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Statement by the Cambodia Office of the High Commissioner for Human Rights

28 January 2009

THE EVICTION OF DEY KROHOM RESIDENTS: A SETBACK FOR THE RULE OF THE LAW

We have watched with consternation the sudden and violent eviction of what remained of the Dey Krohom community over the Chinese New Year weekend. After nearly a month of protracted negotiations between the residents, the 7NG Construction company and the Municipality, aimed at finding a mutually agreeable settlement of compensation claims, the company unilaterally withdrew from the discussion and the suspended eviction order was implemented by law-enforcement agencies. The eviction was carried out in the middle of the night, with bulldozers, tear gas, rubber bullets, batons, and workers equipped with sticks and axes contracted to demolish the houses. All families were brutally taken out their houses and those who resisted and attempted to protect their property were beaten and pulled away. The residents were thrown onto the street to watch their homes being destroyed. At dawn, what remained was a heap of debris and ashes.

This is the latest in a far too long series of violent evictions in the capital.

The majority of Dey Krohom residents, like those of the Bassac area previously forced out of their lands and houses, and those living in adjacent “Group 78 and “Building”, who may be evicted in the future, had been living in this neighborhood since the early eighties, when people were allowed back into the emptied city after the Khmer Rouge regime. They had been living peacefully in this area since. This being so, most of the residents meet the criteria for possession rights under the 2001 Land Law. However, no determination of property rights has ever been made by the authorities, leaving property rights in a limbo and exposed to arbitrary decisions and abuse. The municipal authorities have failed to uphold the law and protect the rights of its residents of Dey Krohom.

In 2003, the Royal Government gave the community an in-situ social land concession, an arrangement which under the land law is supposed to protect poor communities’ right to their land. This eviction is a breach of the residents’ right to their land, of this agreement and an abuse of the land law, which protects the private property of the people of Cambodia. Both the Constitution and the Land Law state that no one can be arbitrarily deprived of their land without fair compensation. The blatant disregard for these basic principles illustrates the fundamental weakness of the rule of law, when

ordinary citizens are faced with big corporate interests, supported by public authorities. The dispossession of legally possessed or titled private property is an offence under Cambodia law.

This eviction could have been avoided. Over three years ago, negotiations were initiated between 7NG and the residents. The company offered to build alternative housing in the newly established housing area in Damnak Trayeung village, in Dangkor district. The company brought running water and electricity to the site, built compartment-type houses, and a market place close to a garment factory owned by the company employing 2,000 workers. In comparison to previous practice, this was a welcome process, with fairer compensation.

Since then the price of land has increased considerably, and with it the demand by the remaining residents for adequate compensation taking into account market prices. This is a legitimate demand. While about 1,300 families have agreed to relocate to Damnak Trayeung, a remaining group of about 150 families, including at least 90 with legitimate land rights claims, have been refusing the company's offers which they consider far below the market price. They have resisted the company's pressure, threats, intimidation and legal action against 9 of its members, aimed at forcing their hand. In this process, they have been unfairly portrayed as "anarchic and "opportunistic elements" and the area as a hub for violence, robbery, drugs and prostitution.

Civil society organisations have been working for years with this community, calling for the land law to be implemented and fair compensation to be provided. Our Office has supported these recommendations, and has worked actively to obtain further respite and to encourage the municipality and the company to resume negotiations with the residents, so as to reach a peaceful and fair mutually agreeable settlement. Its recommendation was accepted by the municipality in late December 2008 and negotiations resumed. Group negotiation broke down on 16 January but individual negotiations continued until 24 January. The eviction was suddenly ordered the following day, and immediately carried out, thus squandering the opportunity to find a just and peaceful solution. While the residents have lost their land, houses and property, they are still entitled by law to fair compensation. This is the responsibility of the Municipality and the company under the law of the Kingdom. The Office recommends that the last average offer of 20,000 USD made by the 7NG to the residents be considered. Any housing offered as part of this compensation should meet basic standards in terms of access to water, sanitation, electricity, health care and education.

This most recent episode of violent eviction in the name of urban development and "city beautification" runs contrary to the Government's policy of good governance, rule of law, human development and poverty reduction, which is supported by development partners. Had the law been implemented from very the beginning of this process, a lawful and peaceful solution would have had to be found. It is not too late for the Municipality, the Government and the company to demonstrate that the land law can be upheld and applied to protect the rights of all citizens, regardless of their wealth or social status.