuous improvement of living conditions. According to information we have received, the conditions faced by the families living in the Boeung Kak Lake area suggest that serious violations of these rights have occurred and continue to take place.

First, the forcible evictions that took place to clear the area surrounding Boeung Kak Lake constitute serious violations of human rights and have been found to be *prima facie* incompatible with the requirements of the International Covenant on Economic, Social and Cultural Rights (ICESCR). That treaty calls on State Parties to use all appropriate means to provide the greatest possible security of tenure to occupiers of houses and land, and to strictly control the circumstances under which evictions may be carried out. Consistent with General Comment No. 7 of the UN Committee on Economic, Social and Cultural Rights and the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement (Basic Principles), evictions must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law. States should give priority to exploring strategies that minimize displacement, take specific preventive measures to avoid and/or eliminate underlying causes of forced evictions and ensure that market forces do not increase the vulnerability of low-income and other marginalized groups to forced eviction.

While we commend the RGC for halting the evictions in 2011 and issuing Sub-Decree 183 to provide 12.44 hectares of land with title to the remaining residents, we note that some of the remaining families in the BKL area have been excluded from the land registration process and continue to lack security of tenure. We further note that the low-income households that have received title to their homes in the BKL area are required to comply with urban construction regulations, which may render them vulnerable to future evictions.

The Basic Principles also establish the responsibility to provide just compensation and sufficient alternative accommodation in cases where evictions are deemed to be necessary. In the Concluding Observations of the Committee on Economic, Social and Cultural Rights on Cambodia's State Party Report in 2009, the Committee strongly recommended that Cambodia:

...as a matter of priority...ensure that persons forcibly evicted from their properties be provided with adequate compensation and/or offered relocation that complies with the guidelines adopted by the Committee in its General Comment No. 7 (1997) on forced evictions and guarantee that relocation sites are provided with basic services including drinking water, electricity, washing and sanitation, as well as adequate facilities including schools, health care centres and transportation at the time the resettlement takes place.

We note with concern that several thousand families were reportedly displaced from their homes in the Boeung Kak Lake area after accepting inadequate compensation under extreme duress, and that many have since become impoverished as a result.

Under the ICESCR, Cambodia has an obligation to protect against human rights abuse within their jurisdiction by third parties, including business enterprises such as Shukaku Inc. which has carried out real estate development activities in the Boeung Kak Lake area. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.

Given these outstanding concerns, we call on the Royal Government of Cambodia to take all possible steps to.

1. Provide legal security of tenure to all remaining families in the Boeung Kak Lake area and address the problems related to flooding, drainage, and infrastructure upgrading.
2. With support of development partners such as UN Habitat, provide financial and technical assistance to Boeung Kak Lake households to upgrade their housing standards, consistent with the newly adopted National Housing Policy.
3. Establish a program for the provision of debt relief, livelihood support and further remedy for the human rights violations affecting the evicted Boeung Kak Lake families, and
4. Ensure that development around the Boeung Kak Lake area is conducted according to internationally recognized standards and does not violate the human rights of affected communities

Finally, please keep us apprised of any further developments in this case.

A handwritten signature in black ink, appearing to read 'C. Grove', is centered on the page. The signature is fluid and cursive, with a long horizontal stroke at the end.

Chris Grove,

Director