



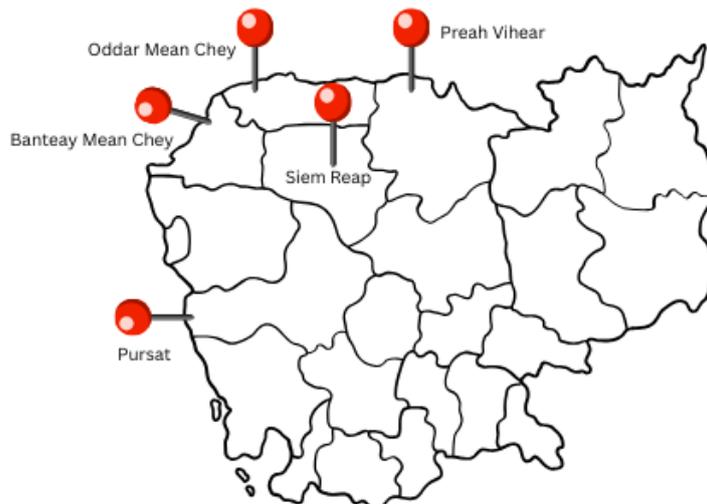
Briefing Note: Displacement during the Cambodia-Thailand border conflict and the right to housing and adequate shelter

Introduction

As a result of the border conflict between Cambodia and Thailand, which lasted from 24-28 July, hundreds of thousands of people were displaced across the five provinces of Oddar Meanchey, Banteay Meanchey, Preah Vihear, Pursat and Siem Reap. According to figures released by the Ministry of Defense, as of 31 July approximately [172,094](#) people had been displaced. Following the ceasefire agreement between the two countries on 28 July, some people began returning to their homes. By mid-August however, it's [estimated](#) that tens of thousands were still displaced. Despite the ceasefire, tensions along the border have persisted and there have been several [incursions](#) and even [renewed shelling](#), prompting fears of a full resumption of conflict and thus, further displacement.

The provinces most affected by the conflict are also some of the provinces where disputes over land and access to natural resources have been most prevalent. They are also home to indigenous communities, a group particularly affected by [land disputes](#). This context contributes to the myriad stresses of those displaced and their decisions to return to their homes.

In this Briefing Note, CCHR outlines the issues faced by those who have been displaced by the border conflict, shares some of their perspectives, highlights the international standards regarding the right to housing, displacement and conflict, and concludes with recommendations to the Royal Government of Cambodia (RGC) and the Royal Thai Government (RTG).



Displacement situation:

In the days and weeks leading up to 24 July, many across the border- provinces had already begun leaving their homes, anticipating an escalation in tension along the border. Many sought refuge in displacement camps, which predominantly took shape in pagodas, schools and makeshift shelters.

According to the Ministry of Defense, the number of individuals displaced by the end of July stood at 172, 094. Throughout the month of August, individuals and families who had been displaced began returning to their homes. By mid-August however, according to some estimates, approximately 30,000 people remained displaced. Those returning cited economic necessity, namely an inability to earn an income in the camps and also debt repayments. As a result of renewed shelling in late September and, hundreds of families in Preah Vihear left their homes once again for displacement camps.

The experiences and concerns of those displaced:

CCHR has received information from a number of individuals, including Indigenous Peoples (IPs), who were ordered to leave their respective homes in the provinces of Preah Vihear, Pursat and Oddar Meanchey. In some cases, the orders to leave were given by the commune chief, and in others by the village chief or provincial authorities. Whilst most left voluntarily, others were more hesitant to leave their home, but followed the authorities' orders nonetheless. They were displaced for varying amounts of time, ranging from 16-45 days. At the time of publishing, all had returned to their homes.

In addition to fears that their homes may be destroyed or damaged by artillery during the conflict, or seized by the Thai military, there were a number of concerns that were broadly shared by all those who spoke to CCHR about their experience:

- The majority of those who spoke to CCHR expressed fear that they may lose their land and homes to "opportunists" or "powerful" figures who take advantage of the situation to seize their land and occupy their homes, leaving them landless. It is notable that all those who cited this concern also expressed fear that should this scenario transpire, they would be unable to reclaim them – despite the fact they would have been seized unlawfully.
- On a related note, some were also fearful that their land and homes would be seized by the Thai military and given to Thai people.
- Most also expressed fear about their property whilst displaced, including cattle, farming products, motorcycles and household items. Whilst one shared that in their view the authorities had protected their properties well, the majority had returned to their homes to find that their property had been stolen. Indigenous peoples (IPs) had both cattle and motorcycles stolen from them, neither of which had been returned, whilst others recounted that farming supplies worth 200,000 riel had been stolen from them.
- Another concern particularly felt by indigenous communities is the impact of the toxic smoke emitted by the white phosphorus shells used by the Thai military during the conflict, particularly its impact on their livelihoods and traditional way of living.¹ Although they rely on water from natural canals for traditional use, they no longer use it for fear it has been contaminated by the toxins.

Despite having returned to their homes, the individuals all expressed a persisting sense of fear, and that their families and other villagers feel similarly. For one, the inability to earn an income whilst displaced was a particular source of concern, particularly for the health and well-being of their family. Some also expressed fear that conflict would erupt again and be more long-running, and that they would lose their land and home as a result.

International human rights law and standards:

The right to adequate housing is guaranteed under Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Cambodia in 1992. It is critical to remember that the State obligation to prevent housing rights violations still applies in situations of internal armed conflict.¹

The loss of housing, land and property threatens the enjoyment of a number of human rights that the State is obligated to respect protect and fulfil, namely the right to food, freedom of movement and choice of residence, to be protected from interference with one's privacy and home, to water and sanitation, and to health.² Loss of land and property also impacts livelihoods, exposing many to poverty, in turn affecting their access to food and adequate housing.

Even if housing itself is not damaged, it is often no longer accessible due to evacuation orders, violence, mined access roads or unexploded ordnance, or it is usurped by new occupants.³ Conflict also tends to exacerbate pre-existing systemic issues with housing and land ownership. As noted by the [UN Special Rapporteur on housing](#), during armed conflict “the right to adequate housing can be violated also through bureaucracies, the undermining of the right to return, the condoning of the usurpation of homes, [and] the confiscation or expropriation of housing”.⁴ She also noted the acute vulnerability regarding security of tenure, particularly applicable to indigenous communities, as the non-recognition of customary land rights makes it difficult for those displaced to prove their tenure rights and access restitution and compensation.

Article 2 of the International Covenant on Civil & Political Rights (ICCPR) guarantees the right to an effective remedy for a human rights violation suffered – regardless of whether it was committed by a State or non-State actor. One component of an effective remedy is reparations, which may take the form of “restitution” – returning the victim to the position they were in prior to the violation – or if this is not possible, compensation. In this regard, “all displaced persons therefore have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore”.⁵

The [Guiding Principles on Internal Displacement](#) are the primary human rights standards on displacement, and restate the obligations of States relating to housing, land, property. Some Principles that are particularly applicable to the current context in Cambodia are as follows:

- **Principle 7:** Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.
- **Principle 19:** States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

¹UN General Assembly, Report of 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, Balakrishnan Rajagopal - The right to adequate housing during violent conflict', [A/77/190](#), (2022), §15

² Human Rights Council, 'Housing, land and property issues in the context of internal displacement - Report of the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary', [A/HRC/47/37](#), (2021), §13

³ UNGA, [A/77/190](#), §13

⁴ Ibid, §8

⁵ UNGA, [A/77/190](#), §71

- **Principle 28:** Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.
- **Principle 29:** Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

Recommendations

1. CCHR calls on the RGC to implement the following recommendations:

- i. Ensure and facilitate the safe and voluntary return of individuals displaced during the conflict to their homes and land.
- ii. For those who did not yet feel safe returning to their homes and land, ensure their access to adequate shelter, food, water, healthcare and sanitation facilities whilst they remain displaced.
- iii. Establish restitution and compensation claims procedures for those whose property was damaged or destroyed as a result of the conflict. Ensure that such restitution and compensation claims procedures are made accessible and are implemented without discrimination – with particular attention given to ensure women, indigenous communities, persons with disabilities and other marginalized groups can fully access these procedures.
- iv. Prevent unlawful land usurpation and in cases where it occurs, ensure victims have swift access to justice.
- v. Ensure the timely release of updated figures of those displaced and their locations, as such information is not only in the public interest, but may also allow for more coordinated support to be provided to those displaced, by both the Royal Government of Cambodia (RGC) and development partners.

2. CCHR calls on both parties to the border conflict, the RGC and the Royal Thai Government (RTG), to respect each country's sovereignty by committing to peaceful conflict resolution and adherence to international law, thereby ensuring that further displacements do not occur in either country.

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