

Observations on the State of Indigenous Human Rights in Cambodia

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Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous peoples' rights in countries throughout the world and publishes its findings in its magazine, the Cultural Survival Quarterly; and on its website: www.cs.org

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I. Executive Summary

Despite voting for the UN Declaration on the Rights of Indigenous Peoples, Cambodia continues to forcibly and illegally evict Indigenous Peoples off their land. Although Cambodia supported recommendations from the previous cycle in 2014, the government continues to forcibly evict Indigenous Peoples without Free, Prior and Informed Consent (FPIC) and just compensation.

II. Background

Cambodia recognizes 17 Indigenous Peoples, also referred to as Khmer Leou, or hill tribes, while the Cambodia Indigenous People's Organization identifies 24. At least 19 Indigenous languages exist in Cambodia, falling into two main categories, Austronesian, and Mon-Khmer. Indigenous People make up about 1.2% of the population, or about 200,000 people.ⁱ

The Prime Minister, Hun Sen, has been in power since 1985 and has dissolved opposition in his authoritarian rule. In May 2018, Hun Sen told 2,000 garment factory workers that those who insult him would eventually die or be jailed. He mentioned Son Sen, the security chief who was murdered by Pol Pot in 1997 and Khieu Samphan, who is serving a life sentence for crimes against humanity, as examples. He then narrowed in on a group of people killed by lightning in the Areng Valley, whom he said died because they insulted him too many times. He maintains that car crashes, lightning strikes, and fires, as well as arrests and murders, are the direct result of insulting him.ⁱⁱ The victims of lightning in the Areng Valley had no known connections to the opposition, but they were Indigenous People in an area that has been marked by struggle over the proposed Areng Dam. The Prime Minister's comments demonstrate a culture of intimidation against human rights defenders, and Indigenous Peoples seeking recognition of their land rights.

The majority of Cambodians rely on subsistence farming. Deforestation remains a major issue in Cambodia, although the government has stated its goal to reach 60% tree cover by 2030.ⁱⁱⁱ With economic interests tied to exploiting natural resources, many Cambodian Indigenous Peoples have been forcibly evicted from their home lands. Increases in water levels due to hydroelectric dams or to changing weather patterns leave forested areas that are usually flooded only seasonally underwater permanently, leading to destruction of areas, impacting fish populations, and resources Indigenous people rely on for livelihoods.^{iv} Climate change has made dry seasons drier and the rainy seasons rainier, increasing high flooding and drought,^v impacting Indigenous Peoples' rice farming and fishing.

Cambodia voted for the adoption of the UN Declaration on Rights of Indigenous Peoples (UNDRIP) but has not signed onto ILO Convention 169.

III. Past UPR Recommendations

Several recommendations from the first and second cycle remain to be properly implemented. These include: *tackling illegal land evictions, including those against indigenous people;*

creating conditions favourable to inter-ethnic tolerance in Cambodia; prioritizing land evictions and working with the Special Rapporteur to ensure an end to forced evictions and fulfil its obligations to respect and protect the human rights of indigenous groups; enhancing public awareness of human rights in general and the human rights of indigenous people; combating the culture of violence and impunity and better protecting human rights defenders, including indigenous leaders.

IV. Continuing Rights Violations

A. Land Rights & Displacement

Indigenous Peoples in Cambodia continuously face land evictions. Adhoc, a Cambodian human rights group, estimates 600,000 people have been forcibly evicted from their homes.^{vi} Protesting land grabs has proven deadly. Land disputes date back to the Khmer Rouge and continue today as Indigenous claims to land are not respected. In 2012, security forces opened fire on 1000 families in the Kratie province, killing a 14 year old girl. The families were being evicted to make room for a rubber plantation headed by agribusiness Casotim. No one was prosecuted for this case. The government failed to obtain the Free, Prior and Informed Consent of the people before removing them from their lands or to provide fair compensation and the opportunity of return.

Indigenous Peoples right to FPIC before any development projects take place on their lands has been largely ignored by the government prioritizing potential economic gains. This has been the case with the proposed Stung Cheay Areng Dam project in the Areng Valley, a biodiversity hotspot, home to the Chong people. Neither the Cambodian Government nor the Chinese-owned dam company Sinohydro have made any efforts to consult with and gain the consent of the local Indigenous Chong people. Despite the government and the company acknowledging that more studies are needed before construction begins, there is no indication that these studies will include obtaining the FPIC of the Chong people.^{vii} The dam would destroy the ancestral homeland of the Chong, who have declared their opposition to the project and in 2014 blockaded access to the valley for several months in an attempt to stop the dam from moving forward.^{viii} Despite Prime Minister Hun Sen's claims that the dam would not be built until at least 2018,^{ix} the Environmental Ministry has still been building high voltage transmission lines at the site as of 2017.^x

The management of large-scale hydroelectric dams in Cambodia has also shown an alarming disregard for public safety and the livelihoods of Indigenous villagers, as shown during the launching of the Sesan Dam in Stung Treng province which closed its gates in 2017, leading to the flooding of an Indigenous Phnong and Lao community in the villages of Kbal Romeas and Srekor.^{xi} The Phnong People have lived in the area of Mondulkiri in eastern Cambodia for 2,000 years and are now at constant threat of eviction in the interest of building the hydroelectric dam.^{xii} The government and Hydro Power Lower Sesan 2 Co Ltd, the Chinese company building

the dam, forced the relocation of families affected by the flooding and offered no real consultation with Indigenous Peoples. Rather, the government offered small plots of land or a lump sum of \$6,000 per family. Many community members said they would rather die than leave their village.^{xiii} “Our ancestral graves cannot be compensated with cash or moved from our village,” said a woman from Kbal Romeas. “Our culture, traditions, identity, and guardian spirits have strong connections to the land, which is our home. These strong connections enable us to use natural resources in the forest and river in sustainable ways. This has been recognized and respected as the right of Indigenous people. We will not move from our home village!”^{xiv} Parts of the relocation site where the Srekor villagers were moved to, were subsequently flooded, including newly established farming plots and a new road.^{xv} 258 Phnong villagers refused to leave refused to be relocated and continue living on the dry outskirts of their ancestral lands, although most of the traditional lands are flooded. Although the regional government made a verbal promise in February 2018 to provide infrastructure support to the communities who continue to live close to their flooded lands, Deputy Provincial Governor Duong Pov refused to sign a contract indicating as such.^{xvi} Meanwhile, valuable rice paddies that were still usable after the flooding were taken by the government by force.^{xvii}

Gold mining operations are encroaching onto Kuy People’s land in Preah Vihear, in the north of the country. Despite operating under an expired license, the mining company Delcom is expanding operations on to villagers’ land without FPIC; in some cases, the villagers had legal land titles which Delcom ignored and mined without asking the owners.^{xviii} In January 2018, seven villagers brought a petition to the government in Phnom Penh asking for help and saying they were coerced into signing contracts that allowed Delcom to mine on their land. A signed petition states, “Because we are poor and illiterate and did not understand the meaning in the contract, and there was intimidation from commune authorities as well.”^{xix} Delcom’s backers remain unclear but some evidence has shown it may be linked to both Cambodian government officials and Malaysian interests.^{xx} A National Assembly member who claims to have once been the owner of Delcom says that the company left the area a decade ago. One villager said that she was threatened with jail by soldiers of the Royal Cambodian Armed Forces who guard the mine and apparently operate under the command of Hing Bun Hieng, commander of the Prime Minister’s personal bodyguard.^{xxi} After an environmental NGO posted a video to Facebook of Kuy villagers discussing the mining operations, the local government has given land to two families who were affected by mining in the area. The provincial governor, Un Chenda, said that all land disputes have been resolved, but villagers claim that there were around 14 more unresolved disputes in August 2017.

B. Conservation

As protectors of land, Indigenous Peoples play an important role in the struggle against climate change. Additionally, as Indigenous Peoples represent 33% of people living in extreme poverty, they are especially vulnerable to the effects of climate change, despite contributing the least to

the issue.^{xxii} The Special Rapporteur on the Rights of Indigenous Peoples notes that climate change will hurt Indigenous communities through consequences such as “increased risk of diseases, reduced biodiversity, destroyed crops, changing animal routes and food insecurity.”^{xxiii} Indigenous Peoples should be included in Cambodia’s efforts towards climate change solutions as they hold unique traditional knowledge about the environment.^{xxiv} Indigenous knowledge should be recognized and reflected in adaptation efforts. Chak Sopheap, director of the Cambodian Center for Human Rights, states, “Indigenous groups are the first victims of Cambodia’s fast-paced destruction of forests,” because of their reliance on natural resources.^{xxv}

Despite stating its support of reforestation efforts to reach 60% tree cover by 2030, the State continues to turn a blind eye towards intimidation and violence against the Prey Lang Community Network, a group of Indigenous Kuy community forest monitors who peacefully patrol the forest and advocate to bring attention to illegal logging.^{xxvi} Since 2015, the Prey Lang Community Network has observed 3,011 illegal logging activities.^{xxvii} The systemic illegal logging on Indigenous land and tacit government sanctioning of it violates several articles of the UNDRIP. Although Prime Minister Hun Sen issued a ban on logging exports in 2016, London-based Environmental Investigation Agency revealed in 2017 that Vietnamese loggers continue to smuggle timber across the border by bribing Cambodian officials.^{xxviii} Government officials have tried to restrict the free movement of Indigenous Peoples in Prey Lang on their own traditional lands. In November, 2017, the government told environmental defenders that if they were going to patrol the Prey Lang forest for illegal logging activities then they must obtain advance permission and include the rangers and officials on patrols. Environment Minister Say Sam Al told Indigenous forest protectors, “I request you to work with provincial authorities...But if they want to go on their own, they must also tell [authorities] about the date [and] location because they do not go anywhere they want.” Those who live in and protect the forest are worried by the new rule because systematic collusion between corrupt officials who profit off of illegal logging has been well documented in the area, and they will easily be able to tip off illegal loggers.^{xxix} Prey Lang, “Our Forest,” is home to the Kuy People. According to the Prey Lang Community Network, “The forest is an important part of Kuy culture and spiritual life and also serves as a vital resource for Kuy families’ livelihoods.”^{xxx} In January, 2017, the government agreed to launch the planning phase of the project, Reducing Emissions from Deforestation and Forest Degradation (REDD+) in the Prey Lang forest.^{xxxi} The forest is home to approximately 200,000 Indigenous people, whose home is now included in a transnational project to protect the ecosystem by allowing companies to purchase carbon credits in Cambodia’s forests in order to offset their carbon emissions. REDD+ aims to safeguard valuable forests in developing nations, but in this case it relies on the Cambodian government to administer funds, which it may be poorly equipped to do properly. REDD+ runs the risk of cutting Indigenous Peoples out of their own lands by fencing “protected areas.” That said, REDD+ promises to make decisions based on a task force that includes Indigenous Peoples on its committees.^{xxxii} Indigenous Peoples from across the country were included in the early stages of REDD+ in the form of more than 30

representatives to several boards on the project. Indigenous Peoples also made recommendations to improve feedback about REDD+ policies.^{xxxiii} To truly be effective, the REDD+ needs to work to adequately center the Kuy people and ensure the FPIC of Indigenous Peoples is gained at every stage.

C. Criminalization against Indigenous Human Rights and Environmental Defenders

The Business and Human Rights Resource Center recorded a 34 percent rise in killings of human rights defenders worldwide in 2017.^{xxxiv} Human rights defenders, especially Indigenous community defenders, face increasing violence and opposition to their work, and Indigenous land rights defenders were found to be at the greatest risk of attack.

In April, 2012, Chut Wutty, a Kuy environmental defender, was shot and killed during an altercation with military police in Koh Kong province while he was attempting to photograph illegal logging activities. In October 2012, the provincial courts dropped the case.^{xxxv} Six years later, Wutty's family is still seeking justice and demanding that the court investigate further.^{xxxvi} The Cambodian Youth Network and other groups organized a public memorial program to honor Wutty, but the groups were prevented by police from carrying it out.^{xxxvii} In February, 2018 three men, a forest ranger, a police officer and a worker with the non-profit Wildlife Conservation Society, were shot and killed by border security forces while returning from a patrol in the Keo Seima wildlife conservation sanctuary. Six people were charged with premeditated murder for the killings.^{xxxviii}

In March 2016, Prey Lang Community Network, Indigenous activists, on a similar patrol of the Prey Lang forest to combat illegal logging in the area, were attacked while they slept.^{xxxix} Activist Phorn Sopheak suffered a serious cut to her leg when one of the attackers slashed her while she was in her hammock. If she had been lying the other way, her throat would have been cut. One year after her attack, no justice has been served. "I have not heard anything from the police since the attack. They did not get back to me with any information about my case. This worries me. If the authorities don't act to investigate attacks like these, what will then happen in the future to my fellow PLCN members?" Phorn Sopheak asks.^{xl}

In April, 2018, Ven Et, an Indigenous human rights defender in the Areng Valley, submitted a petition asking the government to support the Chong people in applying for communal land rights to the Ministry of Rural Development, UN Office of the High Commissioner on Human Rights, and the Prime Minister's cabinet. Two weeks later, Ven Et received a death threat from Chumnaop first commune council, Til Chan, a member of the government's Cambodian People Party (CPP). In May of 2018, after returning to his home from 12 days of hiding, shots were fired at Ven Et while he was standing outside his home. Though he was not physically harmed, he is still worried for both his own safety and that of his family.^{xli}

Ven Vorn, the brother of Ven Et, was one of four Areng Valley environmental activists arrested in 2015. Vorn was found guilty of “forest crimes” including harvesting forest products without authorization by the Koh Kong Provincial Court. The criminalization of Indigenous People for harvesting resources from their own lands is in direct opposition to the UNDRIP. “The allegation is incorrect, because we are the native villagers living there and the law states we have right to [utilise forest] for community benefit without any permission,” Vorn explained, adding that he believes the allegations were intimidation over his and his brother’s involvement in protesting the Chinese hydropower project in the Areng Valley.

V. Questions

1. What efforts are currently underway to investigate death threats against Chong environmental defender and human rights activist Ven Et?

VI. Recommendations

Cultural Survival urges the government of Cambodia to:

1. Ratify ILO Convention 169.
2. Ensure the Free, Prior and Informed Consent of Indigenous Peoples in all stages of projects that affect them.
3. Invite the UN Special Rapporteur on the Rights of Indigenous Peoples to visit Cambodia.
4. Engage in remediation, land titling and compensation for use and damage of Indigenous lands, with the Free, Prior Informed Consent of affected communities.
5. Investigate death threats and attempted murder of Chong environmentalist Ven Et and Kuy activist Phorn Sopheak and take steps to ensure their safety, security, and access to justice.
6. Work with the Chong community to facilitate the process of community land titling in the Areng Valley.
7. End the criminalization of peaceful activism by Indigenous environmental defenders.
8. Create a National Action plan on implementing the rights of Indigenous Peoples based on the World Conference on Indigenous Peoples’ Outcome Document.

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