

Mandates of the Special Rapporteur on the situation of human rights in Cambodia; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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 minority issues and the Special Rapporteur on extreme poverty and human rights

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in Cambodia; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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 minority issues and Special Rapporteur on extreme poverty and human rights, pursuant to Human Rights Council resolutions 42/37, 42/16, 43/14, 43/8 and 44/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning reports on **orders to dismantle floating houses and businesses along river embankments in Phnom Penh and Kandal Province inhabited by both Khmer and ethnic Vietnamese minority communities**. Allegedly, the orders and subsequent actions were taken without consultations with residents, appropriate notice, alternative accommodation or effective remedies including compensation.

According to the information received:

On 2 June 2021, the Phnom Penh Municipality declared in notice No. 038/21 that floating houses and businesses along river embankments will be dismantled with seven days' notice. According to the notice, approximately 700 families in three districts along the river in Phnom Penh would be displaced, namely Russey Keo, Chroy Chongva and Chbar Ampov.

On 10 June, the Deputy Governor of Phnom Penh stated in the media that the process to dismantle the 'illegal residencies' along the river was 95 per cent completed.¹ On the same day, the Provincial Authorities of Kandal, Kampong Cham, and Kampong Chhang stated that floating houses were also prohibited in their areas and the affected population should be relocated elsewhere.

On 13 June, the Vietnamese Association in Cambodia issued a press release informing about a ban of Vietnamese nationals from returning to Viet Nam². The border had been closed citing the need to prevent the spread of COVID-19. This had prevented evicted persons from crossing the border for several days.

¹ For more information, see Koh Santepheap Daily, Fishing farm and floating houses continue along the Tonle Sap, 22 July 2021, available at <https://kohsantepheapdaily.com.kh/article/1361976.html>. Vietnamese Association in Cambodia, press release, 13 June 2021, cited in RFA, available at <https://www.rfa.org/khmer/news/human-rights/human-right-ngos-urge-vietnamese-and-cambodian-authorities-to-jointly-solve-vietnamese-floating-home-boats-strain-at-the-border-base-on-human-rights-principle-07222021124334.html>.

On 14 June, the Kandal Provincial Authority also took action to dismantle floating houses and fish farms along the river located in the districts of Kean Svay, Lavea Eam and Luek Dek. It is unknown how many people are affected. The Director of Kandal Provincial Fisheries stated in an interview that floating houses and fishing farms deemed illegal had to move without compensation.³

Representatives from the affected population in Phnom Penh reported that after their houses and settlements were dismantled, they had to move to the mainland with their relatives while others had to move to other locations. Some families with fish farms were reportedly allowed to stay for three to six months until the fish was ready to be sold. Furthermore, it is reported that no humanitarian assistance or financial compensation was given to the affected population. One interviewed family had only received humanitarian aid donated from a Vietnamese association and a religious organization.

Information obtained on 9 and 11 June from families living on structures that were dismantled in June in Prek Pnov, Russei Keo, Chroy Changya and Chbar Ampov districts described that the evicted people are ethnic Vietnamese minorities who have lived in Cambodia for generations but had not obtained Cambodian citizenship. Some held permanent residence status. It is unclear what, if any, status, they have in Viet Nam. Stateless persons and even persons without a permanent residence card risk being deprived of a series of rights and face obstacles in their daily lives. Further information indicated that after the dismantling of their homes, part of the affected population decided to leave for Viet Nam.

On 22 July, the Leuk Dek District Governor in Kandal Province stated that, in early July, about 83 floating houses and more than 400 people had been relocated to an island on the west bank of the Lower Mekong River near the border between Cambodia and Viet Nam. In addition, another 170 families and 32 fish farms were situated on the bank of the Lower Mekong River in Peam Chor district, Prey Veng province close to Viet Nam. Other affected families, consisting of around 200 floating houses, were relocated to the Krous Village, between the border of Prek Bnaov Khan and Ponhea Leu District in Kandal Province. Some families with fish farms had been allowed to temporarily reside at the border between Prek Bnaov District, Phnom Penh and Kandal Province on the Phnom Penh side until their fish could be sold.

A 30-year-old minority Vietnamese woman who was born in Cambodia but whose parents are from Viet Nam is enduring the hardship from the eviction. She lived in a floating wooden house in Prek Pnov district with her husband and two young children. The house was connected to five others, with some of her relatives living in the other houses. She sold fish at a nearby fish wholesale market, earning 40-50,000 Cambodian Riel (USD 10-12) per day. Her husband was a construction worker who earned 40,000 Riel per day (USD 10).

It was reported that her family had been given one week to vacate and dismantle their home. Affected minority communities requested a delay of five months to one year. Authorities stated that the order came from the “higher level”, and that the delay was not granted. The family could not afford the

³ Bayon TV, 14 July 2021.

price of a rented room, especially as prices had recently increased from USD 40 to 70 per month. The family owed money to the bank and was paying back loans at a rate of 250,000 Cambodian Riel (USD 60) per month. She had lived in the house for four years. Her relatives in adjoining houses, including her aunt, had lived there for over 20 years. The family had no documents establishing ownership of their homes on the water. Their situation was further compounded by their nationality status as she was married to a Cambodian man but others living in adjoining houses only had permanent residence status, despite living in Cambodia for years. The interviewee had been unable to take the COVID-19 vaccine due to a health condition, but she stated that most of the others living around her had already been vaccinated.

Without prejudging the accuracy of the allegations raised above, we would like to express concern regarding the dismantling of floating houses and businesses along the river embankments in Phnom Penh and Kandal Province affecting their inhabitants both Khmer and ethnic Vietnamese minority communities. The dismantling appears to infringe on numerous rights protected by international human rights law, including the right of everyone to an adequate standard of living, including food and housing, and to the continuous improvement of living conditions enshrined in article 11 (1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Access to adequate housing can be a precondition for the enjoyment of several other human rights, including the rights to work, health and education. The possibility of earning a living can be seriously impaired when a person has been relocated following a forced eviction to a place removed from employment opportunities.

In connection with the above alleged facts and concerns, please refer to the Annex on **Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the legal basis for the dismantling of floating houses and businesses and how these are compatible with international human rights norms and standards related to recognizing the right of everyone to an adequate standard of living, including food and housing, and to the continuous improvement of living conditions.
3. Please provide further information on the compatibility of these measures with relevant provisions of the International Covenant on Economic, Social and Cultural Rights as detailed in the Annex, and General Comments No. 4 (right to adequate housing) and No. 7 (forced evictions) of the Committee on the Economic, Social and Cultural Rights.

4. Please provide information on consultations with residents and appropriate notice given to the affected persons, if any.
5. Please provide information on plans to provide alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid to facilitate legal, technical and other advice to affected persons about their rights and options.
6. Please provide information on short, medium and long term plans to support the affected families and individuals for their return to normal livelihoods, as well as a plan by the authority to provide humanitarian support and assistance to the affected families, in particular those who cannot support themselves and were rendered homeless after the eviction.

We would appreciate receiving a response within 60 days. Beyond this date, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

We also would like to kindly request that a copy of this letter be shared with His Excellency Samdech Kralahom Sar Kheng, the Minister of Interior and His Excellency Mr. Chea Sophara, the Minister of Land Management, Urban Planning and Construction.

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

Vitit Muntarbhorn
Special Rapporteur on the situation of human rights in Cambodia

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Balakrishnan Rajagopal
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

Fernand de Varennes
Special Rapporteur on minority issues

Olivier De Schutter
Special Rapporteur on extreme poverty and human rights

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to take this opportunity to draw your attention to applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

We would like to remind your Excellency's Government of its obligations under various international human rights instruments, in particular the ICESCR to which Cambodia is a party since 26 May 1992, and more specifically article 11 (1) recognizing the right of everyone to an adequate standard of living, including food and 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 Committee on Economic, Social and Cultural Rights adopted general comments on the right to adequate housing and housing-related issues, which provide authoritative guidance on the Covenant's provisions. The Committee's General Comment No. 4 has stressed that the right to adequate 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. This General Comment outlines the following aspects of the right to housing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy⁴.

We would also like to bring to your Excellency's Government's attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular article 27 of the ICCPR and the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination and in full equality before the law (article 4).

We further wish to remind your Excellency's Government of its obligations under article 12 of the ICESCR which guarantees the right of all people to the highest attainable standard of physical and mental health. In this connection, we would like to emphasize that General Comment 14 of the Committee on Economic, Social and Cultural Rights indicates that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation. The Committee further states that State parties have at least the core obligation with respect to the right to health of ensuring access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water (GC 14, Para.43 (c)).

⁴ Committee on Economic, Social and Cultural Rights (CESR). *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1))*, para. 8.

Protection from forced evictions

Furthermore, according to the Committee's General Comment No. 7 on forced evictions, procedural protections are essential in relation to forced evictions, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid.⁵ The Committee further emphasizes that 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.⁶

We also wish to call your attention to the Basic Principles and Guidelines on Development-based Evictions and Displacement⁷, prepared by the Special Rapporteur on adequate housing, which provides guidance on the States' obligations before, during and after development-based evictions. The Guidelines specifies that evictions can only take place in 'exceptional circumstances'; that they must be authorized by law, and ensure full and fair compensation and rehabilitation. The Guidelines indicates that States should take immediate measures aimed at conferring legal security of tenure upon those persons, households and communities currently lacking such protection, including all those who do not have formal titles to home and land; and should take specific preventive measures to avoid and/or eliminate underlying causes of forced evictions, such as speculation in land and real estate.

The Guidelines also state that any settlement agreement must satisfy the criteria of adequacy, accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education. Urban or rural planning and development processes should involve all those likely to be affected and should include the following elements: (a) appropriate notice to all potentially affected persons that eviction is being considered and that there will be public hearings on the proposed plans and alternatives; (b) effective dissemination by the authorities of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups; (c) a reasonable time period for public review of, comment on, and/or objection to the proposed plan; (d) opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and (e) holding of public hearing(s) that provide(s) affected persons and their advocates with opportunities to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities.

The Guidelines further states that States should explore fully all possible alternatives to evictions. All potentially affected groups and persons have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate. Moreover, the

⁵ CESCR. *General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions Article 15 and 16.*

⁶ *Ibid*, Para 17.

⁷ CESCR. *General Comment No. 7: The right to adequate housing, para. 7*, sets out that instances of forced eviction can occur in the name of development, including, inter alia, city beautification programmes.

Guidelines states that States must give priority to exploring strategies that minimize displacement.

Comprehensive and holistic impact assessments should be carried out prior to the initiation of any project that could result in development-based eviction and displacement, with a view to securing fully the human rights of all potentially affected persons, groups and communities, including their protection against forced evictions. “Eviction-impact” assessment should also include exploration of alternatives and strategies for minimizing harm.

The Guiding Principles on extreme poverty and human rights were adopted by the Human Rights Council by consensus on 27 September 2012, in resolution 21/11. The Guiding Principles recommend in particular that States "adopt laws protecting all individuals, groups and communities, including those living in poverty, against forced eviction by State and non- State actors. This should include preventive measures to avoid and/or eliminate the underlying causes of forced evictions, such as speculation in land and real estate" (para. 80, b)).

Housing rights in the context of the COVID-19 pandemic

We recall that the Special Rapporteur on adequate housing developed several guidance notes on COVID-19 to protect various vulnerable communities, such as persons living in homelessness or in informal settlements and has called for a ban on evictions during the COVID-19 pandemic.⁸

We refer your Excellency’s Government to paragraph 69 (a) of the report to the General Assembly which recommends Governments in the medium and long term that “the right to adequate housing, among other human rights, is central to any COVID-19 response and recovery measures and that sufficient resources are allocated to realizing that right for all, including through the formulation and implementation of human rights-compliant housing strategies and sufficient budgetary allocations”. Article 69 (c) recommends States to “end forced evictions forever and enact laws for a more regular and orderly eviction process that is fully consistent with international human rights law. That will necessarily involve fundamental changes to eminent domain laws and eviction procedures. It is critical that States ensure that no one is left in a position of increased vulnerability to COVID-19, including by being evicted for their inability to pay their rent or mortgage”. (A/75/148)

The Special Rapporteur emphasized that in the context of the COVID-19 pandemic, having no home, lacking space for physical distancing in overcrowded living areas or having inadequate access to water and sanitation has become a “death sentence”, handed out predominantly against poor and marginalized communities who face a heightened risk of infection, community spread of the virus and mortality.

⁸ For more information, the COVID-19 guidance notes are available at www.ohchr.org/EN/Issues/Housing/Pages/COVID19RightToHousing.aspx.