

**Mandates of the Special Rapporteur on the situation of human rights in Cambodia; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: UA  
KHM 5/2014:

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in Cambodia; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 24/29, 25/17, 24/7, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the situation of residents of Lor Peang, and Boeng Kak villages in Ta Ches commune, Kampong Tralach district, Kampong Chhnang province. Community members of these villages have been reportedly subject to appropriation of their land, have continuously been denied access to justice and to resolution of their claims to approximately 145 hectares of contested land in Ta Ches commune, and are victims of judicial harassment, intimidation and frequent attacks.**

We would also like to draw the attention of your Excellency's Government to a joint allegation letter sent to your Excellency's Government on 3 February 2011 by the Special Rapporteur on the situation of human rights in Cambodia, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders (see A/HRC/18/51, case no. KHM 1/2011). That letter outlined concerns regarding the convictions of a representative of the nongovernmental organization ADHOC, Sam Chankea, and community representative, Reach Seima, for defamation. We regret that no response from your Excellency's Government has been received to this date.

According to the information received:

Reports indicate that since 1996, residents in Ta Ches commune have been pressured by a private company to sell their land. In 2007, a local company, KDC International, whose owner, Ms. Chea Kheng, the wife of the Minister of Mine and Energy, purchased 195 hectares of the contested land from local farmers and during the process allegedly appropriated more than 400 hectares of land belonging to 108 families by claiming 612 hectares during the administrative process through the Cadastral office. It is alleged that the extra land of more than 400 hectares issued on title to KDC International overlap or encroach upon villagers' land of over 200 hectares. It is reported that the contested land is agricultural and residential land and that the livelihood of these villagers depend mainly on rice and crops cultivation and thus, they would not be possible to survive only on residential land. In January 2008, KDC International reportedly brought machinery and approximately 50 workers to work on the land, bulldozing crops and demolished houses of 14 families which prompted renewed protest by the villagers. It is alleged that 100 policemen from Kampong Chnang province were present to provide protection to the company against the villagers.

Despite numerous complaints filed to local, district and provincial authorities and courts, the Cadastral Commission and the National Authority for Land Dispute Resolution, it is alleged that such claims to the contested land in Ta Ches commune have not been properly assessed. Approximately 15 families residing in Lor Peang village have not yet received any compensation for the loss of their land. An additional 22 families residing in Boeung Kak village filed a complaint with the Phnom Penh Municipal Court on 23 June 2014 claiming they were pressured into accepting inadequate compensation after being threatened and harassed.

From early July 2014, KDC International started construction of a concrete wall around the contested land, separating community homes from their farm land. Community members in opposition of the wall have been repeatedly attacked by KDC International construction workers, most recently on 7 and 17 July 2014. On 7 July 2014, approximately 25 female residents confronted KDC International employees in an attempt to stop them from constructing the wall. One female community member was carried away from the scene unconscious after being hit, several more sustained other injuries. Police were present and witnessed the incident but did not intervene. On 17 July 2014, when community members began trying to break a hole in the concrete wall, KDC International employees located on the other side of the wall responded by throwing rocks and bricks at the community members. Other KDC International employees gathered near a gap in the wall to fire sling shots at the community members, who responded by firing sling shots back. The police were present and witnessed the violence from the start but did not end it until two hours later. Since 7 July, approximately 100 armed policemen have been sent to the village claiming to ensure security and provide protection. However, it was observed that the police presence was rather

to protect the company to construct the wall on the contested land and to find fault on villagers who protest against the company activity.

Following these incidents, on 21 and 22 July, two community members – Mr. **Mang Yav** and Mr. **Seang Heng** - were arrested and charged with intentional destruction of property and intentional violence by the Kampong Chhnang Provincial Court. They are currently being held in pre-trial detention. Furthermore, eight more community members – Mr. **Ngoun Nhoeun**, Mr. **Srun Pha**, Mr. **Lao En**, Mr. **Kim Tuthdara**, Mr. **Hong Dara**, Mr. **Phan Sokphana**, Mr. **Kuch Hok**, and Mr. **Un Ren** have been summoned to appear at Kampong Chhnang Provincial Court on 5 August 2014 for questioning on charges of intentional destruction of property and intentional violence. In lieu of appearing before the court, approximately 80 community members protested, demanding for all charges to be dropped and for the release of Mang Yav and Seang Heng. These community members marched on foot from their villages to the provincial town on 5 August 2014 and the next day, they peacefully protested outside the Provincial Governor's residence and the Kampong Chhnang Provincial Court.

When villagers received no response from Kampong Chhnang provincial authorities, they reportedly decided to walk to Phnom Penh to draw the attention of the national Government to their situation. They departed from their villages on 12 August 2014 at 8:00 a.m. On their way to Phnom Penh at Or Rung village, Ta Ches commune of the same district at 10:00 a.m., a mixed group of approximately 300 to 400 police officers from district and provincial level of Kampong Chhnang province armed with shields, electric clubs, and wooden sticks allegedly dispersed them violently, resulted in injuries on six men and four women, one of them was seriously injured. Three of the injured men were detained, while others went in hiding. The arrested men are: Mr. Ngoun Nhoeun (husband of the prominent community leader, Ms. Um Sophy), Mr. Srun Pha, and Mr. Kuch Hok. They are among the eight land activists summoned to appear before the investigating judge on 5 August 2014.

Other villagers continued their peaceful march to Phnom Penh on 13 August 2014. That afternoon, they were prevented by security forces from proceeding into the city at the Russey Keo district. They reportedly pushed through the security forces and plan to resume their march to various State institutions, foreign embassies and international organizations in the coming days.

We express serious concern about the manner in which the contested land has been allegedly appropriated, the lack of adequate compensation for the loss of land for the residents of Ta Ches commune, the construction of the wall separating community members from their contested farmland while the dispute remains unresolved, and the failure of the police to stop the construction of that wall. Further concern is expressed on the alleged excessive use of force by KDC International employees and security forces against community members who opposed the construction of the wall and the violent attempts to prevent them from protesting in the capital city. Similar concern is expressed

at the violent dispersal of peaceful assemblies and at the excessive use of force used against peaceful protesters by the law enforcement authorities.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of the above mentioned persons is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of their liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR and article 14 of the ICCPR. These allegations also seem to indicate a prima facie violation of the right of peaceful assembly as set forth in article 21 of the ICCPR.

Furthermore, we would like to remind your Excellency's Government of its obligations under various international human rights instruments, in particular the International Covenant on Economic, Social and Cultural Rights to which Cambodia is a party since 26 May 1994, and more specifically article 11.1 recognizing the right of everyone to an adequate standard of living for himself and his family, including housing, and to the continuous improvement of living conditions. This article must be read in conjunction with article 2.2 of the Covenant which provides for the exercise of any right under the Covenant without discrimination of any kind.

The allegations also appear to contravene the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2 and 12.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) /can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned individuals and the communities members in compliance with the above international instruments and standards.

Moreover, as it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters, when relevant to the case under consideration:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of Mr. Mang Yav, Mr. Seang Heng, Mr. Ngoun Nhoeun, Mr. Srun Pha and Mr.

Kuch Hok and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.

3. Please provide detailed information, and where available the results of any investigation, judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide full details of any measures taken to ensure the right to adequate housing as a component of the right to an adequate standard of living, without discrimination of any kind for the families and households allegedly affected by appropriation of the contested land by KDC International.

5. Please indicate which administrative or judicial mechanisms are in place, both at national and municipal level, to ensure access to remedies and accountability of various actors so that individuals and communities can claim their right to an adequate standard of living?

a. Please provide information on the past and ongoing disputes on the contested land involving KDC International and other actors, and explain the measures taken to ensure access to remedies.

b. Please indicate whether any investigations have been undertaken about the violent actions allegedly carried out by employees of KDC International, and if so, please provide the results of those investigations.

c. Please explain how the 2001 Land Law was applied in this particular case.

6. Please explain the role of the police force present during the violence that allegedly occurred between the claimants and KDC International employees.

7. Please indicate what measures have been taken to ensure that the legitimate right to meet and assemble peacefully is guaranteed in law and in practice, and that the physical and psychological integrity of those exercising this right is guaranteed.

We undertake to ensure that your Excellency's Government's response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above-mentioned individuals and other community members are respected, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any persons responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts, as well as to ensure that the right of community to peacefully protest is respected.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Surya Prasad Subedi  
Special Rapporteur on the situation of human rights in Cambodia

Leilani Farha  
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Mads Andenas  
Chair-Rapporteur of the Working Group on Arbitrary Detention

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst  
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