



## REPORT FOCUS

### **Khmer-Kampuchea Krom**

The Khmers from Kampuchea-Krom (literally “southern Cambodia”), also known as Khmer Krom, are indigenous to Cambodia. Moreover, there is also a significant population of Khmers living in the Mekong River delta region of Viet Nam. Despite regional ties and a close relationship with the people living in Cambodia, the territory of the Khmer Krom was incorporated into Viet Nam during decolonisation, rather than into Cambodia. In addition, under the Vietnamese Presidency of Ngo Dinh Diem (1955–1963) all Khmer names were changed to Vietnamese, forever altering Khmer identity. As a result, the Khmer Krom in Viet Nam are viewed as Khmer, and those in Cambodia are viewed as Vietnamese. The Khmer continue to face persecution in Cambodia because of the assumption of their “foreignness”, despite their ancestral ties to Cambodia. Forced repatriations of Khmer (which are often simply deportations as many Khmer have been living within Cambodia for several generations) to Viet Nam by the Cambodian government are commonplace.

The Khmers Kampuchea-Krom Foundation (KKF) is an international organisation dedicated to the defence of the fundamental rights and the cultural legacy of the Khmer Krom. The Federation has been a Member of the Unrepresented Nations and Peoples Organization (UNPO) since 2001.

### **Montagnards**

The Montagnards, also referred to as Degars or Montagnard Degars, inhabit the area known as the Central Highlands, straddling the borders of Viet Nam and Cambodia and stretching into Laos. Towards the end of the 17<sup>th</sup> century Vietnamese invasions forced the Montagnards to permanently retreat into the mountains and leave the coastal regions, forever altering their traditional way of life and placing them in the precarious position as “outsiders” no matter where they dwell.

## HUMAN RIGHTS ISSUES

### **Land Rights Claims**

Since 2003 approximately 420,000 people have been affected by forced evictions, land disputes and land grabs in Cambodia.<sup>1</sup> This includes some 17,500 residents from around Phnom Penh's Boeung Kak Lake who have been forcibly evicted in response to a corporate lease granted to Shukaku Inc by the Cambodian government in 2008.<sup>2</sup> Nearly 4,000 families have lost their land, their homes and their livelihoods as a consequence.<sup>3</sup> The confiscation of land from the poor continues with illegal concessions awarded to foreign firms, government officials, and to those with connections to government officials.<sup>4</sup>

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<sup>1</sup> Amnesty International, “The State of the World’s Human Rights” (Pureprint Group, 2012) 95.

<sup>2</sup> *Forced Eviction of Boeung Kak Lake, Phnom Penh, Cambodia* (2012) <<http://forum-habitat.org/site/en/forced-eviction-boeung-kak-lake-phnom-penh-cambodia>>.

<sup>3</sup> Amnesty International, above n 1.

<sup>4</sup> Human Rights Watch, *World Report 2012: Cambodia* (2012) <<http://www.hrw.org/world-report-2012/world-report-2012-cambodia>>.



Furthermore, in August 2011 over 100 protestors were arrested in Cambodia's capital Phnom Penh for distributing pamphlets advocating for forest preservation.<sup>5</sup> These activities demonstrate that the authorities are not upholding their obligations under the International Covenant on Economic, Social and Cultural Rights to guarantee the right to adequate housing and protect the population against forced evictions.

Authorities often provide insufficient notice of impending evictions, and inadequate housing and compensation to displaced people afterwards. Article 5 of the Cambodian Law on Land stipulates that the expropriation of private property by the State 'shall be carried out in accordance with the forms and procedures provided by law and regulations and *after the payment of fair and just compensation in advance*'.<sup>6</sup> However, no sufficient action has been taken by the Cambodian government regarding compensation for the dispossessed peoples. Article 17 of the Universal Declaration of Human Rights (UDHR) stipulates the right to ownership of property. However, the incidents described above effectively demonstrate that this right is repeatedly infringed and violated by the Cambodia government.

Outstanding land claims in theory could be resolved within the framework of International Labour Organization Convention 169 (ILO169)<sup>7</sup> concerning Indigenous and Tribal Peoples in Independent Countries. Article 14 of ILO169 addresses the right to ownership of land by indigenous peoples which have a historic claim to these lands. Unfortunately, Cambodia has neither recognised the Khmer Krom as indigenous peoples, nor have they signed and ratified this Convention. Khmer people that wish to enforce their rights as have been laid down by the UDHR are faced with excessive violence, torture, and arbitrary arrests.

## **Refugees & Forced Repatriations**

Despite the government of Cambodia officially stating that all Khmer Krom are to be considered Cambodian nationals—regardless of where they were born—many Khmer Krom face discrimination and difficulties in obtaining refugee status or identity cards in Cambodia. In order to be classified as a refugee, one must be outside their country of nationality for a fear of persecution.<sup>8</sup> However, as the Khmer Krom who flee Viet Nam for fear of persecution are ostensibly Cambodian nationals, they must show that there is a danger of such persecution in both Viet Nam *and* Cambodia. This is especially pertinent when Khmer Krom seek asylum in third countries, such as Thailand. Moreover, there is a discrepancy between the supposed granting of citizenship to all Khmer Krom and the application procedures for identification cards. Such identification cards are required to “access employment,

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<sup>5</sup> Chris Lang, *Villagers Detained for Handing Out Leaflets About Prey Lang Forest in Cambodia* (2011) <<http://www.redd-monitor.org/2011/08/19/villagers-detained-for-handing-out-leaflets-about-prey-lang-forest-in-cambodia/>>.

<sup>6</sup> *Law on Land 2001* art 3 (emphasis added).

<sup>7</sup> International Labour Organization, “C169 Indigenous and Tribal Peoples Convention”.

<sup>8</sup> Cambodian Center for Human Rights, “False Promises – Exploring the Citizenship Rights of the Khmer Krom in Cambodia” (Cambodian Center for Human Rights, 2011) 19.



education, land rights, welfare and generally to unlock the rights and benefits that are attached to citizenship”,<sup>9</sup> however Khmer Krom from Viet Nam face many obstacles in obtaining such cards.

In order to obtain an identification card, the individual in question must provide a birth certificate, a family book and a court verdict, Royal Decree or other evidence showing parents with Khmer ancestry,<sup>10</sup> and must be able to demonstrate occupation of a permanent address in Cambodia. Many Khmer Krom arriving from Viet Nam have very little money and cannot afford to rent a property in order to acquire a permanent address. However, even when Khmer Krom manage to meet all the legislated criteria for the granting of an identification card, in many instances they are still denied citizenship. Such denials are influenced by quasi-racial discrimination, as Khmer Krom often have Vietnamese names, speak with a different accent and have a different skin tone. Evidence of the xenophobic nature of this discrimination is visible in the practice of the issuing officials encouraging the change of the Khmer Krom’s family name to a Khmer name and their place of birth to Cambodia, and the subsequent granting of ID cards based on this perjury.<sup>11</sup> The refusal to grant identification cards and the subsequent encouragement of changing Khmer Krom identities are abhorrent for several reasons: they are racially motivated, they are illegal and unconstitutional, and they fly in the face of Cambodia’s public announcement that all Khmer Krom are welcomed as Cambodian citizens.

In 2011 the Cambodian government pressured a United Nations (UN) refugee centre to cease its operations.<sup>12</sup> This centre had accepted many Degar refugees from Viet Nam, where they have been persecuted because of their evangelical Christian beliefs. The closure of this refugee centre, and Cambodia’s history of the forced return of Degar, does not inspire confidence in Cambodia’s ability to uphold its obligations under the 1951 Refugee Convention and the associated 1967 Protocol.<sup>13</sup> Further evidence of Cambodia’s violations of these obligations can be seen in its forcible deportation of a group of Chinese Uighurs in December 2009, which happened to coincide with a pledge of military aid from China.<sup>14</sup>

Despite international pressure from various non-governmental organisations (NGOs) and human-rights organisations, the Cambodian government has not yet amended its sub-decree of the determination of refugee status (which allows Cambodia’s Interior Ministry, not UN High Commissioner for Refugees (UNHCR), to make the final decision regarding refugee status)—which as it currently stands fails to comply with the 1951 Refugee Convention’s standards and subsequently demonstrates Cambodia’s failure to fulfil its obligations to that convention.<sup>15</sup>

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<sup>9</sup> Ibid 18.

<sup>10</sup> Ibid 20.

<sup>11</sup> Ibid 23.

<sup>12</sup> BBC News, *Cambodia Closes Centre for Vietnam Montagnard Refugees* (2011) <<http://www.bbc.co.uk/news/world-asia-pacific-12461464>>.

<sup>13</sup> Human Rights Watch, “Montagnard Christians in Vietnam: A Case Study in Religious Repression” (Human Rights Watch, 2011) 23.

<sup>14</sup> Cambodian Center for Human Rights, above n 8, 29.

<sup>15</sup> Human Rights Watch, above n 6.



## **Religious Persecution & Violence**

Numerous incidents of religiously-motivated violence and discrimination have been reported, notwithstanding the fact that Article 43 of Cambodian Constitution clearly states that men and women Khmer citizens shall have the right to freedom of belief (despite Buddhism being the official religion).<sup>16</sup> Although the Constitution enshrines these rights, there are reports of systematic religious discrimination directed towards Buddhist Khmer Krom monks. The discriminatory practices include forceful disrobing, vandalising their places of worship, arbitrary detainment, and physical violence.<sup>17</sup>

The Universal Periodic Review (UPR) report submitted by UNPO in 2009 highlights the examples of Eang Sok Thoeun and Venerable Tim Sakhorn, and the violence and indignities faced by these individuals, and as such they need not be repeated here. Nevertheless, despite the outcry over these examples, similar incidents have occurred since, including the disappearing of two Khmer Krom monks in 2010 and the Cambodian government's cooperation with Viet Nam in arresting Khmer Krom individuals for distributing leaflets.<sup>18</sup>

The UNPO remains deeply concerned about the fate of multiple Khmer Krom Buddhist monks, the larger Khmer Krom community and the Christian Degars, and has issued appeals addressing their continued and systemic harassment and persecution, including torture, arbitrary detention, and infringements upon their rights to free speech, free assembly, and free access to information and media.

## **RECOMMENDATIONS**

Despite widespread violations of human rights inflicted upon members of the Khmer Krom and Degar minorities, the government of Cambodia should be commended for incorporating key human rights, such as the freedom of religion, in their national constitution. In addition, they should be commended for having ratified the International Covenant on Civil and Political Rights, despite the fact that the implementation of the rights enshrined in that document remains poor.

The overall assessment of the human rights situation in Cambodia leads UNPO to conclude that in the areas of civil and political rights enough mechanisms are in place to adequately guarantee the rights of minorities, however the implementation thereof is severely lacking. It takes political will from the Cambodian government to ensure that the human rights of the aforementioned groups are respected.

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<sup>16</sup> *Constitution of the Kingdom of Cambodia 1993 art 43.*

<sup>17</sup> Mom Kunthear, *Supporters Rally: Monks Need Help, Rights Groups Told* (2011) <[http://www.cchrcambodia.org/media/files/news/488\\_212psrmnhrgt.pdf](http://www.cchrcambodia.org/media/files/news/488_212psrmnhrgt.pdf)>

<sup>18</sup> Cambodian Center for Human Rights, above n 8, 29.



## Unrepresented Nations and Peoples Organization (UNPO)

Submission to the UN Office of the High Commissioner for Human Rights

Universal Periodic Review: Cambodia

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In particular, UNPO urges the Cambodian authorities to:

- *Formally acknowledge and confirm the indigenous status of the Khmer Kampuchea Krom peoples, as well as that of the Christian Degar Montagnards;*
- *Afford refugee status, and the protections it entails, to all individuals, including Khmer Krom and Degar individuals, who satisfy the internationally accepted definition of a refugee. This includes ceasing the forced repatriations of Degar and Khmer Krom asylum seekers;*
- *Clarify the situation regarding the granting of citizenship to Khmer Krom individuals with authorising offices and officers, including what evidence is needed and what practices are not to be tolerated;*
- *Simplify the procedure that allows Khmer Krom refugees to apply for identification cards with due regard for the evidential difficulties such individuals face;*
- *Establish, and encourage the use of, an appeals mechanism for decisions concerning citizenship;*
- *Create an effective mechanism for the settlement of outstanding land claims by indigenous groups, and compensate those groups for the loss of their ancestral lands, as stipulated by Article 8 of the Universal Declaration on the Rights of Indigenous Peoples;*
- *Sign and ratify International Labour Organization Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, with the aim of respecting the traditions of indigenous peoples in relation to the use of their ancestral lands;*
- *Commit to investigating widespread allegations of abuse by law enforcement, arbitrary arrests, and extrajudicial torture, and explore possible judicial remedies for victims and their families.*