

**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; the Special Rapporteur on the rights of indigenous peoples; and the Special Rapporteur on the situation of human rights in Cambodia**

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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 rights of indigenous peoples; and Special Rapporteur on the situation of human rights in Cambodia, pursuant to Human Rights Council resolutions 34/9, 33/12 and 30/23.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the impending flooding and forced eviction of approximately 178 primarily indigenous families affected by the Lower Sesan 2 Hydro Power Dam project in Stung Treng province.

According to the information received:

The developers of the Lower Sesan 2 Hydro Power Dam in Stung Treng province (Royal Group and Chinese Firm Hydrolancang International Energy Co., Ltd.) have urged the provincial authorities to evict more than 100 primarily Phnong indigenous families and to forcefully resettle them to the relocation site in order for the company to start releasing water to test the dam, starting on 15 July. In early June 2017 representatives of the Ministry of Mining and Energy met with the affected communities in Sre Kor village and Kbal Romeas village in order to inform them about of the imminent testing of water releasing from the dam. A first test of water releasing (where they will close ten gates) will reportedly occur on 15 July 2017 and a second test (with the closing of all gates of the water reservoir) in November 2017. Both these would seriously affect the villagers, flooding their homes and lands. On 5 June 2017, the company sent a letter to the provincial governor's office about the planned tests. The company's letter emphasizes that both villages will be flooded with a large volume of water (which could go as high as 72 meters).

As of today, approximately 58 families in Kbal Romeas village (Phnong indigenous peoples' families) and 120 families in Srekor village (Khmer-Lao families and indigenous peoples' families), which is a total of 178 families, still refuse the proposed compensation package and their forced eviction and relocation to one of the two relocation sites, which they consider inappropriate

both in terms of location and infrastructure. These families demand to be allowed to stay in their original villages and, when the flood comes, to relocate themselves to a closer area of high land (located 500m to 1km from their current village). This high land area is considered by the indigenous communities as their traditional land and they have been using part of it for traditional rotational farming. Until now this solution has been refused by the local authorities because this high land area is “community forestry land” and no houses can be built on forestry land. The communities also emphasize that no solution has been found yet to the relocation of their ancestral graveyard.

Reportedly the provincial authorities urged the company to prepare all means for action and/or intervention to respond to any emergency situation when the water is released and to prepare houses at the relocation site for 178 families.

While we do not wish to prejudge the accuracy of these allegations, serious concern is expressed as to how this project is being undertaken, particularly in relation to the consultation with affected families and indigenous people and the failure to seek their free, prior and informed consent and the risks of their imminent forced displacement. There appears to be a serious problem in the realization of procedural rights, such as the rights to information and participation in the decisions about location of resettlements sites. We are deeply concerned that the affected population’s rights to food and housing, as well as their cultural rights, would be significantly impacted by this forced eviction.

We wish to recall that Cambodia has binding obligations under several international human rights treaties including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the Convention on the Rights of the Child (CRC).

In relation to the right to an adequate standard of living, including the right to housing, under article 11 of the International Covenant on Economic, Social and Cultural Rights, ratified by Cambodia on 26 May 1992, we further recall the General Comments No. 4 and 7 of the Committee on Economic Social and Cultural Rights, which stress the need to provide adequate legal protection from forced eviction, due process, alternative accommodation, and access to an effective remedy of those that are affected by eviction orders. According to these General Comments, Cambodia must further explore all feasible alternatives to forced eviction in consultation with the affected individuals and families. Moreover, it must carry out informed consultation, ensure that forced evictions will not lead to homelessness by providing adequate alternative housing facilities, resettlement and compensation for lost property. We also recall the Special Rapporteur on adequate housing’s report on the obligations of subnational and local governments in the implementation of the right to adequate housing (A/HRC/28/62) and on homelessness (A/HRC/31/54). We also call your attention to the Basic Principles and Guidelines on Development- based Evictions and Displacement.

Furthermore, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007 with a favourable vote from Cambodia, elaborates upon existing binding rights in the specific cultural, historical, social and economic circumstances of indigenous peoples. With respect to their rights to property in the form of land and natural resource rights, Article 26 states the right of indigenous peoples to ‘the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired’ and for legal recognition of those rights ‘with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.’ Article 10 affirms that indigenous peoples ‘shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.’

The Declaration provides for the rights of indigenous peoples to redress for actions that have affected the use and enjoyment of their traditional lands and resources. In that regard, Article 28 states that ‘indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.’

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or 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 person(s) in compliance with international instruments.

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:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information on how the Government has sought to comply with international standards regarding the duty to consult and obtain free prior and informed consent in relation to this specific project, given its significant impact on traditional lands, natural resources and sites of cultural and religious importance.

3. Please provide information on whether an environmental impact assessment has been undertaken and, if so, details of how the impact of the proposed project on indigenous peoples has been considered therein.
4. Please indicate all measures taken to ensure that alternative accommodation and adequate compensation are in place for all families who will lose their homes and livelihoods as a result of the eviction and flooding of their lands. Please indicate what mechanisms are in place for families to access justice and effective remedies.
5. Please provide information on any relevant judicial proceedings. Please indicate information on any redress and reparation measures which have been provided to the affected families.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

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.

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