

**NATIONS UNIES
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**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

Mandates of 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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the situation of human rights in Cambodia

REFERENCE: UA Housing (2000-9) G/SO 216/1 G/SO 214 (107-9)
KHM 6/2011

22 September 2011

Excellency,

We have the honour to address you in our capacity as 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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the situation of human rights in Cambodia pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/8, 16/5 and 15/20.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the alleged demolitions of five houses (8 families) in Boeung Kak Lake in Phnom Penh city and the imminent threat of eviction of 90 additional families in the same region. We also wish to bring to your Excellency's government attention information received on the alleged beating of a local resident and activist by police forces during the demolitions.**

According to information received:

On 16 September 2011, five homes and businesses (affecting 8 families) were demolished in Village 22, Boeung Kak Lake, in Phnom Penh city.

Reports received indicate that these families were among 96 families excluded from sub-decree 183 issued on 11 August 2011, by your Excellency's Government, granting land title to more than 700 families living on a 12.44 hectare stretch of land in the Boeung Kak Lake area.

Reports indicate that more than 90 additional families in the region are now facing imminent threat of forced evictions, having been excluded from sub-decree 183.

Allegedly, no notice was given to the affected residents prior to the demolition. Compensation was offered to some families contacted by the authorities, while other families were not offered compensation at all. Reportedly, threats of eviction and harassment and intimidation are being used against the excluded families to accept compensation.

We are also informed that some residents whose homes were affected were not able to retrieve their belongings before their houses were destroyed and lost all their property.

We are also informed that the demolitions were overseen by 100 armed riot police, municipal authorities and security guards. Allegedly, one Boeung Kak Lake resident and activist, Mr. Suong Sophoan was beaten by the police with batons and a brick, while several villagers protested against the demolitions. According to information received, Mr. Suong Sophoan was left unconscious and sustained head injuries requiring 5 stitches and a broken finger.

From the onset we wish to welcome your Excellency's Government recent decision to grant land title to more than 700 families living in the contested 12.44 hectares region of Boeung Kak Lake. However, the recent forced evictions represent a significant departure from this remarkable progress to resolve a long-standing dispute. We are concerned about the decision to exclude 96 families living in the same region from sub-decree 183 and we call on your Excellency's Government to halt all evictions which may affect the excluded families and assist in finding adequate compensation and housing solutions for all families in the region.

While we do not wish to prejudge the accuracy of these allegations, we would like to remind your Excellency's Government of Article 11.1 of the International Covenant on Economic, Social and Cultural Rights, to which Cambodia is a party, which states that "the States Parties to the present Covenant recognize 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”. The Committee on Economic, Social and Cultural Rights commented the right to adequate housing in its General Comment No. 4, stressing that the right to housing should not be interpreted in a narrow or restrictive sense such as merely having a roof over one’s head; rather, it should be seen as the right to live somewhere in security, peace and dignity. With “due priority to those social groups living in unfavorable conditions,” the right to housing includes guaranteeing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy. The Committee also added that “the right to housing should be ensured to all persons irrespective of income or access to economic resources”.

As stated in resolutions 1993/77 and 2004/28 of the Commission on Human Rights, forced evictions constitute gross violations of a wide range of internationally recognized human rights and large-scale evictions may only be carried out under exceptional circumstances and in full accordance with international human rights law. According to the General Comment No. 7:

“15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

“16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

In view of this, we wish to recall the existence of the Basic principles and guidelines on development-based evictions and displacement (contained in document A/HRC/4/18) that aim at assisting States in developing policies and legislations to prevent forced evictions at the domestic level. Your Excellency's Government may find useful in the current circumstances the sections of the guidelines that focus on State obligations prior to, during and after evictions.

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in 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, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice."

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) (of the Special Representative of the Secretary-General on the situation of human rights defenders) and in particular to paragraph 98 which states that "in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials."

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats,

retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person 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.

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 persons in compliance with the above international instruments.

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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of these cases accurate?
2. Has a complaint been lodged by or on behalf of the affected families?
3. Please provide clarification on the basis of the decision to exclude 96 families living in the Boeung Kak Lakre region from sub-decree 183.
4. Did appropriate consultations take place with the evicted families? If yes, please give the details, date and outcome of these consultations.

5. Please provide information relating to any notice provided to the affected residents prior to the demolitions.
6. What measures have been foreseen to ensure that the persons affected by the demolitions will not become homeless?
7. Were the affected persons offered compensation for the loss of their houses and livelihood? If not, state the reasons for this decision. What has been foreseen in terms of relocation?
8. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case, in particular in relation to the alleged beating of Mr. Suong Sophorn by police forces. If no inquiries have taken place, or if they have been inconclusive, please explain why.
9. Please provide information in relation to legal or other remedies available to the residents allegedly affected by the demolitions and the reported extensive use of force in the Apo district.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration

Raquel Rolnik

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

Margaret Sekaggya

Special Rapporteur on the situation of human rights defenders

Surya Prasad Subedi

Special Rapporteur on the situation of human rights in Cambodia