

Urgent Action Appeal

Cambodia: Threatened eviction of over 280 families from Dey Krahom in Phnom Penh

8 December 2007

Dear friends,

Bridges Across Borders (BAB) requests your urgent action in seeking justice for the 280 families who are threatened with eviction from their land in Dey Krahom, Tonle Bassac, Chamkarmorn District, Phnom Penh. We are deeply troubled about the large number of families who have been evicted or threatened with eviction in Cambodia. Dey Krahom is one of many poor communities in Cambodia that is fighting for their right to live free from fear of being displaced and dispossessed of their homes and property.

BAB has been working closely with this community in recent months and supporting its struggle to keep their land and upgrade their living conditions in the face of massive intimidation by the company and the authorities who seek to relocate them 20 kilometers outside of the city center under the banner of Urban Development.

Their leaders are currently either facing spurious criminal charges or have gone into hiding out of fear for their lives and liberty.

On December 10, International Human Rights Day, hundreds of residents from 19 Phnom Penh communities who are living under the threat of violent, forced eviction will gather at Dey Krahom to show their solidarity for this community and two other nearby communities that are slated for imminent eviction in the area of Phnom Penh known as Tonle Bassac.

We ask you to show your solidarity and support for the Dey Krahom community, on the solemn 60th anniversary of the Universal Declaration of Human Rights, by urging the Cambodian authorities to respect their fundamental rights and refrain from the gross human rights violation of forced eviction.



Your urgent action is needed to encourage the Cambodian government to:

1. Immediately stop the ongoing evictions and put in place a moratorium on evictions until the land dispute is settled;
2. Recognize the social land concession, which was granted to the residents of Dey Krahom in 2003;
3. Initiate dialogue with the residents of Dey Krahom, in consultation with civil society groups, for the implementation of onsite development of Dey Krahom as promised by the Prime Minister Hun Sen in 2003.
4. Ensure that all families who have already been evicted or coerced into moving are provided with fair and just compensation and adequate rehabilitation for their losses.

Suggested Action:

Please send an appeal letter, e-mail or fax to the following addresses:

1. H.E. Samdech Hun Sen
Prime Minister
Royal Government of Cambodia
Office of the Council of Ministers
#38, Russian Federation Blvd.
Phnom Penh,
Cambodia
Fax: 855 23 726 127 / 23 880 619
E-mail: ocm@cambodia.gov.kh

Governor,
Phnom Penh Municipality
69 Preah Monivong Blvd
Phnom Penh,
CAMBODIA
Fax: 023-211-081, 023-724-156
E-mail: phnompenh@citybigpond.com.kh

2. H.E. Sar Kheng
Deputy Prime Minister
Minister of Interior
275 Norodom Blvd.
Phnom Penh
CAMBODIA
Tel/fax: +855-23 72 19 05/72 60 52/72 11
90
Email: info@interior.gov.kh,
moi@interior.gov.kh

5. Mr. Sok An
Deputy Prime Minister
National Land Dispute Authority
41, St Confederation de la Russie
Phnom Penh
CAMBODIA
Tel: +855 12 970 608
Fax: +855 23 881 045
Email: info@pressocm.gov.kh

3. H.E. Chhan Saphan
Secretary of State, Ministry of Land
Management
#771-773 Monivong Blvd
Boeung Trabek, Chamkar Morn
Phnom Penh,
CAMBODIA
Fax: 855 23 215 660
E-mail: mlmupc@camnet.com.kh

6. Mr. Eng Chhai Eang
Member of Parliament
National Land Dispute Authority
71 Sothearos Blvd, Tonle Basac,
Khan Chamcar Morn
Phnom Penh
CAMBODIA
Tel: +855 12 73 1111
Fax: +855 23 211 336
Email: srphq@online.com.kh

4. H.E. Kep Chuktema

Background information and a sample letter are provided below:

Sample Letter

Dear Samdech Prime Minister Hun Sen:

Threatened eviction of over 280 families from Dey Krahorm

I am writing to you out of deep concern for the plight of the 280 families living in Dey Krahorm, Tonle Bassac, Phnom Penh, including some of Cambodia's most precious artists and musicians. I am concerned that the actions of the Phnom Penh Municipality together with the 7NG Construction Company Co Ltd breach domestic and international law, and overturn your generous 2003 commitment to ensure the tenure security and improve the living conditions of this poor community. We request that you take immediate action to protect the affected families.

According to the information I have received from Cambodian civil society groups, families have been residing on the land peacefully since 1980. The community was promised a social concession of 3.7 hectares of the total 4.7 hectares by the Council of Ministers in Letter 875 on 8 July 2003. However, the 7NG Construction Company Co Ltd with Mr Srey Chanthou as Chairman, entered into an unlawful agreement with the former village chiefs and few representatives of the Dey Krahorm community for land exchange of the 3.7 hectares of social concession land for 'housing' on a

relocation site 20 km away in Damnak Trayeung on 13 January 2005. The community were never consulted about the contract or their desire to swap the land for a site outside of Phnom Penh.

The communities repeated request for the nullification of the contract were rejected by the Municipality and other government authorities. On a number of occasions since 2005, public authorities together with the 7NG company have repeatedly subjected the community to arbitrary raids; violent acts, including acts of bodily harm; and the destruction of property and housing.

I want to draw your attention to the fact that the forced evictions violate the state's obligation to respect, protect, and fulfill the affected peoples' rights to land and housing under the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Cambodia is a state party. The state has violated its obligations as elaborated by the UN Committee on Economic, Social and Cultural Rights in its General Comments Nos. 4 and 7 on the right to adequate housing and forced evictions.

The Municipality's and 7NG Companies action violates Cambodian law. Article 18 of the Sub decree on Social Land Concessions explicitly states that 'the target land recipient may not sell, rent or donate social concession land during the first five (5) years of the implementation of the social land concession program. If a target land recipient fails to meet the occupancy and use conditions, the land shall revert to the state for reallocation.' Therefore, former community representatives would have had no right to transfer the land according to the contract with 7NG therefore the contract would be illegal under the sub decree.

Furthermore, Article 1 and 2 of the Cambodian Contract Law explicitly require all contracts to be entered into freely, among informed parties, with an absence of fraud, deception, or duress, 'so as to abolish the exploitation of one party by another.' Article 19 further states that 'contracts resulting from fraud, where acts of deception, dishonesty, or misrepresentation are used, are invalid'. It is therefore abundantly clear that as a matter of law, the contract between 7NG and the former community representatives is not valid.

As such the contract and the forced eviction of the community is contrary to the Constitution and domestic law of Cambodian. I therefore, urge the Cambodian government to:

1. Immediately stop the ongoing evictions and housing demolitions and put in place a moratorium on evictions until the land disputes is settled;
2. Initiate dialogue with the residents of Dey Krahom, in consultation with civil society groups, for the implementation of the onsite development of Dey Krahom that Your Excellency called for on 23 May 2003;
3. Implement Council of Ministers Letter 875, dated 8 July 2003, which states that Dey Krahom community will be provided a social land concession;
4. Ensure that all families who have already been evicted or coerced into moving are provided with fair and just compensation and adequate rehabilitation for their losses;
5. Take all necessary measures to prevent further forced evictions being carried out in violation of international human rights law;
6. Guarantee and respect human rights, including the right to adequate housing for the urban poor.

I look forward to your response. Thank you very much for your time and consideration.

Respectfully yours,

[Address
[organisation]

[country]
[Email]

Background

The community began living in Dey Krahom, the 'Red Soil Village' from early 1980's, when they cleared the inhabitable swamp-land and back-filled with red soil, hence the name. 805 families comprising of street vendors, hawkers, gifted musicians and artists lived peacefully in Dey Krahom till 2005.

On May 24, 2003, the Cambodian Prime Minister Hun Sen announced a policy to provide secure land tenure and to assist in the on-site upgrading of 100 inner-city poor communities each year for the coming five years, until all of Phnom Penh's urban poor communities have secure land tenure and full basic services. The Prime Minister specifically mentioned Dey Krahom, along with three other urban poor communities, which would be the first beneficiaries of this plan.

On 8 July 2003, the Council of Ministers responded to the Prime Minister's call by issuing Letter 875, which initiates a social land concession of 3.7 hectares of the total 4.7 hectares to the Dey Krahom community for on-site residential development. The remaining land would be granted to a private company willing to finance the development. The Municipality of Phnom Penh was assigned to survey the community and implement the plan. This never came to pass.

Rather, on 13 January 2005, the 7NG Construction Company Co Ltd with Mr Srey Chanthou as Chairman, conspired with the former village chiefs and few representatives of the Dey Krahom community and entered into an agreement for land exchange of the 3.7 hectares of social concession land for 'housing' on a relocation site in Damnak Trayeung village, 20km outside of Phnom Penh. The community claims they were never consulted about the contract or their desire to swap the land for site outside of Phnom Penh. Having discovered the contract signed between 7NG and their village chiefs, Dey Krahom community democratically voted in new village representatives.

Even though numerous complaints were filed by the new village representatives from January 2005 to date, requesting the nullification of the contract, the Department of Land Management, Urbanization, Construction and Cadastral Survey issued an Ownership title to 7NG on 14 December 2005, therefore confirming property rights to 7NG over the land of Dey Krahom.

On 6 July 2006, the municipality issued an announcement to the villagers to join a 'house lottery' in order to get new housing in the relocation site in Damnak Trayeung village. This announcement was followed by threat and intimidation from the 7NG security guards, an elderly villager was severely beaten and sustained injuries to his head in one such incident. On 5 August 2007, 344 families took part in the 'house lottery' for housing in the relocation site. Many families reported threats and intimidation from 7NG leading up to the lottery and claim their participation was forced and unlawful. 49 families refused to participate, these families later were identified and received notice to demolish and vacate the land by 15 August 2006 from the Phnom Penh Municipality. By 16 August 2007, the 49 families were issued with summons from the Municipal Court to explain their refusal to participate in the 5 August 2006 'house lottery' resulting in 'non-execution of the contract'. [7NG contract]. The families did not to attend the court date 27 August 2007.

On 29 August 2007, armed military police, police and hired workers 'breakers' with crowbars and hatchets arrived at Dey Krahom and demolished over 30 houses they identified as those of the 'former renters' and 'families that have returned from relocation site'. During the incident a women was wrestled to the ground and handcuffed by a 7NG representative and a military police and detained on the charge

of 'injuring a police officer'. She remained handcuffed for several hours; she was later released after the community demonstrated in front of the National Assembly.

The community resisted the military police, police and breakers the following days on 30-31 August 2007. They waved flags and pictures of Prime Minister Hun Sen and his wife, Bun Rany and broadcasted casting announcements regarding Dey Krahom's inclusion in the government's Development Plan for the Poor.

The community have carried out mapping of the land and houses and have taken steps to prepare an on-site development plan for Dey Krahom in accordance with Hun Sen's 2003 promise. There are currently 280 families in Dey Krahom.

On 3 December 2007, at around 7:30pm, the 7NG company parked a giant excavator in front of the community and the driver proceeded to extend and retract its mechanical arm in a clear provocation. Community representatives approached the driver and asked him to leave, which he refused to do. Shortly thereafter, children from the community began throwing rocks at the machine, shattering its windows, in spite of the pleas of community leaders to refrain from violence.

The following day, nearly all of Dey Krahom's thirty representatives went into hiding after being threatened with arrest on charges of incitement to violence. Some representatives have since given up the fight and sold their land to the company for fear of being arrested if they continue to press for their alternative development land-sharing plan.

7NG Chairman Srey Sothea describes the Dey Krahom community, which includes some of Cambodia's most gifted musicians, artists and sports figures, as "an anarchic slum where gangs use drugs and set up brothels." He adds that, "It is a kindness by us that we want to buy houses from them."

Further Information

If you have any queries, please do not hesitate to contact BAB Cambodia:

David Pred
#144-H Street 143
BKK III, Khan Chamcarmon
Phnom Penh, Cambodia

Kindly bcc a copy to office@babsea.org so we can monitor the responses. Thank you!