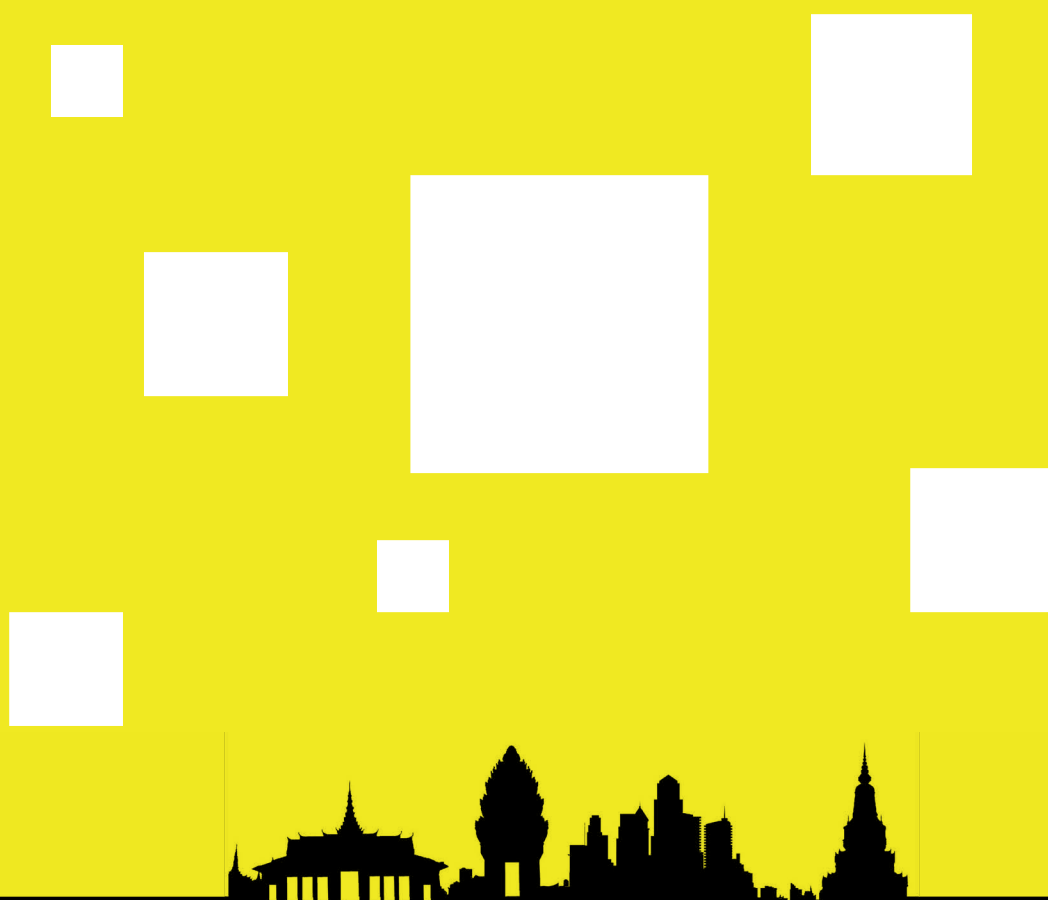# HUMAN RIGHTS BASED SPATIAL PLANNING IN CAMBODIA - GUIDELINES

City for all!

Human Rights Based Spatial Planning in Cambodia as a tool for Promotion of Tenure Security for the Most Vulnerable and Marginalized Groups is a joint project of People in Need (PIN) and Sahmakum Teang Tnaut (STT), funded by the European Instrument for Democracy and Human Rights (EIDHR).

The project contributes to the development and consolidation of the rule of law and respect for human rights and fundamental freedoms in Cambodia, by strengthening land tenure security, the right to adequate housing and disaster risk reduction. The main elements of the project include:

• Development of inclusive spatial redevelopment plans to provide alternatives to the involuntary resettlement of urban poor dwellers in Phnom Penh, in line with existing Royal Government of Cambodia policies and regulations and Cambodia's international obligations.

• Mapping of natural and man-made hazards in Phnom Penh in order to propose a series of structural and non-structural mitigation measures which reduce impacts of disasters and build resilience of urban poor communities.

• Collaboration with academic institutions to support the formation of new generations of spatial planners in Cambodia.

People in Need (PIN) is a Czech non-governmental organization providing relief and development assistance while working to defend human rights and democratic freedoms in over 28 countries. With a global turnover of $35 million USD and over 640 employees worldwide, PIN's food security, WASH, health, education, emergency response and other programs have assisted millions of people. In Cambodia, PIN has operated since 2008 in rural and urban areas, specifically in 3 sectors: market development for improved livelihoods and environment, maternal and child health with a focus on nutrition and disaster preparedness and response.

Sahmakum Teang Tnaut (STT) is a Cambodian Urban NGO based in Phnom Penh. Its mission is to provide pro-poor technical assistance for adequate housing and infrastructure and to inform, discuss and raise awareness about urban issues. STT works closely with urban poor communities impacted by development-related land alienation and forced evictions, as well as with those who are under threat of evictions. It works to achieve its mission through two main programs: the Technical Program and the Advocacy Program. The Technical Program consists of three main projects including, the Community Mapping, Alternative Housing and Urban Planning, and Research Projects. The Advocacy Program consists of four main projects including the Youth, Community, ICT and Media Projects.

Disclaimer

This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of People in Need and can in no way be taken to reflect the views of the European Union.

Acronyms

CCA	Climate Change Adaptation
CDP & CIP	Commune Development Plan & Commune Investment Plan
CDRI	Cambodia Development Resource Institute
DIPECHO	The European Commission's Disaster Preparedness Programme
DRR	Disaster Risk Reduction
EIA	Environmental Impact Assessment
IPCC	Intergovernmental Panel on Climate Change
JICA	Japan International Cooperation Agency
KCDM	Khan Committee for Disaster Management
MFI	Microfinance Institution
NCDM	National Committee for Disaster Management
NGO	Non-Governmental Organisation
PHVCA	Participatory Hazard Vulnerability and Capacities Assessment
PIN	People in Need
PPM	Phnom Penh Municipality
PPWSA	Phnom Penh Water Supply Authority
STT	Sahmakum Teang Tnaut
SCDM	Sangkat Committee for Disaster Management
UNICEF	United Nations Children's Fund
UNISDR	United Nations International Strategy for Disaster Reduction
UPWD	Urban Poor Women's Development
WASH	Water and Sanitation and Hygiene

Introduction - What is Human Rights Based Spatial Planning?

Spatial Planning requires multidisciplinary expertise. To ensure land is managed in a sustainable manner, planners must engage experts from various backgrounds: public health, environmental engineering, social studies, economy, architecture, safety and security, law, public transport, and similar such fields. Rather than drawing sketches for master plans only, today their role is more about leading a process of planning and ensuring that people's rights to safety, dignity, education, clean water and sanitation, amongst other basic services, are secured and well integrated into the final plans. Far too often, spatial decisions contribute to the exclusion of vulnerable and marginalized groups, favoring unsustainable but profitable land uses. The role of the duty bearers engaged in the spatial planning is to identify win-win solutions for all stakeholders, ensuring Cambodia's economic development while not violating the human rights of its citizens.

The Human Rights Based Spatial Planning (HRBSP) in Cambodia Guidelines are the result of the implementation of the Human Rights Based Spatial Planning Project co-funded by European Union and the Czech Development Agency between 2014 and 2015, with inputs from HRBSP conference in November 2015. We hope that the guidelines will serve current and future Civil Society Organization workers and local duty bearers engaged in spatial development and inspire them towards stronger inclusion of a human rights based approach into their work.

The first chapter of the guidelines explains the basic concepts related to the Human Rights Based Approach (HRBA) in development work and how it relates to spatial planning. In the second chapter the Cambodian framework for spatial planning is explained as it is essential for those engaged in spatial planning to understand its legal environment in Cambodia and the challenges this discipline faces. The third chapter

explains aspects of land registration and management in Cambodia and its implications on the local planning process, especially in disputed areas.

The fourth chapter describes the process of mapping, enumeration and surveying of urban settlements which are fully or in part located on state public land. Finally the fifth chapter explores different ways to redevelop poor urban areas, by taking into consideration various strategies, minimum standards, disaster risk reduction, financial and economic feasibility and cross-cutting issues such as gender, age and disability.

"Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."

(Article 25.1 Universal Declaration of Human Rights 1948)

"The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent."

(Article 11.1 International Covenant on Economic, Social and Cultural Rights 1966)

Table of Contents

01

Human Rights Based Approach

(By: Piotr Sasin)

A) NEEDS AND RIGHTS

In the past development agencies were looking at the development issues only from the "basic needs" perspective. It was understood that the populations have certain basic needs which need to be fulfilled i.e. access to health services, education, housing, food and water for the people to maintain an acceptable standard of living. The typical actions undertaken by Non-Governmental Organizations (NGO) and International Organizations (IO) would include direct service provision such as construction of water points, construction of schools, or housing. These type of activities would be complemented at times with advocacy efforts at various levels of local administration to improve the quality of state funded social services. The basic needs approach continues to be dominant in many developing countries, particularly those affected by protracted crises and complex emergencies as it is often seen as more time and resource efficient. However, one of the big shortfalls of this approach is that it rarely entails people-led or human-centered process. While beneficiaries may provide their inputs to a certain extent, the basic needs approach tends to put people affected by humanitarian and/or development issues in a role of recipients of aid, rather than drivers of the process of change.

In the rights based approach we try to empower local leaders and people to lead the process of change for the benefit of their own communities. One of the most distinctive differences between these two approaches is that the basic needs may stay unfulfilled for variety of reasons. The "basic needs" approach limits itself to advocacy efforts of aid agencies which may be fruitless. Looking at development/ humanitarian challenge from the basic rights perspective presents an opportunity to legally and legitimately claim the rights by those who feel these are being violated (UNFPA, 2010).

B) RIGHTS HOLDERS AND DUTY BEARERS IN CAMBODIA

The rights holders are the citizens of the respective society regardless of their age, gender, religion, ethnicity, socioeconomic status, disability or political views. The duty bearers are the local authorities at various levels whose main responsibility and duty is to protect people's rights as described in the constitution of the Kingdom of Cambodia and international treaties Cambodia is signatory of.

In practice HRBA means that:

• **Individuals, households and communities** must be fully informed of their rights and actively engaged in decision-making processes. For example, people who are subject to land expropriation need to clearly understand the process i.e. timeframe, who the people in charge are and their roles, the way the compensations are determined, the means by which they can redress and/or complain, etc. Once people clearly understand what to expect, they are more likely to collaborate with local authorities and the risk of generating misunderstandings that lead to conflict is reduced. Another example of HRBA is to include dwellers of a settlement into local planning process, such as the Commune Development Plan and Commune Investment Plans, ensuring that their opinions are taken into consideration in decisions related to infrastructure development, which have a long term effects on their lives. It is important to note that the aim of informing people of their rights, is not only to produce a feeling of entitlement, but to empower community members to act as equal partners in search for collective and satisfactory solutions for all.

• **Local authorities and other duty bearers** such as service providers often need assistance in understanding what HRBA is, how it benefits their initiatives and eases their dialogue and cooperation with citizens. Project in which the HRBA is applicable should integrate components such as capacity building sessions to understand and apply HRBA, efforts to identify resources that can be used to apply the approach, and activities that aim to strengthen local authorities' commitments to human rights. A very important feature of the rights-based approach is that it does not only measure outputs/ outcomes, but rather, it looks at how those outcomes were achieved. Active participation of citizens/rights holders in development initiatives results in better sustainability of the final results. For example in between 2014 and 2015, PIN and the Phnom Penh Municipality conducted Participatory Hazard Vulnerability and Capacity Assessment across 96 communes in the city. The sessions which involved community members in an inclusive and active manner resulted in a much stronger analysis of disaster risks and more thorough Disaster Risk Reduction (DRR) plans. Implementation of some of these plans will be possible thanks to pooling commune, community and PIN resources to achieve sustainable change and generate good practice models to inspire local authorities in other communes.

• **Civil Society Organizations (CSO) and Development Partners** play an important role in integrating the HRBA in development programing, but should limit itsinvolvement to:

- Facilitation of processes and mediation between stakeholders;

- Independent monitoring and evaluation;

- Provision of technical support and resources for the implementation of projects, especially in capacity building amongst the local duty bearers.

Read more:
www.hrbaportal.org
www.unfpa.org/sites/default/files/resource-pdf/hrba_manual_in%20full.pdf
www.actionaidusa.org/publications/actionaids-human-rights-based-approach-hrba-resource-book

02

Understanding the legal and planning framework for spatial planning in Cambodia

(By: MLMUPC with technical support from GIZ Land Rights Program Compiled by Wim Dekkers) [1]

Spatial planning refers to a process, methods and tools used by the public sector to influence the distribution of people, their activities and infrastructure in spaces of various scales (national, regional, local). It is an instrument that enables decision makers to take spatially differentiated decisions about the future development of a territory in areas that include: land use management, development of physical or social infrastructures, protection of natural resources, etc. In recent years spatial planning is increasingly recognized as an indispensable tool for sustainable development.

Spatial planning is quite new discipline in Cambodia. In conformity with the policy to promote decentralization and de-concentration, the Royal Government of Cambodia (RGC) has developed a set of legal documents and policies to serve as foundations for spatial planning at sub-national level.

A) INSTITUTIONS FOR SUB-NATIONAL SPATIAL PLANNING IN CAMBODIA

LEGAL AND POLICY FRAMEWORK

The emerging legal and policy framework, which serves as a cross-sector reference for the development of sub-national spatial planning, rests on two main pillars: the Land Reform and the Democratic Development Reform (D&D).

LAND REFORM

The 1994 Law on Land Management, Urban Planning and Construction is the most relevant piece of legislation for spatial planning (RGC,1994). It paves the way for provinces, cities and municipalities to draw up their own development master plans for the reorganization and development of their respective territory.

The government's vision for land policy is to implement a coordinated

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[1] In 2016 MLMUPC plans to publish series of manuals related to spatial planning in Cambodia at various levels. The content presented in this publication has not been officially approved by MLMUPC and is an abstract from a draft version of the Provincial Spatial Planning Handbook developed in 2014 by the Ministry with the support of the GIZ Land Rights Program.

set of laws, programs of work, and institutional arrangements regarding land. It is directed toward enabling the achievement of national goals of economic development, poverty reduction and good governance, as described in the Socioeconomic Development Plan, Interim Poverty Reduction Strategy, and Governance Action Plan (RGC, 2002).

The declaration of the RGC on Land Policy, which has been signed by Prime Minister Hun Sen on July 1st 2009, sets a clear path of how Cambodian land will be managed. As stated in the declaration, the government aims "to administer, manage, use and distribute land in an equitable, transparent, efficient, and sustainable manner in order to contribute to achieving national goals of poverty alleviation, ensuring food security, natural resources and environmental protection, national defense and socio-economic development in the context of market economy" (RGC, 2009).

Regarding the sub-section of land management of the Land Policy, which is the institutional framework for spatial planning, the declaration indicates that the management of an area or location is based on the natural characteristics of the soil and the need for equitable socioeconomic development. The declaration states that the purpose of the sub-sector program is to develop a spatial planning system by:

• Defining content and hierarchy of planning;

• Defining competences in developing and approving the planning;

• Developing laws and regulations to support its implementation of spatial plans.

The National Policy on Spatial Planning of the Kingdom of Cambodia, adopted by the Council of Ministers on April 08, 2011 is by far the most advanced document to support the sub-national spatial planning system (RGC, 2011). It provides a clear vision, goals and strategic objectives for spatial planning in Cambodia, and its content includes:

• Cambodia's territorial development;

• Determination of central places, settlement priorities, development poles and development axes;

• Planning and management of economic development and employment opportunities;

• Planning of social and cultural infrastructure;

• Planning and management of natural areas which support life;

• Planning and management of agricultural land, forestry, fisheries, industry, mines, energy and conservation area;

• Planning of technical infrastructure and services.

It also specifies the mechanisms, preparation processes and hierarchy of spatial plans at national and sub-national levels.

DEMOCRATIC & DEVELOPMENT REFORM

The D&D reform aims to develop new public management systems that rest on principles of democratic representation, participation of people, public sector accountability and effectiveness (RGC, 2005).

The basic substance of the reform is to create unified provincial/municipal and district/khan administrations, empowering them to prepare, adopt and implement unified plans and budgets, manage staff and coordinate the development and delivery of public services within their jurisdictions. The term "unified"

suggests that policies, work plans and budgets from ministries are integrated in the five-year development plan, three-year investment program and annual budget plan.

The roles of the different sub-national administrative bodies are now clearly stated in the Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans (Figure 1.1). It clearly differentiates a sub-national council, board of governors and a number of committees assigned by the council to support specific administrative tasks (RGC, 2008).

The sub-national council has the authority to make legislative and executive decisions. The council shall apply its legislative power through the issuance of a bylaw. The council shall be accountable directly to all citizens for making decisions and for ensuring democratic development within its jurisdiction. The [board of] governors represents ministries and institutions of the RGC in supervising, coordinating and directing all line departments and units of the government ministries and institutions that operate within the jurisdiction of the council.

The council assigns members to committees, each one commissioned with specific tasks. The Technical Facilitation Committee ensures that the development plans and budgets of the ministries, institutions or departments and units of the Government (involved in direct provision of services, equipment and infrastructure within the council's jurisdiction) are well integrated within the five-year development plan, three-year rolling investment program, medium term expenditure framework and annual budget plan of the sub-national administrations (article 166).

Figure 1.1 Structure of the sub-national unified administration (province, district and municipality)
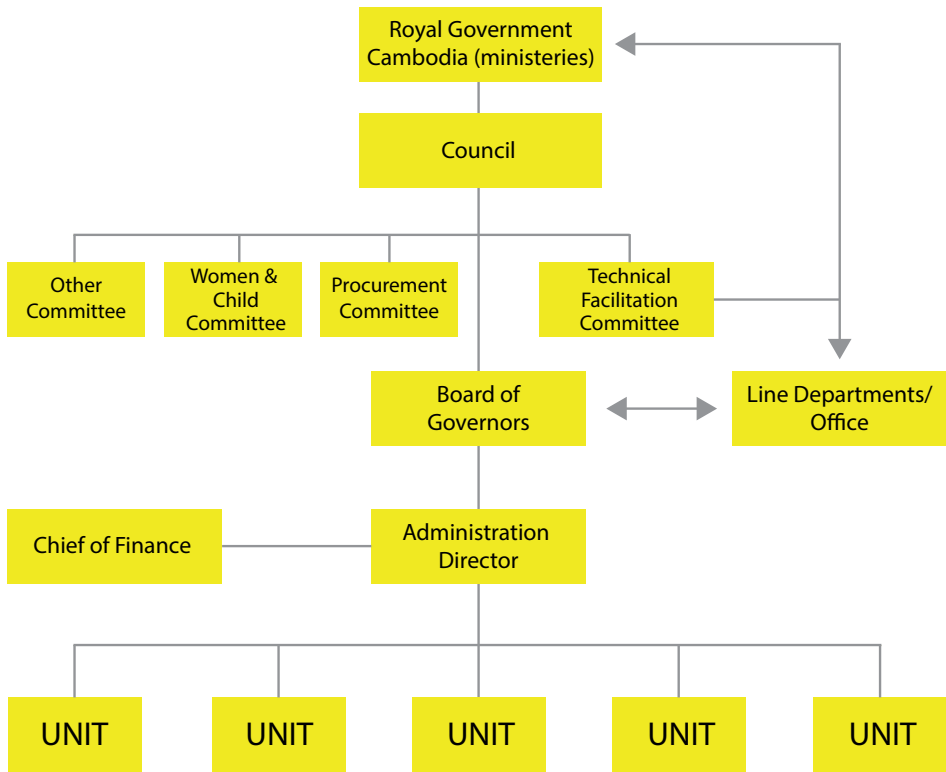
B) PLANNING FRAMEWORK IN CAMBODIA

EXISTING PLANNING PROCESSES

The Royal Government of Cambodia has developed a planning framework that assigns defined and specialized planning roles and responsibilities to the different levels of administration (table 1.1).

NATIONAL STRATEGIC DEVELOPMENT PLAN

At a national level, the RGC endorses a 5-year National Strategic Development Plan (NSDP); a strategic planning document that serves as a comprehensive road map for the development of the country (RGC, 2010). It serves to design the annual public investment program (PIP). The implementation of the NSDP is coordinated by the Ministry of Planning (MoP), the Ministry of Economy and Finance (MoEF), the Supreme National Economic Council (SNEC) and the Council for the Development of Cambodia (CDC) by different technical working groups, with participation of a representative from the donor community.

SECTOR PLANNING

Based on the NSDP, each ministry designs a sector strategy and a clear plan with vertical accountability mechanisms for provincial, departmental and district/municipal offices. These sector policies and plans are supposed to guide the work of line agencies of the government at the sub-national level. However, substantive policies and clear vertical planning systems exist mostly in ministries where long-term reliable donor funding is available (Horng and Craig, 2008).

Table 1.1 Cambodian Administrative Hierarchy and Operational Planning Instruments

Level		Development Planning	Investment & Budget Planning	Sector Plan
National	National	•5-years NSDP •Poverty Reduction Strategy •Millennium Development Goals	Public Investment Program (PIP)	Sector plan from line ministries
Sub-National	Capital (1)	5-years Strategic Development Plan	•3-year investment program •Annual budget plan	Sector plan from line ministries
	Provinces (23)			
	Municipalities (26)		•3-year Investment Program • Annual budget plan	Sector plan from line ministries
	Districts (159)			
	Khans(12)			
Local	Sangkat (204) and communes (1417)	5-years Commune/Sangkat Development Plan (CDP)	3-years rolling Commune/Sangkat Investment Plan (CIP)	Sector Plan from line ministries
	Villages (14,073)	Local development plan		

SUB-NATIONAL UNIFIED ADMINISTRATION PLANNING

At sub-national level, the D&D has considerably changed the planning system that was in place before the promulgation of the Law on Administrative Management of the Capital, Provinces, Municipalities, District ad Khans (RGC, 2008).

Each sub-national unified administration has now the mandate to produce a 5-year development plan and a 3-year rolling investment program including:

• Vision, goals and objectives for development within its jurisdiction;

• Assessment of the level of existing development status within its jurisdiction;

• Assessment of priority development needs (services, facilities, public infrastructure, poverty reduction and needs of women-men, youth, child and of vulnerable groups);

• Framework with principles for use and management of land and natural resources;

• Disaster management plan;

• Financial plan which includes a 3-year rolling investment program, an updated 12-month budget plan and a capital development plan;

• Implementation strategy with key performances indicator.

C) SPATIAL PLANNING IN THE EXISTING PLANNING FRAMEWORK

As we notice, Cambodian administrations are already involved in a number of planning processes. So, how does spatial planning fit in this existing framework? To answer this question, one first should understand clearly what spatial planning is.

All kinds of activities that people undertake (economic, social, cultural, services, industrial, environmental, recreational, etc.) require a certain type of land use, which influences the development of the territory. Spatial planning helps to think about and organize these activities. In doing so, spatial planning tries to influence the distribution of people and activities in spaces, as well as the location of the various physical and social infrastructures, including recreational and natural areas.

The goal of spatial planning is to integrate the different—sometimes competing—use of land towards a balanced territorial development and physical organization of space (Conference of Ministers responsible for Spatial/Regional Planning , 2007). Spatial planning is an instrument usually endorsed by the public sector and its territorial administrations, serving as a reference for anybody with a stake in territorial development including the population and their community-based organizations, governmental institutions, development partners and the private sector.

Spatial planning is an important process that contributes to sustainable development, in order to:

• Promote economic efficiency by enhancing economic activities, creating wealth and value added to all economic sectors, and ultimately raise standards of living;

• Guarantee social justice by ensuring that the needs of all people are met now and in the future and reduce social disparities between and within regions. This requires paying special attention to the most vulnerable groups in society, and ensuring that accessibility to social infrastructures is available to all.

• Ensure environmental sustainability by protecting necessary resources which are important to territorial integrity, and prevent using natural resources beyond their regenerating capacity;

• Safeguard cultural identity by pro-

tecting elements of heritage, tradition and culture, and development of natural landscapes that have a meaningful value to local people.

As any planning process, spatial planning proposes a future course of action based on the analysis of current problems and potentials. Yet, it differs from other planning processes in a number of aspects, which are important to identify in order to understand how spatial planning actually fits in the existing Cambodian planning framework.

• A spatial plan serves as a reference for determining development and investment plans; it does not substitute but complement them. It aims to provide sub-national authorities with a spatial reference that can help them determine a geographic expression to strategies, activities and projects, identified in the development and investment plans (Figure 1.2). So, spatial plans are better looked at in an integrated planning framework.

• The development of a territory is visible over a long period of time, hence, the planning horizons of spatial plans are usually longer than those of development or investment plans.

• Planning methodology is specific in that the elements are mainly represented and analyzed through geographic information systems and maps.

• Spatial planning is a cross-sector and cross-level process, meaning that it involves successively different sectors at different administrative levels. It pays particular attention to the coherence of sector policies, which have clear impacts on the territory. It should ensure a high degree of territorial cohesion and avoid shortcomings such as insufficient synergies, sub-optimal effects of resource allocation and the production of territorial impacts counteracting the desired spatial evolution. The co-ordination and integration between sectors is a key aspect to consider.

• Given this integrative nature of spatial planning, the institutional bodies for sub-national spatial planning processes ought to be strongly articulated to sub-national governance. In addition to the three existing committees established within the unified administration (see Figure 1.1), each council may establish additional committees to assist the council with its works (article 115, Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans,1994). In virtue of the principle, a provincial, district or municipal Spatial and Urban Planning Committee shall be established to be in charge of spatial planning with the jurisdiction. This committee is entirely integrated in the unified administration and works under the supervision of the council and of the board of governors.

Figure 1.2 Integration of the spatial plan with development and investment plans

PROVINCIAL

DISTRICT

COMMUNE

SPATIAL PLAN/LAND USE PLAN (20 YEARS)

DEVELOPMENT PLAN (5 YEARS)

INVESTMENT PLAN (3-1 YEARS)
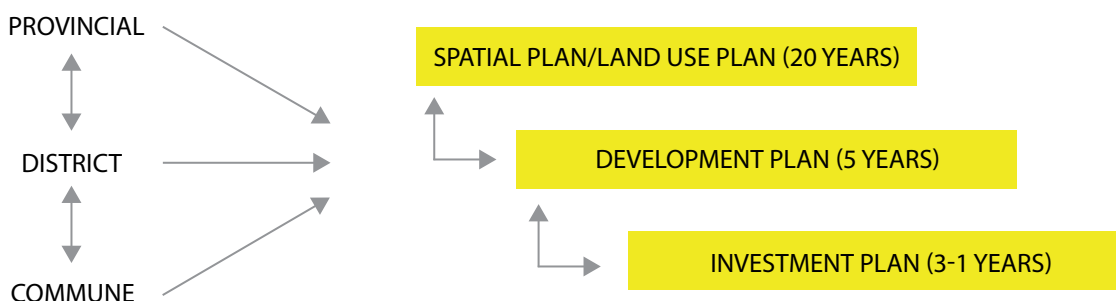
D) SPATIAL PLANS: HIERARCHY AND SCOPES

The national spatial planning policy specifies the hierarchy of spatial plans in the Kingdom of Cambodia. It articulates spatial plans across different administrative levels, identifies the overall scope of each plan and specifies mechanisms for their preparation and approval (RGC, 2011) (Figure 1.3):

NATIONAL, REGIONAL AND PROVINCIAL SPATIAL PLANNING:

Refers to planning with a vision and strategic direction of land use planning and physical development based on geographical potentials of each individual area within the provincial, regional and national planning level.

DISTRICT, KHAN, MUNICIPAL AND CAPITAL LAND USE MASTER PLAN:

Refers to planning with a vision and overall strategy for physical development and for zoning, with a well-defined main infrastructure and road network and with the integration of district, khan, municipal and capital planning framework into the regional and national spatial planning. The Land Use Master Plan refers to the officially approved plan.

MUNICIPAL AND CAPITAL LAND USE PLANNING:

Refers to detailed planning to be derived from the Land Use Master Plan with zoning of each individual area; with regulations on land use, land development and on each individual construction control area; as well as with well-defined infrastructure networks, integrated into regional and national spatial planning.

COMMUNE/SANGKAT LAND USE PLANNING:

Refers to land use planning in the commune/sangkat, including both state owned land and privately

Figure 1.3 Hierarchy of spatial plans

INTERNATIONAL — economic cooperation development plan

NATION-REGION — national strategic developmentplan

PROVINCE — provincial spatial plan

DISRICT — district land use master plan

MUNICIPALITY — municipal LU master lan and LU plan

COMMUNE — commune land use plan

LOCAL — e.g. informal settlements, settlements plans

Focus of the Spatial Planning Handbooks

owned land, by considering the potential of land and water resources, possible uses of land, and social and economic characteristics.

PROVINCIAL SPATIAL PLAN

Type of plan

The provincial spatial plan is a vision-oriented strategic planning. It is based on a vision and provides strategic directions for the spatial development of the province:

• The vision outlines what the territory wants to be in the long run (end-goals);

• The strategy is a combination of the end-goals for which the province is striving for and the means (policies and actions) by which it seeks to get there.

Planning Process

The planning process follows a "Situation-Target-Proposal" approach:

• Situation: Evaluation of the current situation and how it came about.
• Target: Set-up vision, goals and objectives.
• Proposal: Specify a possible route to reach goals and objectives.

Scope of plan

At provincial level, the spatial plan endeavors to determine the overall spatial development of the province by setting up the overall spatial structure and the functions of important provincial assets. Designing the spatial plan should entail the following:

• Identify how the province is inte-

grated in the wider region (linkages with other provinces, articulations to [inter]national development corridors or to important cross-border points).

• Identify the main land use systems where specific rural development measures would be promoted;

• Identify desired development poles, both urban and rural which are relevant for the whole province, identify functions of these development poles and the relationship with each other regarding these functions;

• Identify existing and future linkages between development poles and their surrounding/adjacent rural areas (rural-urban linkages);

• Identify existing and intended trans-

Figure 1.4 Involvement of Stakeholder in Provincial Spatial Planning
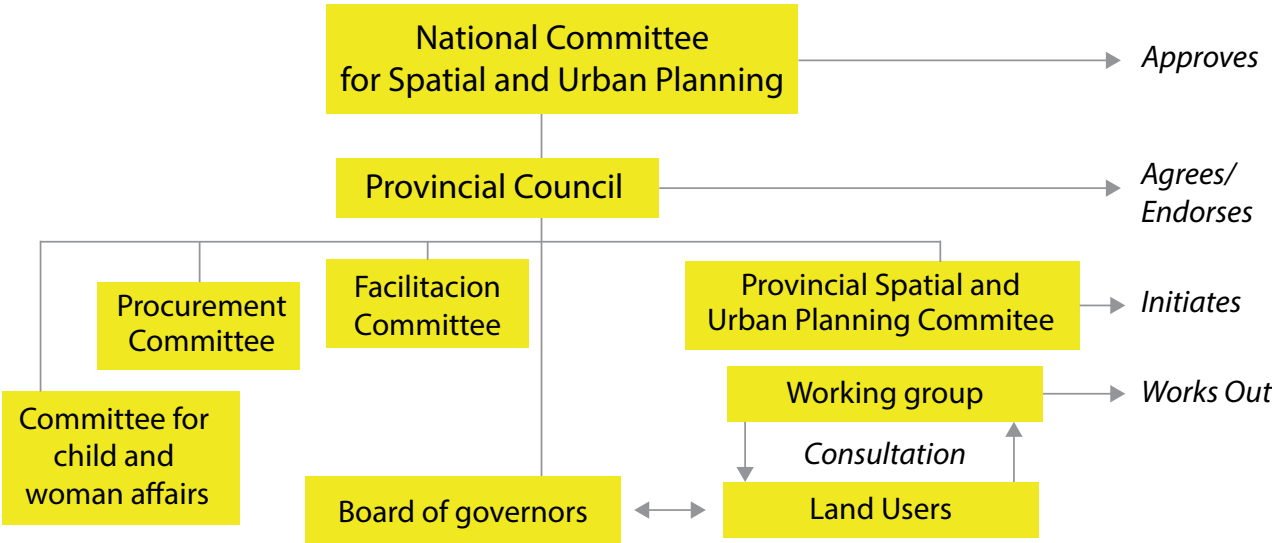
port systems to ensure good circulation of people and goods (within the province and outside of it), to enhance economic development and improve access to social infrastructures;

• Identify existing and future forest management for sustainable watershed management.

• Identify existing and intended industrial development area.

• Identify existing and future natural, cultural and built-up heritages.

Time horizon
25 years

Scale
1:250,000 to1:100,000

Authority and institutions
The Provincial Spatial and Urban Committee initiates the planning process under the supervision of the Provincial Council. If the committee is not directly technically involved in the planning process, a Provincial Spatial and Urban Planning Working Group is assigned to work it out. The provincial council oversees the whole process, endorses a draft provincial spatial plan and submits it to the National Spatial and Urban Planning Committee for final approval (Figure 1.4).

DISTRICT LAND-USE MASTER PLAN
Type of plan
The District Land Use Master Plan is also a strategic spatial plan. Well-articulated and aligned to the Provincial Spatial Plan, it provides more detailed directions for spatial development. Additionally, the District Land Use Master Plan provides a blueprint (preparatory basis) for a comprehensive commune land use plan.

Planning Process
Similarly to the provincial spatial planning, the District Land Use Master Plan process follows a "Situation-Target-Proposal" approach:

• Situation: Evaluation of the current situation and how it came about;

• Target: Set-up vision, goals and objectives;

• Proposal: Specify a possible route to reach the goals and objectives.

Scope of plan
At district level, the spatial plan endeavors to determine the specific spatial structure and main functions of the district by taking into account its integration into the province and build on the main potentials of the district. Designing the spatial plan should entail the following:

• Identify and hierarchize development pole centers, which are relevant to the district;

• Identify the main land use systems with specific problems/potentials and where specific rural development measures would be promoted;

• Identify the existing and intended transport system to ensure good circulation of people and goods (within the district), to enhance the economic development and to improve access to social infrastructures;

• Identify the existing and future agricultural systems and irrigation management infrastructures;

• Identify existing settlement patterns and future intended extensions of settlement areas;

• Identify the existing and future intended location of social infrastructures;

• Identify the existing and future community entitlements;

• Identify the existing and future environmental protection areas;

• Identify existing and future natural, cultural and built-up heritages.

Time horizon
15 years

Scale
1:50,000 to 1:25,000

Authority and institutions
A District Spatial and Urban Committee initiates the planning process under the supervision of the district council. If the committee is not directly technically involved in the planning process, a District Spatial and Urban Planning Working Group is assigned to work it out. The district council coordinates the whole process, agrees on a draft provincial

spatial plan. It then forwards it to the Provincial Council through the Provincial Spatial and Urban Planning Committee for agreement. After this double agreement process, the plan is submitted to the National Spatial and Urban Planning Committee for final approval (Figure 1.5).

THE MUNICIPAL LAND-USE MASTER PLAN AND LAND-USE PLAN

Type of plan

At the municipal level, both a Land Use Master Plan and a Land Use Plan are envisaged. The Land Use Master Plan at the municipal level is a strategic plan that follows the same lines as the district one. It can be considered here as a blueprint for the Land Use Plan. Based on this Municipal Land Use Master Plan, the Land Use Plan is a comprehensive and detailed identification of existing and future land-use categories. It is based on geographically defined zoning with specific regulations (binding to the citizens) of the kinds of activities which will be acceptable on particular lots (such as open spaces, residential, agricultural, commercial or industrial), the densities at which those activities can be performed, the amount of space structures they may occupy, etc.

The planning process at the municipal level follows a two-step approach. First, a Municipal Land-Use Master Plan is designed following a "Situation-Target-Path" approach. It is then detailed in a comprehensive land use zoning.

Scope of plan

The scope of this double planning process is logically twofold.

It first provides strategic direction of the future development of the municipal territory. It provides strategic direction to define the future structure of the territory (development pole centers and development axis) and to organize the functions of the municipal territory (settlement patterns, technical and social infrastructures, community entitlements, natural and built-up protected areas).

Planning Process

The Municipal Land Use Plan goes further and comprehensively identifies zones where specific development is allowed and specific rules are applied accordingly:

• Residential zones
• Residential with agriculture zones
• Commercial zones
• Mixed-Use (residential & commercial) zones

Figure 1.5 Involvement of Stakeholders in District Land Use Master Planning
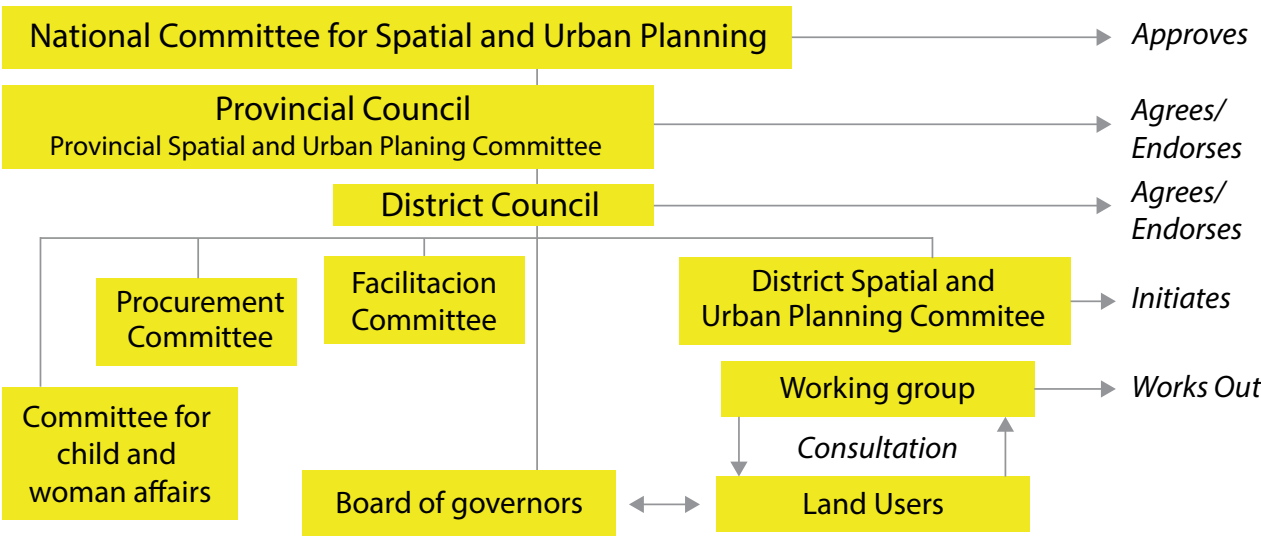
- Existing administrative zones
- Culture zones
- Industrial zones
- Sports and recreation zones
- Public green spaces
- Transportation zones
- Military zones
- Agriculture zones

Time horizon

15 years

Scale

1:10,000 to 1:5,000

Authority and institutions

A Municipal Spatial and Urban Committee initiates the planning process under the supervision of the municipal council. If the committee is not directly technically involved in the planning process, a Municipal Spatial and Urban Planning Working Group is assigned to work it out.

The municipal council coordinates the whole process and agrees on a draft provincial spatial plan. It then forwards it to the provincial council through the Provincial Spatial and Urban Planning Committee for agreement. After this double agreement process, the plan is submitted to the National Spatial and Urban Planning Committee for final approval (Figure 1.6).

D) PARTICIPATION AS A KEY PRINCIPLE IN SPATIAL PLANNING PROCESSES

Consultation and participation are the corner stones in any spatial planning process. Participation allows for identifying what the planning issues are, optimizing the planning results through broad interdisciplinary inputs and guaranteeing consistent implementation and control through understanding and ownership of stakeholders.

Participation and consultation are addressed at three levels.

Participation and consultation are addressed at three levels.

Participation of public sector institutions is obviously crucial. We refer here to both the government technical line agencies, which implement the policies of the RGC, and the territorial authorities, which have the mandate to coordinate the development efforts made on their territory. Both have to negotiate and find the balance between competing interests. They also have a role

Figure 1.6 Involvement of Stakeholders in Municipal Land Use Master Planning
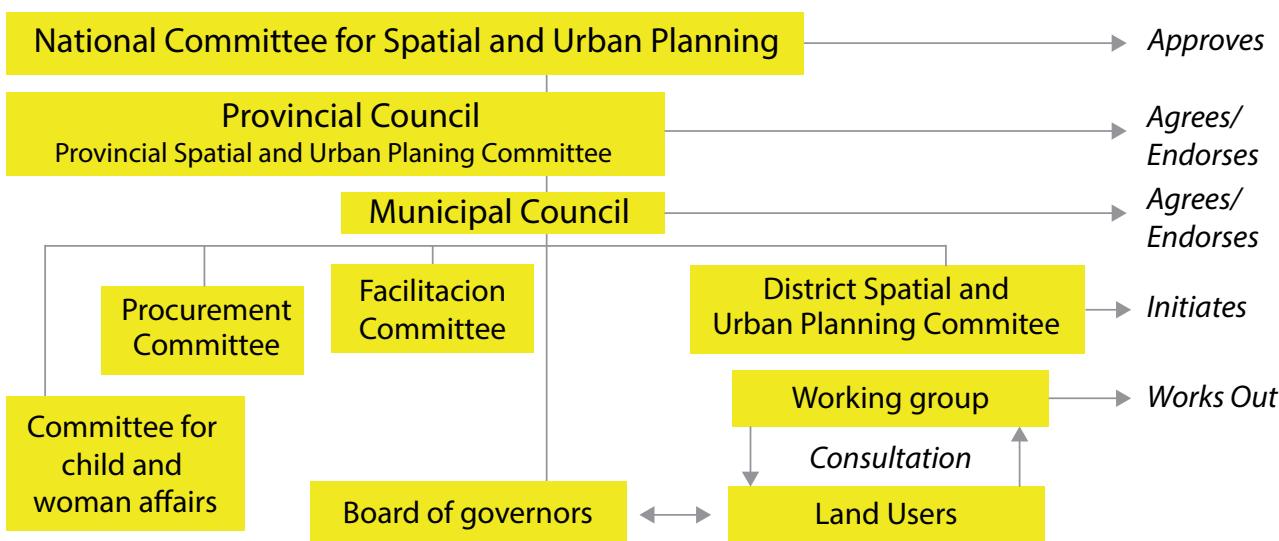
in linking the planning process with private actors whose actions are usually decisive.

• Particular attention should be given to community voices. The knowledge generated from their consultation is an incremental part in the design of the spatial framework. Planning should rest on in-depth surveys conducted at local levels in order to capture the rationality of rural communities in different agro-ecological contexts. The contribution or responses of households is evaluated in terms of local knowledge and socio-economic rationality. Communities are considered real planning partners and not target groups.

• Participation of other stakeholders is also important. Development partners, research institutions and private sector enterprises may contribute in the planning process. The participation in the planning process as both suppliers and receivers of information implies the spatial plan can become a broad based instrument for development.

[03]

Land classification and registration in Phnom Penh

(By Mark Grimsditch and Ben Flower)

The 2001 Land Law is the principle piece of legislation related to land tenure in Cambodia, supplemented by various other sub-decrees, prakas (regulations), circulars and other administrative documents. In order to assess the tenure situation of residents in urban poor settlements it is important to understand key legal concepts used in these documents, including ownership, legal possession and illegal occupation. This section of the manual provides an explanation of these terms, along with discussions on the related issues of land classification and documentation.

The Cambodian Constitution recognises that all persons have the right to private ownership. Ownership should be protected by law, and the right to confiscate private property from any person may only be exercised when in the public interest and only after a fair and just compensation is paid.[2] This is also acknowledged in the Land Law of 2001.[3]

In order to definitively prove legal ownership of land it is necessary to obtain a land ownership title issued by the MLMUPC. There are two ways to obtain a land ownership title in Cambodia:

- **Systematic Land Registration:** refers to the government proactively titling land parcels. The process involves government systematically adjudicating and registering all property rights in a given area, providing all eligible property owners with land titles.

- **Sporadic Land Registration:** refers to a process of land registration initiated by the person claiming ownership of the land he/she resides on by submitting an application for land title to the government.

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[2] Constitution of the Kingdom of Cambodia (as amended 1999), Article 44.

[3] Land Law, (2001) Article 5

The fact that someone does not hold a land title does not necessarily make their land occupation illegal. Under the Land Law they may be regarded as a 'possessor'.

LEGAL POSSESSION

Under the Land Law any person who was in occupation of their land prior to the date the law was adopted (August 2001) may be a legal possessor. In order for possession to be legal, a landholder's occupation must also be unambiguous, non-violent, notorious to the public, continuous and in good faith.[4] In addition, the land in question must not be state public land.[5] The issue of land classification is further analyzed in the following sections.

Legal possession provides similar rights and protections to those of an owner. This means that a possessor has exclusive rights to his/her land while waiting for that possession to be converted into full ownership. Possessors can stop others from entering the land and transfer all or part of their property to others. Anyone meeting the require-

ments of possession has the right to apply for an ownership[6] title, but if the land is contested, the claimant must be able to prove that he/she meets the requirements of legal possession.[7]

The Land Law clearly states that any new occupation that starts after the passing of the law is not legal.[8] However, if someone moves into a property after August 2001 but the land has been continuously occupied by others before 2001, their possession can be legal provided they meet the above criteria, and as long as the land is not state public property.[9] In cases such as this, the current occupant may have to provide evidence that there is a continuous chain of possession going back to before the Land Law.

Legal possession does not constitute an indisputable right to the land. In cases where there are competing land claims, the parties claiming the land must be able to prove that they are the legitimate possessor.[10] This means that it is important for possessors to gath-

er and keep documents related to their land, as well as any other documents that show the length of their occupation (documentation is returned to below). These documents can be used to prove legal possession in case of a dispute and can also be used to support an application for a land ownership title.

ILLEGAL OCCUPATION

Those who do not have an ownership title and who do not meet the legal requirements of legal possession are likely to be regarded as illegal occupants of the land on which they live. In many cases these people may not be aware that their occupation is illegal and may have resided on their land in full knowledge of local authorities without ever experiencing any problems or being told that they are illegal occupants. In some cases they may be in possession of land occupancy documents or land sale contracts that were witnessed by local village chiefs or commune officials. However, if their occupation does not meet the conditions set out above they are likely

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[4] Land Law, (2001) Article 31
[5] Land Law, (2001) Articles 16 and 43
[6] Land Law, (2001) Article 39
[7] Land Law, (2001) Article 31
[8] Land Law, (2001) Article 34
[9] Land Law, (2001) Article 30
[10] Land Law, (2001) Article 30

to be regarded as illegal occupants under the law. Illegal occupants may include:

• Households that commenced occupation of vacant land after the Land Law was passed.

• Households that commenced occupation of land before the Land Law was passed, but do not meet the five conditions of legal possession.

• Households that are occupying land that is legally owned by somebody else.

• Households that are occupying state public property, no matter when they commenced occupation.

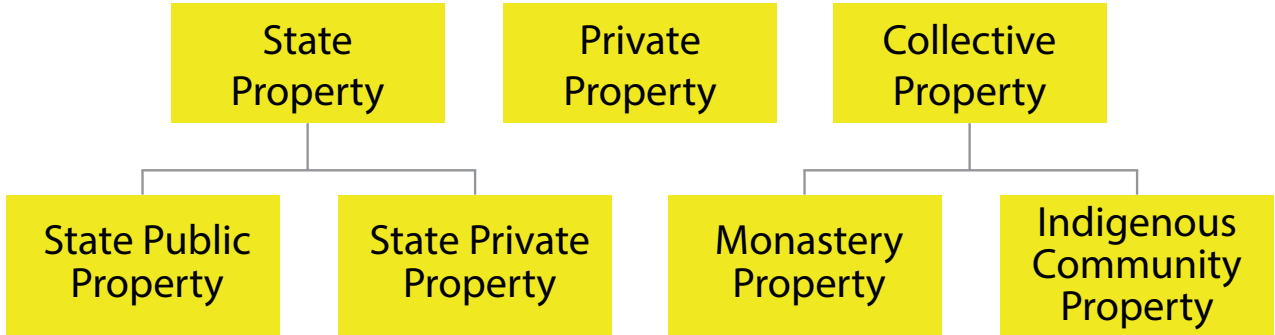Under the Land Law illegal occupants have limited protections and may even be fined or imprisoned if they are found to be illegally oc-cupying state public land. The law states that people occupying state public property must vacate imme-diately and have no right to com-pensation for the land or any build-ing or improvements conducted on that land.[11] However, Cambodia has international human rights law obligations, which include respect-ing the right to adequate housing. General Comments interpreting this obligation have stated that no one should be evicted without good cause, and no one should be made homeless and should not be left poorer after eviction.[12] Cambo-dia now has a basic framework for either relocating or upgrading ille-gal settlements in urban areas. This is contained in Circular 03, which is returned to later in this manual.

LAND CLASSIFICATION

As stated above, occupation of state public land is not legal and no one can claim legal possession of state public land. It is therefore important to understand exactly how this type of land is defined and identified.

The Land Law breaks property down into the following major categories:[13] State public property is land held by the state that has a general public use, benefit or service. This includes roads, public gardens, schools, hos-pitals and administrative buildings. It also includes land that is of natu-ral origin such as rivers, lakes and seashores, and areas of archaeolog-ical or heritage value.[14] As already

State Property	Private Property	Collective Property
State Public Property / State Private Property		Monastery Property / Indigenous Community Property

[11] Land Law (2001), Article 259

[12] United Nations Office of the High Commissioner for Human Rights, 1991; General Comment 4 of the International Covenant on Economic, Cultural and Social Rights; United Nations Office of the High Commissioner for Human Rights, 1997; General Comment 7 of the International Covenant on Eco-nomic, Cultural and Social Rights.

[13] Diagram taken from Lindstrom & Grimsditch (2013), Policy for the Poor? Phnom Penh, Tenure Security, and Circular 03, Phnom Penh: The Urban Initiative

[14] Land Law (2001), Article 15

mentioned, state public property cannot be owned or possessed by private individuals, and encroachment on state public land is in offense punishable by a fine or time in jail.

State private land is all the land that is neither state public land, nor legally privately or collectively owned or possessed under the Land Law.[15]

State private property may be subject to sale, exchange, distribution or transfer of rights to private individuals or companies, provided this is in accordance with the law.[16]

A number of regulations have been issued which set more clear definitions of the different types of state public property, such as roads, rivers, riverbanks, lakes, etc. These regulations explain, for example, how far from a river the riverbank extends. These definitions are extremely important as they can make the difference between someone's occupation being legal or not.

The following is a list of the types of state public property that may be found in urban areas and the regulations associated with them:

ROADS

• The law regarding state public land and public roads in urban areas is ambiguous. The relevant legal documents include:

Sub-decree #197 on the Management of Rights of Way on National Road and Railroad Networks of the Kingdom of Cambodia, November 2009 (RGC);

• Level one national road (e.g. National Road 1), right of way = **30 meters from either side of the road.**

• Level two national road (e.g. National Road 21), right of way = **25 meters from either side of the road.**

• The rights of way of national roads that cross the capital or town do not follow the above rules, but it is not clear if there is a strict rule for road rights of way in the city;

Decision #52 to attach the Text on Criteria for State Land Classification as an Annex of Prakas N#42 Dated 10 March 2006 On State Land Identification, Mapping and Classification, December 2006 (MLMUPC);

• Roads located within cities, provincial town or district capitals do not necessarily have reserves but shall have sidewalks. Such roads and sidewalks are also state public land;

• Criteria for determining city, provincial town and populated areas should be established;

Letter #442 from Senior Minister, Minister of The Ministry of Land Management Urban Planning & Construction to His Excellency Provincial Governor and as a Head of City and Provincial Committee;

• States that the reserved area of National Highway 5 is 30 meters and also adds that building is not permitted within 4 meters of this reserve. This suggests that **a total of 34 meters around National Highway 5 is regarded as state public property.**

RAILWAYS & RAILWAY STATIONS

Decision #52 (MLMUPC);

• Inside cities, towns and populated areas the right of way for railways is **20 metres from the axis of the track.**

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[15] Royal Government of Cambodia (2005), Sub-decree #118 on State Land Management, Article 5
[16] Land Law (2001), Article 17

QUAYS AND PORTS

Decision #52 (MLMUPC);

• Land of those **quays or ports designed for the general interest** shall be classified as state public land.

AIRPORTS

Decision #52 (MLMUPC);

• Land of **airports that are specially developed for the general interest** shall be classified as state public land.

TRACKS & PATHWAYS

Decision #52 (MLMUPC);

• **Tracks and pathways that are made available for public use** are state public properties;

• Track is a way linking 2 Phum within the same Khum and on which it is possible to drive a car;

• A pathway is a way that links a block of houses to another in a Phum or a dike dam or canal dam on which no more than a motor-bike or bicycle can pass;

• No reserve is needed for tracks and pathways.

PUBLIC PARKS & GARDENS

Decision #52 (MLMUPC);

• Article 15 of Land Law of 2001 stipulates that **any property that is made available, either in its natural state or after development, for public use**, is public domain of the State;

• Article 12 of the 1994 Law on Land Management, Urban Planning, and Construction, states that public gardens and parks and development areas are public areas;

• Public gardens and parks are state public land.

EDUCATIONAL INSTITUTIONS, ADMINISTRATIVE BUILDINGS & PUBLIC HOSPITALS

Decision #52 (MLMUPC)

• Land of **public schools or educational buildings, land of administrative buildings, land of public hospitals and health centres as well as the premises of those establishments located on State land** are state public land.

RIVERS

Decision #52 (MLMUPC)

• Rivers (Tonle) are floatable or navigable water courses that are determined as such 'Tonle'. In total there are 7 rivers in the Kingdom of Cambodia: Mekong, Bassac, Se San, Sap, Se Kong, Srae Pok and Toch rivers.

• River land is **the land between both banks of river and normally contains water in dry season.**

RIVERBANKS

Decision #52 (MLMUPC);

• River banks are **parts of land that is located between the highest water line of rainy season and lowest water line of dry season** of the demarcation year except an abnormal flood season.

NAVIGABLE AND FLOATABLE WATERCOURSES (OTHER THAN RIVERS)

Decision #52 (MLMUPC);

• The width of navigable and floatable water courses shall be **between the highest water lines of both sides of the water course in rainy season** except an abnormal flood season;

• Non-navigable or non-floatable water courses shall be classified as state private land;

• If the width of the water course is less than two meters, the water course land shall be registered as part of the land parcel(s) on both sides of the water course.

NATURAL LAKES

Decision #52 (MLMUPC);

• The bed (body) of a natural lake, **limited to the water line of dry season** of the demarcation year except an abnormal drought year, **is state public land;**

• Land **area between the highest water line of rainy season and lowest water line of dry season, shall be classified as state private land**, except those parts that clearly have public use or public interest that shall be classified as state public land.

ISLANDS

Decision #52 (MLMUPC)

• **Islands or parts of islands that is clearly shown as having public use or public interest** shall be classified as state public land. Others than this shall be classified as state private land;

• Islands that were under lawful possession prior to the promulgation of the 2001 Land Law can be granted as private ownership.

OTHER LAND WITH PUBLIC INTEREST USE CHARACTERISTICS

Decision #52 (MLMUPC);

• Article 4 (h) of the Sub-Decree #188 ANK.BK, on State Land Management provides that **other land having public interest characteristic** and land already has legal basis is a category of state public land;

• **Sewage - drainage canal/system** along undeveloped roads must be classified as state public land;

• **Electric station land** and **land used to distribute state-owned electricity** and **stations for distributing state-owned fresh water** and **land or places for holding state water** have to be kept as public state land.

Pic.1. Enumerators collecting household data related to land tenure in Chrang Chamres (2014)

In addition to state public land, it is also important to bear in mind that property belonging to monasteries cannot be privately owned, according to the 2001 Land Law. Article 21 of the 2001 Land Law states: Monastery immovable property cannot be sold, exchanged or donated and is not subject to prescription.

LAND CLASSIFICATION

Documents are an important tool for landholders to prove that they have rights to their land and to protect that land from disputes. The strongest document is a land ownership title issued by the MLMUPC, which proves definitive ownership of the land in question. Although, as mentioned above, many people that do not hold a land ownership title may be legal possessors.

Legal possession is not as strong as ownership and can be challenged more easily by other individuals or by the state. For this reason it is important for possessors to gather and save documentation related to their land as this can be used to prove that they are the rightful possessor. These documents can also be used by the landholder to prove that his/her possession is legal when applying for a land ownership title.

In order to prove that possession is legal, one of the most important things is to show that the land has been continuously occupied (either by the current occupant or someone else) since before August 2001. Various types of documents can be used to support a claim of legal possession. The strongest evidence that possession is legal is land documentation issued by competent authorities, for example, the sangkat, khan or municipality. The higher the level of the issuing authority, the stronger those documents are. These documents may include:

• Slab moan (survey paper from pre-2001 land administration system);
• Receipt for pre-2001 land title;
• Occupancy support documents from the sangkat or phum;
• Land transfer letters (these are stronger if signed by the sangkat or phum).

In cases where people have no document that relates directly to their land, they may use other personal documents as evidence to support a claim of legal possession if they show that the land has been occupied since before August 2001. This may include:

• National ID card;
• Voter ID card;
• Birth certificate;

Table 2. Land tenure categories (PIN 2015)

Tenure Category		Explanation	Strength of Possession Claim
A	Not on state public land. Occupation began pre-2001. Hold pre-2001 tenure document.	Property is not located on land classified as state public. Household began their occupation before 2001 and have a tenure document showing possession commencing before 2001.	Strong claim to legal possession.
B	Not on state public land. Occupation began pre-2001. Hold a tenure document but dated after 2001.	Property is not located on land classified as state public. Household began their occupation before 2001 and have a tenure document but it does not show that their possession commenced before 2001.	Potentially legitimate claims to legal possession, but will have to rely on other forms of documentation (such as Family Book) to prove that possession began pre-2001.
C	Not on state public land. Occupation began pre-2001. Do not hold any tenure document.	Property is not located on land classified as state public. Household began their occupation before 2001 but do not have any tenure document.	Potentially legitimate claims of legal possession, but may have to rely on other forms of documentation (such as Family Book) to prove that possession began pre-2001.
D	Not on state public land. Occupation began post-2001.	Property is not located on land classified as state public. Household began their occupation after 2001.	Potentially legitimate claims of legal possession, but may have to collect documentation that shows a chain of possession going back to pre-2001.
E	Plot appears to overlap state public land.	A portion of plot appears to be located on land classified as state public, and a portion on land that is not classified as state public.	Potentially legitimate claims of legal possession for land that is not classified as state public if occupation began pre-2001. Household cannot claim possession of any land that is classified as state public.
F	Plot appears to be on state public land.	Household's entire parcel (or vast majority of it) is on state public land.	Household is unlikely to be able to claim legal possession as they appear to be located on state public property.

• Family book;

• Residents book;

• Receipt for payment of land taxes;

• Savings book;

• Any other official document that shows occupation at this address since before August 2001.

While documentation is very important, it should be kept in mind that just having (or not having) documentation does not necessarily prove (or disprove) the legality of an individual's possession. For example, if officials unlawfully granted tenure documents to people who are occupying state public property, the papers are invalid. It is also possible that someone may not have legal papers, but may have legal possession rights due to the nature of their occupation. An assessment of possession rights should be based on the facts of the occupation, and documents should be treated as evidence.

CIRCULAR 03 ON RESOLUTION OF TEMPORARY SETTLEMENT ON LAND WHICH HAS BEEN ILLEGALLY OCCUPIED IN THE CAPITAL, MUNICIPAL, AND URBAN AREAS

The Land Law states that some types of land occupation are not legal, and people that are illegally occupying state property have no rights to that land. If the relevant authorities determine that a household is occupying state public property or that its possession is not legal, the government may in the future request to leave this location. If this happens, the Land Law says that such households are not entitled to any compensation.[17]

However, Cambodia has international human rights obligations to respect the right to adequate housing—meaning that no one should be made homeless, even if their occupation is not legal, and any resettlement must be conducted in an appropriate manner.[18]

Cambodia now has a legal process for upgrading or resettling households that are located on state land. This process is set out in Circular 03 on Resolution of Temporary Settlements on State Land Illegally Occupied in the Capital, Municipal and Urban Areas. The circular has only been implemented in a few places so far, but in the future it may be used to deal with settlements located in Phnom Penh. If the land occupation is not legal, such households will be affected by Circular 03, so it is important to inform them about it. The information below provides some background on the Circular 03 process.

HOW DOES CIRCULAR 03 WORK?

The Circular 03 process can be used to either relocate or upgrade those that are illegally occupying land in urban areas. Circular 03 was issued in 2010 and outlines the steps for providing "resolution" for illegal settlements. The main steps of the Circular 03 are as follows:

Step 1: Data Collection on the Number of Temporary Settlements Sites

• First the authorities should collect data on the number of temporary settlements within their territory.

• This should be done with the participation of local communities and civil society organizations.

Step 2: Identification, Mapping and Classification of Land of Temporary Settlements

• After the initial data collection, the

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[17] Land Law (2001), Article 43, 259

[18] United Nations Office of the High Commissioner for Human Rights (1991) General Comment 4 of the International Covenant on Economic, Cultural and Social Rights; United Nations Office of the High Commissioner for Human Rights (1997); General Comment 7 of the International Covenant on Economic, Cultural and Social Rights

• After the initial data collection, the authorities should meet local community representatives and civil society groups and hold a meeting to discuss and review the data for each site identified as a "temporary settlement".

• Maps should be made for each site and the different types of land identified, for example, parks, monasteries, private land, state land, etc.

• These maps should be publicly posted and local populations should be able to submit comments.

Step 3: Census on the Number of Households and Household Members in Temporary Settlement Sites

• Based on the above information, the relevant authorities, working with community representatives and civil society, should collect statistics for any settlements identified as being illegal.

• Data should be gathered on all households and family members. Each entry should specify if the occupants are owners or renters, and should be thumb-printed by a family representative.

• Once the census is complete, it should be posted in a public place within the location for 30 days, as well as in the commune/ sangkat office.

• Local residents should have the opportunity to comment during this public display.

Step 4: Finding Solutions

• After the census has been completed, the next stage is for the authorities to call a meeting to discuss and identify options of "resolutions" for each temporary settlement.

• The meeting should include community representatives and civil society groups.

• For those who own their property, the following options may apply:

- Relocation from the site, if on-site upgrading cannot be applied; or

- On-site upgrading, if the conditions are suitable; or

- Other forms of resolutions based on actual conditions (case by case basis).

• The options for renters are much more limited, and they must discuss a resolution with the person who owns the house they are renting.

• After reaching a resolution agreement, the authorities should develop an action plan and set a timeframe for its implementation.

• Once the resolution is agreed upon, a notice should be made available to the public through a 30 day public display in the settlement site and in the commune/sangkat offices. The public should be able to comment.

Step 5: Discussion to Identify Resolution Policies

• For any settlement where on-site upgrading is possible, Municipal/ Provincial Governors should discuss with the relevant stakeholders the drafting of an infrastructure development plan.

• Procedures for developing housing must also be prepared, along with any other relevant policies for the development of local livelihoods.

• In cases where on-site upgrading is not possible, a specific action plan and policies must be developed in order to facilitate relocation. This must be done prior to any relocation.

• Both those granted on-site upgrading and those who are relocated may be entitled to:

- Usufruct rights (rights to use, but not ownership) based on agreement;

- Ownership rights after the beneficiaries continuously occupy and reside on the site for at least 10 years, commencing from the date of the resolution agreed; or

- The right to rent for a specific period with a symbolic renting fee.

Step 6: Basic Infrastructure and Public Services Support

• The circular states that whatever resolution is used, in every case the provision of basic infrastructure and public services must be considered.

• Infrastructure and services includes:

road networks, water supply, sewage, and other basic services such as education, healthcare and employment opportunities.

- The circular states that all infrastructure and services should be prepared prior to on-site upgrading or resettlement. Upgrade or resettlement land must be of a suitable size.

Step 7: Participation of Stakeholders in Development

• Before implementing any activities, the upgrade or resettlement sites must be studied.

• The circular concludes by stating that local authorities, along with development partners and civil society may contribute their efforts in the implementation by providing technical, financial, and material support in improving infrastructure, providing basic public services, and creating job opportunities.

WHERE IS CIRCULAR 03 BEING APPLIED?

Although Circular 03 was passed in 2010, it is still not yet being widely implemented. The process is provided above for your information, but at the moment there are few examples of it actually being implemented.

Read more:

NGO Forum, "Access to Land Title in Cambodia- A Study of Systematic Land Registration in Three Cambodian Provinces and the Capital"
http://ticambodia.org/library/wp-content/files_mf/14364181 66AccesstolandtitleinCambodia.pdf

STT, "Policy for the Poor- Phnom Penh, Tenure Security and Circular 03"
http://teangtnaut.org/wp-content/uploads/2013/08/The-UI_Policy-for-the-Poor_2013.pdf

CCHR, "Cambodia, Land in Conflict- an overview of the situation"
http://cchrcambodia.org/admin/media/report/report/english/ CCHR%20Report%20%20Cambodia%20Land%20in%20 Conflict%20An%20Overview%20of%20the%20Land%20Situation%20ENG.pdf

Open Development Cambodia
http://www.opendevelopmentcambodia.net/laws_and_regulations/environment-land-and-nrm-laws/?post_type=law

04

Urban poor settlement profiling

(By Ee Sarom and Honesty Pern)

A) WHAT IS AN URBAN POOR SETTLEMENT?

Types of urban poor settlements in Cambodia include: resettlement sites, urban poor settlements in the central districts and urban poor settlements located on marginal land. Compared to other countries in Asia, Cambodia is one of the poorest nations. The poverty rate in Cambodia in 2012 was 18.89%, with a poverty rate of 16.25 in Phnom Penh city, 14.45% in other urban areas and 19.98% in rural areas (MoP, 2012) . A growing number of urban poor communities has been caused by the lack of socio-economic safety nets for people living in the rural areas. At the same time the cities offer more life opportunities such as access to more stable jobs, education and other social services. Though the Royal Government of Cambodia (RGC) has regarded rural development as one of its priorities, more attention has been focused on urban development, especially in Phnom Penh, which is the country's political and the commercial centre (Chap, 2006). There is also a large gap in income among populations in urban areas that is very evident in the hugely differing living standards (such as housing and material wealth).

Phnom Penh has experienced rapid growth with its population doubling from 1998-2008 from 567,860 to
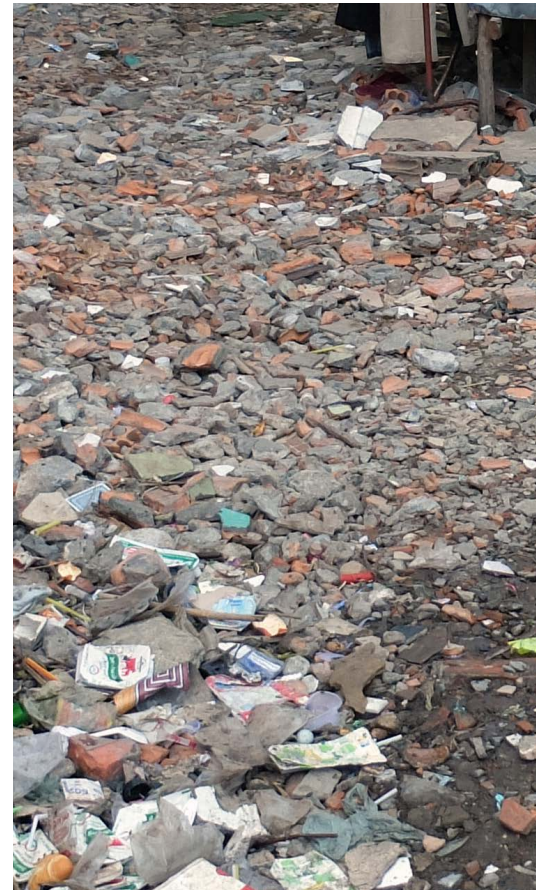
1,237,600 residents mostly owing to the in-migration of rural Cambodians seeking employment in the booming city (MoP, 2012). While in 1998 one in every twenty Cambodians lived in Phnom Penh city in 2012 it was estimated to be one in ten (MoP, 2012). With a projected population of more than 1.6 million for 2012, the Municipality of Phnom Penh (PPM) estimated that, urban poor communities account for about one quarter of the capital's residents (PPM,2012). However, according to the PPM's most recent figures, the number of poor communities has decreased from 335 communities to 250 communities only, located in 48 Sangkat of 12 Khans, with a total number of 88,174 people, equal to 20,441 families and 18,479 houses (PPM, 2015). Separate data collected by Sahmakum Teang Tnaut (STT) shows these numbers of urban poor settlements to be 340 (STT, 2014).

Urban poor settlements in Cambodia have been and are referred to in various ways, including "informal settlements," "temporary settlements," and "squatter settlements." These terms have often been used synonymously with "illegal," suggesting that the settlements were established on state land or land of another private individual. In fact, until 2000 the PPM informally categorized settlements in the capital city as either "urban poor" with at least some kind of occupancy status or "squatters" seen as occupying land illegally. Determining what type of land a settlement has been established on is not a straightforward task. These guidelines thus use the term "urban poor settlement" to describe gener-

Pic. 2. Many urban poor communities in Phnom Penh are affected by lack of tenure security

ally the poor settlements in the city without any implications relating to the land rights of the settlements or individual households.

Definitions used in the HRBSP Guidelines:

Poor settlement: is a non-conventional or disordered area, where a group of people reside with no official organization. Moreover, settlements are defined as a group of 10 or more adjacent households, and has the lack of one of the below:

• Durable housing of a permanent nature that protects against extreme climate condition;

• Sufficient living space;

• Easy access to safe water in sufficient amounts at an affordable price;

• Access to adequate sanitation in form of a private or public toilet shared by a reasonable number of people;

• Security of tenure that prevents forced eviction.

Urban Poor Settlement: Is defined as a group of ten or more households in an urban environment, or within the boundaries of a municipality, whose housing structures are of visibly poor quality, and/or whose homes have been laid out in a non-conventional fashion without adherence to a ground plan.

Poor Community: Is a nonconventional or disordered area, where a group of people reside in locations that are officially organized and represented by appointed community leaders or representatives.

Distance from the city center: The distance of urban poor settlements from the city center may vary considerably. In research conducted by STT in 2013, there were 340 urban poor settlements surveyed in the capital city of Phnom Penh. These settlements included 80 settlements (or 24%) in the four inner khans of the capital (Doun Penh, Chamkarmon, Toul Kork and 7 Makara) and 260 in the outer khans (Meanchey, Russey Keo, Sensok, Dangkor, Porsenchey). Just over three quarters of urban poor settlements in 2013 were thus located in the outer khans (STT, 2014).

In Phnom Penh, the prevalence of the location of urban poor settlements in the outer khans can in part be attributed to the drive by municipal authorities and private investors to develop the inner (and highly profitable) areas of the capital, resulting in the eviction of urban poor families from the settlements in the inner khans.

Urban Poor Relocation Sites: There are currently 54 relocation sites in and around Phnom Penh. Mainly established over the past two decades, the sites are primarily home to people evicted from Phnom Penh's four inner khans, with residents from Khan Chamkarmon's Tonle Bassac area topping the list. 2001 marked the beginning of an encompassing relocation policy: 83% of all sites were established after that year. Over time, relocation sites have been established further and further away from Phnom Penh's city center. The average distance from the city center, to relocation sites is currently 20km, but has been growing steadily, from an average of 14km for sites established between 2000 and 2004, to an avarage 25km for sites established in the period 2005-2009. 43% of all communities were relocated between 15-20km away, whilst five communities—relocated between 2009 and 2012—were moved over 50km from their previous homes (STT, 2012). Greater distances from the city center have important socio-economic repercussions on urban residents in relocation sites, and efforts to ensure access to infrastructure, basic services and tenure security are therefore greatly needed.

B) MAPPING AND ENUMERATION (INCLUDING ASSESSMENT OF LIVING ENVIRONMENT, ACCESS TO BASIC SERVICES, ETC.):

Mapping and enumeration are important mechanisms to engage and empower urban poor communities on land, housing, and infrastructure issues. Mapping involves creating GIS maps of urban poor settlements' external boundaries and household boundaries, whilst enumeration allows an assessment of the living conditions of settlement residents overall.

Mapping and enumeration can help increase the following:

• **Community Cohesion:** A community with a better understanding of itself is more cohesive. Rather than a set of individual dwellings residents can come to see themselves as a collective whole with collective needs and a collective voice. Increased cohesion can help mobilize residents to cooperate to work together towards common goals. Mapping and surveys can help people to see more common issues and common problems, and motivate them to work together.

• **Community Confidence:** If a community is united it has much greater political force than a series of individual voices. The increased cooperation that comes from a community that knows itself can increase confidence to deal with local authorities and undertake projects together. Being an informed community is an important step towards being a strong community.

• **Evidence Based Advocacy:** Most residents of urban poor settlements will be able to describe the situations they live in. However accurate data allows the community to describe its situation in quantitative terms that carry far more weight with decision makers. For example a community approaching a Local Authority asking for improved sanitation will can present a stronger argument for these improvements if they can demonstrate the community's ratio of people to toilets, rather than just a general call for an improvement in the current situation. Advocacy is more effective when it contains facts.

• **Raising the Community Profile:** Activities to gather community data focus attention on a community, and the process may attract local media attention, this may help to enlist the support of political figures, NGO's and the wider population. Mapping and data activities can focus attention on a community.

• **'Counter' data Is More Effective than Slogan Chanting:** 'Counter' data can be used to challenge official figures and is especially useful in environments where official information channels are not made public and exclude the community. Accurate population data can be used to demonstrate the size of the problem that would be created if an eviction were to take place. Accurate data also empowers a community to counter any misinformation spread by the authorities or developers. Claims that the residents of urban poor settlements are 'undesirable' or unemployed and a drain on city resources can be directly countered with reliable community data. Accurate data can be a community's strongest defense.

• **Alternative Development Plans:** Community data and maps can be used to create 'alternative development plans' to official proposals. Alternative plans may draw on concepts of 'land sharing' or 'in-situ upgrading'. Data can help a community make plans that show that eviction is not the only option.

• **Preparation for relocation:** In situations where an eviction is unavoidable, accurate community data can help prepare communities for the relocation process, including compensation claims and the land allocation process at relocation sites. In contexts where the compensation process has a history of being controversial it is highly important that the community posses accurate data to cross check against official figures, and approach negotiations from a more informed standpoint. A more informed community is in a better position to cope with the trauma of a relocation.

• **Identify basic service needs:** After collecting information and locating it on a map, this can be used to identify highlighted problems in the community, make decisions, prioritize problems and addressed them with available internal resources and outside support.

There are two main ways of utilizing community maps at community levels, state institutions and CSOs.

A community is likely to use its map(s) for various purposes. Its primary purpose is to indicate individual house locations, to show the number of community residents, and to high-light existing socioeconomic mechanisms such as saving schemes, etc. It is sometimes used to highlight social problems (such as children's access to education, security issues, domestic violence, etc.) and then to propose solutions. This map can also be used to demonstrate difficulties in terms of infrastructure.

In previous experience, state institutions can use a community map for their internal procedures, to measure the size of a community and to categorize each urban poor settlement. It can also be used to prepare a commune-level upgrading plan and to support the procedure of land titling. CSOs can use a community map at planning stages when assessing communities and their needs, in order to provide services to certain target groups.

Pic. 4. Field staff verifying digital maps on the ground

HOW TO DO IT:

There are four phases to this process: Planning, Pre-Mapping, Mapping and Post-Mapping. The following is a summary of the activities in each of the four phases. Although the activities are presented in sequence, the activities are intended to be flexible, and the order can be adapted to suit the local context.

1. PLANING

a) Informal Community Visits: The mapping team makes informal visits to the community to make an initial visual assessment, touches base with community leaders and invites their participation in the program.

b) Information Meeting: Community leaders are invited to an initial information meeting where details of the project are shared, and the instructions to apply to participate in the program are given.

c) Participatory Community Selection Exercise: The Participatory Community Selection Exercise (PCSE) ensures that a selected community fits the set of criteria by which beneficiary communities should be selected. Criteria can include elements such as:

• Presence of community organizations like savings groups and women's groups.

• Presence of an eviction threat.

• Need for small scale infrastructure upgrades, etc.

If it is clear that a community fits the criteria, an 'action plan' should be developed with preliminary dates organized for each phase of the process in each community.

d) Approach Local Authority: The mapping team will attempt to make initial contact with the relevant local authority to explain the purpose of the team's presence in the area and explore opportunities for collabora-

tion, including their participation in key events such as the 'hand over' meeting at the conclusion of mapping and enumeration activities.

2. PRE-MAPPING

a) Community Meeting: The first stage before mapping activities commence is a meeting with community leaders, where the benefits of mapping and enumeration are discussed, action plans are introduced and com-

Pic. 5 & 6 International Children Day celebrations in Chrang Chamres (2015)

munity members are invited to participate. A transect walk is conducted to further familiarize the mapping team with the community, define formal and informal community boundaries, identify any areas with the potential to generate conflict and discuss possible conflict mitigation measures.

b) Kids Day: Following the community meeting an exercise to engage with the children in the community is conducted whereby participants build 3 dimensional paper models of their 'dream home'. Children then present to each other and to the community and explain the thinking behind their creations. Models are also laid out according to the current community layout. This exercise has proved effective in capturing the interest of the wider community, participation is generally high, increasing the awareness and acceptance of the project.

c) Community Mapping Training: A two day mapping workshop is conducted with community members, giving a basic introduction to reading and creating community maps.

3. MAPPING

a) Social Mapping: Maps can be created on paper or on the ground. If the map has been created on the ground be sure that it is transferred to paper or recorded in a photo clearly showing all the detail.

The first stage of the mapping process is a 'Social Mapping' exercise. Social Mapping is beneficial to:

• Learn about the social structures in a community and the differences among the households, by things such as ethnicity, religion, wealth etc.

• Learn about social organizations and other institutions present and the perceptions of residents regarding those institutions;

• Learn about the spatial manifestations of the relationship between the settlement and its residents'.

When creating a social map it is beneficial to include the following steps:

• Define approximate community boundaries—this may require some discussion—and significant landmarks such as major roads, entry and exit points;

• Ask the participants to start by drawing their own dwellings on the map, and from there draw all the dwellings in the settlement (if the settlement has too many dwellings and this level of detail is not feasible, participants can indicate the locations of blocks of dwellings);

• Ask participants to show "community resources", meaning institutions or other places that offer some kind of social service. Participants should have the freedom to choose what

they wish to include in the map;

• Ask participants to indicate "significant spaces"; these can be indoor or outdoor, formal or informal, places that serve a particular function or spaces that are simply popular places to meet (these can be indoor or outdoor, formal or informal).

Using a set of symbols agreed upon by the group, instruct participants to discuss and show on the map the location of different Community Groups. These may include:

• Particular ethnic groups;

• Particular religious groups;

• Female headed households (make sure everyone has the same understanding of what female headed households are);

• Original settlers;

• People who arrived later;

• Particular vocational groups; laborers, vendors, sex workers etc.

Facilitators should ask probing questions to draw out more information from the map. If the map has been created on the ground be sure that it is transferred to paper or recorded in a photo clearly showing all the detail.

b) Rough Community Profile Focus Groups: The qualitative and quantitative data that eventually forms the content of the household survey and

the 'Community Booklet' is first introduced in a focus group setting. Topics discussed include:

• Household composition;
• Occupational status;
• Educational attainment;
• Health status;
• Length of stay;
• Perceptions of tenure security, etc.

Introducing the topics in a group setting is useful to stimulate discussion and can assist with data accuracy, as information is 'triangulated' by the group. Depending on community dynamics, focus groups may be disaggregated by gender and age to ensure optimal participation of women and young people.

c) Rough Map: Utilizing satellite photography, the team in conjunction with the community and youth volunteers creates a rough draft of the community map. The rough map involves the following steps:

• Walking through the community house by house, the team assigns a number to each dwelling.

• At the same time the team creates rough sketches of building footprints, secondary structures, roads and other significant landmarks.

• Dimensions are measured using a laser measure and locations verified (to the extent possible given limited accuracy) using GPS.

d) Digitized Map: Following the rough map, the team analyzes all spatial data collected to identify any errors or omissions; if necessary return visits are made to settlements. The final output is an accurate map of the community.

e) Community Verification Meeting: A community meeting is held to present the results of the mapping activity and the preliminary findings of the household survey. The meeting serves as a further means to verify data and discuss findings with the community

f) Data Analysis: Any necessary modifications are made to the map following verification activities. Data obtained from the household survey is entered into SPSS for analysis and 'Community Profile' booklets are prepared.

4. POST-MAPPING

a) Handover Meeting: A meeting is held to hand over the map, community profile booklets and ownership document photographs, to the community and individual households. The opportunity is taken to reiterate with the community the need for an action plan to make effective use of the data.

The project process itself is discussed with the community who are asked to give their perceptions on potential areas of improvement. Those who have completed the Community Mapping Training Workshop or were directly involved in project implementation are asked to fill out an evaluation form. The local authority is invited to participate in the hand over meeting and is also provided with a copy of the map and community booklet.

b) Upgrading Slide-show: Either at the handover or a separate community meeting a slide-show of small scale community upgrades utilizing photos of the settlement in question may be displayed. The purpose of the presentation is to show the community tangible ways in which they could improve their settlement in areas such as; drainage, waste collection, public lighting and community aesthetics. This is an important step to form the Community Liaison Group and prepare the alternative redevelopment plan.

c) Final community exchange and reflection: Upon project completion, all target communities visit each other to reflect on and evaluate the project, share experiences, lessons learned and ideas for the future and innovative uses of data.

d) Monitoring: Monitoring to ascertain the impact of the mapping pro-

cess on the community is conducted at regular intervals. This typically takes the form of a phone interview with community leaders every three months, a site visit by the mapping team every six months and an annual reflection meeting between leaders from each community who participated in the program.

C) SURVEY TO ASSESS TENURE SECURITY

Assessing tenure security through legal assessments of individual households is very important because it can provide reliable, evidence based on-site development scenarios to key decision makers at the local and municipal levels of the government and it can empower poor urban dwellers to demand development of their settlements in a manner that respects their rights and priorities. Legal assessments can help with the following:

• **Intra-community Tenure Security:** In many urban poor settlements complex forms of informal ownership may be operating. Gathering accurate data can help resolve ambiguities in ownership systems. This in turn can reduce the risk that someone will be unjustly dispossessed by another resident in the settlement. This is especially important in the case of vulnerable residents of settlements such as widows, the elderly and people with disabilities. Increased tenure security within the community as a whole is an important step towards a strong community. Accurate information can reduce confusion and conflict around ownership within a settlement and build a more informed community.

• **Legislation:** Appealing to the law in many cases requires accurate data on things such as the length of time a family has lived in a settlement. Additionally, entering negotiations armed with data that has been gathered through a legitimate process puts a community in a much stronger position. This is especially important in contexts where the law may be supportive of the urban poor in theory, but this is not translated into practice. Data can help a community to stand up for its legal rights.

• **Community Awareness & Education:** In most communities, residents will have different levels of understanding of the legal status of their tenancy and the legislation and policies that that affect them. In some cases residents may think that the informal process they went through to acquire their land is considered ownership in the eyes of the law. Data gathering provides an opportunity to educate the community on these important matters, to clarify a settlement's status and to spread awareness of this information. The more informed a community is, the stronger it is.

HOW TO DO IT:

It is important that this exercise be carried out in conjunction with mapping and enumeration. Based on data gathered during those processes, maps need to be developed showing different aspects of tenure security in the target area, including maps showing the type of documentation held by individual households in the area, any land registration conducted in the area (or nearby) and potential legal status of the land (e.g. state public land adjacent to roads).

After the analysis and organization of the legal data, the project will be able to provide comprehensive legal commentary on the tenure status of households in the target communities.

Finally, this needs to be shared with the community and local authorities, both in hard copy (through the distribution of "Legal Advice Sheets" to individual households) and through presentations and meetings.

• **Household Survey:** Utilizing the spatial data obtained at the map-

ping stage a survey is conducted with each household in the community. Contents of the survey can be adapted to an extent to suit the local context, however it is the experience of STT that to be most beneficial, surveys must contain the following data:
- Basic household composition;
- Occupation status (owner, renting, occupying);
- Employment and income;
- Water and sanitation facilities;
- Health status;
- Educational level;
- Possession of ownership documentation;
- Land tenure security.

At this point the results of the mapping are also verified at the household level, and often also at a community meeting. Respondents are asked to draw the footprints of their dwellings and any associated structures and discuss any inconsistencies with the digitized map created by the team.

• **Ownership Documents Photographs:** The members of each household are photographed in front of their dwellings with their ownership documents.

• **Distribution:** Based on the findings of the survey, every household will be issued with a legal sheet which describes their land claim, provides a basic legal analysis of the legality of that land claim, and the options that may be available to strengthen their tenure situation.

D) COMMUNITY ORGANIZING

• **Provide a Community Structure:** A community committee is formed to share responsibility between members inside the community and communicate with outsiders. The committee usually consists of three to five active members. (i) One representative who is responsible for coordinating community meetings, signing letters on behalf of community members, leading community activities, communicating with authorities, NGOs and other communities. (ii) One secretary, who is in charge of acting as representative whenever the nominated representative is absent, acting as a signatory, assisting leaders in any meeting, administrative tasks, sharing information, and preparing the meeting reports. (iii) One treasurer, who is responsible for maintaining the finances, keeping records of income and expenses, reporting on the financial status to the committee. (iv) Optionally, two assistants who play an important role in supporting the community.

• **Community empowerment:** The major responsibility of a new committee is to gather community residents to attend community meetings, to mobilize resources, prepare an investment plan, and update the community with the results. Furthermore the committee will support the community to establish a saving scheme, in order to maintain sustained financing for community upgrades and other necessary spending. The committee supports the whole community's voice, in relation to making decisions about the direction of their community.

• **Communication with stakeholders:** The committee plays an active role in communicating with outside stakeholders to promote the interests of the community, and to find solutions for financial and other support. This group should be in regular contact with the local authorities, and feedback any important information to the community members to ensure strong communication. Furthermore the committee is also responsible for seeking support from NGOs and development partners for upgrading and empowerment support.

The main purpose of community organizing is to ensure that a community has a stronger voice, and that it can

take part in the democratic process in a participatory manner in dealing with local authorities, development partners and NGOs. It is a means to enable community members in finding a common sense of purpose and unity, in ensuring that development is driven from within.

HOW TO DO IT:

• **Pre-process meeting:** At this stage, a group of elders, active community residents, and local authority are invited to a meeting to introduce the purpose of community organizing, and discuss the process of forming a committee.

• **Organization orientation:** Similar to above, this orientation is aimed at the entire community. Importantly, it is also the time to ask potential applicants to the community committee to send detailed personal information if they wish to stand as candidates (criterion need to be set, such as permanently staying in the community, having enough time to work with community, literacy, age and strong commitment).

• **Committee member selection:** At this stage, both applicants and as many community members as possible, to ensure fair representation, come back together to vote for committee members. It is organized as a free, transparent and fair democratic process. Each resident has one voice. Five applicants will be selected based on majority of votes.

• **Community regulations:** Once the committee is elected, members develop a draft of the "community regulations" with possible participation from NGOs and local authorities, describing the characteristics of the committee, the different roles and responsibilities of members, their mandate, the process of selection of the next committee, and a conflict resolution mechanism. The draft is sent to community members and other stakeholders to make comments and changes before being adopted.

• **Inform local authorities about new community structure:** The report of the committee selection process and the results of the selection are sent to the local authorities (village chief, and commune council). In addition, the committee members organize a meeting with the authorities to introduce themselves and start the dialogue in an open manner.

05

On-site redevelopment

(By: Piotr Sasin)

A) CULTURE OF PROTECTION

Organizing and engaging local communities in spatial decision making is critical for the success of spatial development projects. Following the steps described in chapter 4 shall result in a well-organized, informed and cooperative community which is prepared to engage in the on-site upgrading process.

Regardless of which redevelopment strategy or their mix is applied, it is essential to build consensus among community members and local authorities to ensure they all participate in the same process, share the same vision and agree to proposed options. Engaging a monitoring body

(e.g. CSO) is strongly recommended to ensure the transparency of the process.

The following protection principles formulated by Global Protection Cluster[19] shall be applied at all stages:

1. Prioritize safety and dignity, and avoid causing harm: No development or humanitarian intervention shall lead to worsening of the situation and increasing of vulnerability of the target population. Spatial planning decisions are long term in nature and their impact will be felt long after the plan is developed.

2. Meaningful access: Developed infrastructure and access to the project must be available to all members

of the community regardless of their age, gender or level of physical ability.

3. Accountability: An efficient and safe way to deal with potential complaints shall be established (e.g. through a designated phone number). Regular open meetings should be organized for the duty bearers to provide updates on the project and for people to give their feedback.

4. Participation and empowerment: All groups living in the settlement shall be engaged in the planning process. It is the role of the planners to ensure the voices and needs of marginalized people are well integrated into the plan.

It is not recommended to rush into

[19] GPC website accessed on 22.12.2015 http://www.globalprotectioncluster.org/en/areas-of-responsibility/protection-mainstreaming.html

the redevelopment planning phase. There may be a conflict within the community and/ or the community may not share the same vision for redevelopment of the settlement. For example some members of the community may prefer to keep the status quo, accept compensation package or relocation, rather than entering time consuming and complicated process. Community cohesion, engagement and leadership are therefore pre- conditions for successful redevelopment projects.

B) PLANNING REDEVELOPMENT OF SETTLEMENT

If the community expresses willingness to engage in the on-site redevelopment, it is recommended to conduct transect walk through the area which will be redeveloped and map major facilities (such as markets, schools and health centers), community infrastructure (e.g. playgrounds), roads, and so forth. The map will also demonstrate any significant problems such as informal rubbish dumpsites, roads which are too narrow, hazardous electrical and sewage connections, etc.

These findings should be compared

with digital, satellite images[20] and once completed a final map can be produced. Further investigations include topographical measurements, measurements of the main and access roads, electrical, water and sewage pipelines, etc. The architects and planners shall engage community representatives and local authorities in this process to build trust and ensure validation of the findings. For example community volunteers can support surveyors during their field work and regular open meetings can be organized to give an update to com-

munity members.

In the next step, the architects prepare several options for redevelopment. In principle the less transformative the proposed change, the more realistic it would be to complete, as extensive redevelopment may prove overwhelmingly expensive and complicated.

REDEVELOPMENT STRATEGIES

There are several strategies which may be applied depending on overall feasibility and available resources:

• **Individual houses and small scale infrastructure upgrades:** This strat-

Pic. 8 & 9 Participatory planning workshops in Chrang Chamres in September 2014

[20] The recommended resolution of the satellite image is 0,3 - 0,5m

egy is probably the easiest way to achieve fast results and improvements in the community. Within few months a number of houses can be renovated and some small scale infrastructure can be provided (e.g. electrical and water connections, construction of latrines). This strategy does not require significant resources or temporary relocations, as upgrades are done at small scale. However, due to the physical characteristics of urban poor settlements such as high densities and poor quality of infrastructure, the "small fixes" may not fully resolve the problems or the problems may return after some time (e.g. drainage canals that are not regularly maintained, or that prove to be too small or simply deteriorate over time as the funds available for the project did not allow to make it more redundant). If the community members do not have recognized rights to the properties they live on, and hear formal or informal threats of evictions, they are also unlikely to invest significant resources to improve their housing and adjacent infrastructure and would rely on the NGO to provide all resources for upgrading. Small scale upgrades are however a good starting point for more transformative solutions in the future as it may lead to better understanding of the settlement upgrading process among community members and builds trust between various stakeholders engaged in the process.

• **Re-blocking:** this strategy looks at restructuring the fewest buildings possible and moving the families to differently designed housing (e.g. two or three storeys). This releases space to build access roads and sidewalks, redesign water, sewage, electrical connections, etc. This may be very cost efficient and a gradual way to upgrade urban poor settlements at significant scale. Temporary relocations are either not necessary or can be managed by the community internally.

• **Complete redevelopment:** there may be the cases when re-blocking is impossible and a more transformative solution must be applied (e.g. when a significant portion of the settlement is located in a hazard prone area or on state public land). The biggest advantage of this strategy is that it enables complete redesign of housing and infrastructure in the area, leading to more efficient land use, better community infrastructure and over a time increased land value. The land tenure status can be also clarified and all dwellers participating in the program would receive property titles. The redevelopment process may require temporary relocations of significant numbers of community members. The high costs of starting construction is another challenging point in this strategy. Leveraging the costs of mortgages transferred to the dwellers is of critical importance for the housing loans to be affordable. This can be achieved through establishing a housing agency which would provide state guarntees for the financial institutions.

Once the redevelopment option is agreed the architects and engineers shall prepare more detailed plans including costs sheets. Health experts, environmental specialists, social workers and other important stakeholders should review the plan and provide their inputs for further consideration as some of the required investments could be covered from Commune Investment Plan.

C) MINIMUM STANDARDS FOR HOUSING AND COMMUNITY INFRASTRUCTURE

Cambodia does not have specific guidelines and standards for housing yet. The draft of the Minimum Package for Upgrading Urban Poor Settlements, elaborated by Phnom Penh Municipality with support of

UNICEF and CSOs, does not include such details.

Presented below are standards applied in the housing projects in the Philippines which may serve as an inspiration as many socioeconomic and environmental problems are similar in both countries[21]. It is however very important to always pay attention to local cultural, social and environmental considerations which may affect the project implementation.

Table 3. The minimum rules and standards for economic and socialized housing in the Philippines

Minimum living space	Min. 18-22 m² of floor area per family (social housing) but not less than 3.4 m² per person excluding kitchen and bathroom
Minimum lot allocations	Single detached 64-72 m², duplex/ single attached- 48-54 m², row house- 32-36 m²
Minimum height of the celling	2 m
Minimum distance between two single storey houses	2 m between walls, 1 m between roofs
Path walks	3 m width (max 60 m length)
Access roads	6.5 m width, slope: 1.5-9%
Access to water	Min. 150 l per person/ per day through water lines, deep wells (not farther than 100 m) or reservoirs
Access to sanitation	All units should have appropriate sanitation (individual septic tanks or community sewer system
Storm drainage	Concrete lined canal with load bearing cover
Solid waste disposal	The appropriate, feasible system must be developed for timely and efficient utilization of solid waste (either by individual families or in conjunction with the public service provider.
Park/playground	min 100 m2 per settlement or 3.5% of the total area per 150 housing units or below.
Power	50 m between electrical poles/ lighting
Elementary school	Min 1 per 1500 hh +
High school	Min 1 per 2000hh +
Convenience/ retail center	1 per 1500 hh +

[21] Revised Rules and Standards for Economic and Socialized Housing Projects in the Philippines

D) ARCHITECTURE DESIGN CONSIDERATIONS

1. CULTURAL CONSIDERATIONS

A majority of the urban poor in Cambodia dwell in low raised buildings consisting of the ground floor used for livelihood related activities or of mixed use, and the first floor used mainly for housing. While the buildings may vary in shape and structure they are very typical for Cambodia's rural areas. This type of housing, although culturally preferred does not guarantee an efficient land use and leads to urban sprawl. Moreover, many of such houses are located at riverbanks or in the road extension reserves which are considered state public property. This adds another level of complexity related to tenure security. Construction of multi-storey housing units addresses many of these issues. However, if this redevelopment option is selected, social projects helping families to adjust to new living conditions may be necessary.

In preparation of Chrang Chamres redevelopment plan facilitated by PIN and STT, community members (approx. 100 people in two sessions) provided inputs regarding buildings height, length, sizes and layouts of the flats, common areas, commercial areas and access to the riverbank. It is good practice to avoid any future misunderstandings and conflicts.

2. ENVIRONMENTAL, CLIMATE CHANGE ADAPTATION AND DISASTER RISK REDUCTION CONSIDERATIONS

Many urban poor settlements are located in disaster prone areas. According to PIN and the PPM assessment there are 222 settlements

Pic. 10. Cross Section for Chrang Chamres Development Scenario (Collective Studio, 2014)
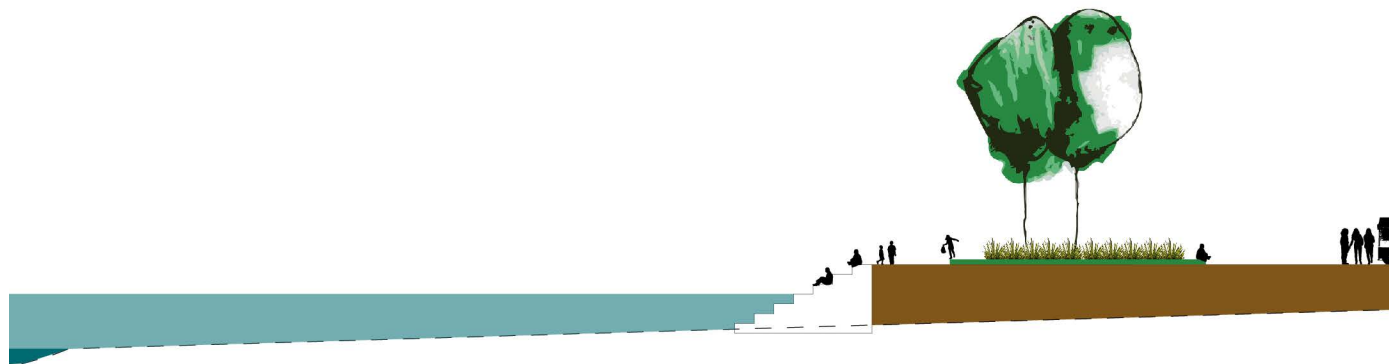
prone to flooding and landslides while over 300 are affected by poor access roads (PIN, 2015). This results in poor environmental sanitation and increased risks of devastating fires as fire brigades cannot enter the sites.

Integrating preventive, adaptation and mitigation measures into the settlement planning process is therefore extremely important. Some of the actions may include:

FLOODING

• Ensure new housing units are constructed above historic flood levels (1-3.5 m) and existing houses are upgraded. The high raised buildings in the flood prone area shall be constructed on concrete stilts (soil tests are necessary to determine depth and type of foundations as well as maximum heights).

• Determine the safe site/evacuation center in case of heavy flooding (e.g. Pagoda, school, other public space) and ensure it has basic infrastructure in place (access to clean water and safe sanitary facilities).

• Identify the most vulnerable families and individuals who will need assistance in case of evacuation.

• Many floods in urban areas result from heavy rains and the lack of an effective drainage system. The existing canals are very often clogged with rubbish. Planning drainage canal extension must therefore be complemented with law enforcement and environmental sanitation education campaigns related to waste management.

• Sanitation facilities should be elevated and septic tanks well sealed in the areas prone to flooding. There are a number of good practices for
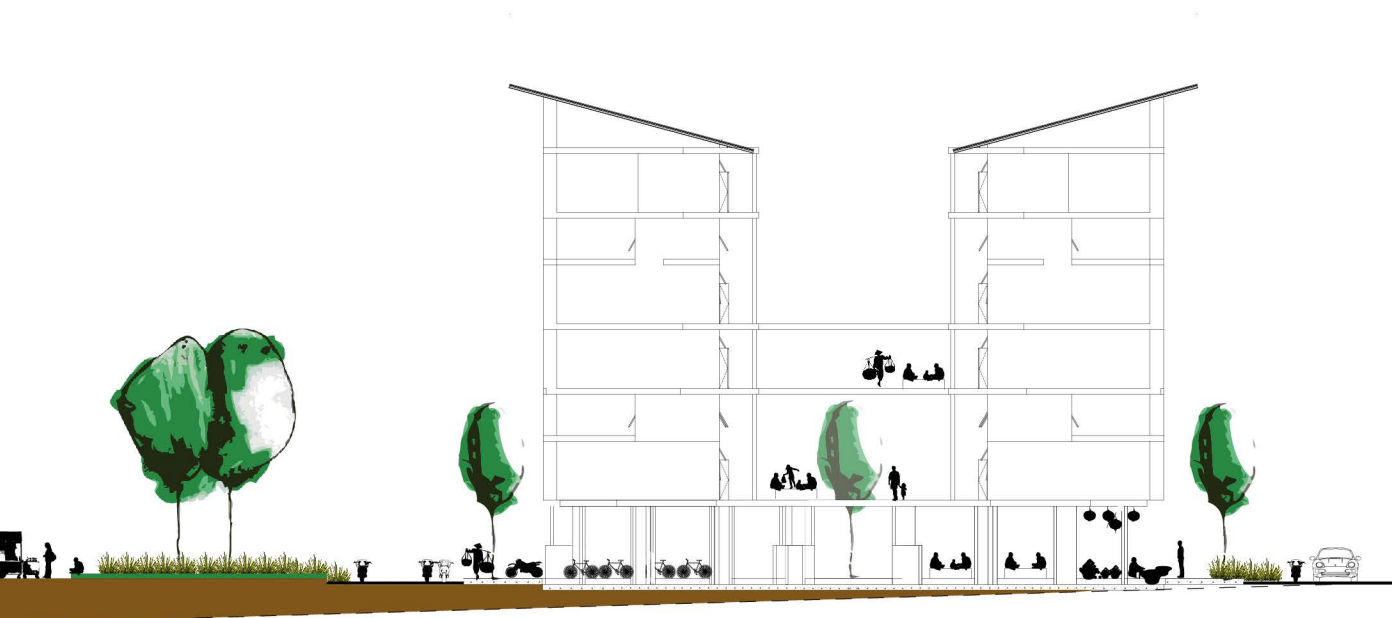
wetland environments which are being promoted by groups such as Engineers Without Borders, WaterAid, PIN and Wetlands Work.

LAND SLIDES

• Protecting embankments from erosion and planning for their retrofitting may require additional expertise and should be planned with the municipal authorities. Gabion walls and other embankment reinforcement measures (e.g. planting trees, bushes along the embankments) can be applied to successfully protect the embankments.

• Sand dredging from the river beds is not uncommon in Phnom Penh. These activities may have a very negative impact on the river embankments and lead to landslides. Ensure this issue is addressed with relevant authorities.

FIRE

• Identify electrical poles and other electrical connection infrastructure that is poorly constructed and could cause fire. Engage the local authorities and professional electricians in the design of the network.

• Ensure there is a road access to each dwelling from at least one side enabling fire trucks to enter;

• Oftentimes fires are caused by people's negligence and risky habits. Plan educational and awareness

raising campaigns to complement infrastructure upgrades.

BIO-HAZARDS

• There are several sources of bio-hazards observed in urban poor settlements: human and animal waste, industrial pollution and solid waste, and each of them requires specific measures which must be complemented with law enforcement and educational campaigns.

• Depending on the circumstances there are several options for improving sanitation in urban areas: (1) expansion of municipal sewage system, (2) construction of individual latrines with septic tanks (through sanitation marketing and subsidies programs). In case the second option is applied, de-sludging services should be provided.

• Plan access roads for rubbish trucks to be able to enter the settlement.

• Design a rubbish collection system which should be a combination of an affordable, reliable service and enforcement measures (people who do not utilize their rubbish in a safe manner should be fined).

TRAFFIC ACCIDENTS

• Promote safe traffic habits through public campaigns (e.g. to promote wearing helmets).

• Build speed bumps near street

crossings and install traffic signs (to reduce speed and ensure safety of people on the road).

HEAT WAVES

• Heat waves are becoming an increasing threat to tropical countries and urban areas in particular due to limited green spaces.

• Identify the most vulnerable members of the community (elderly, people with disabilities) and ensure they receive assistance (access to water, medical care) from neighbors, village health volunteers, Red Cross volunteers, or other supports available to or within the community.

• Plan green, shaded areas in the settlement. If the space is not available, consider vertical gardens (living walls). This affordable solution can significantly reduce temperatures inside the dwelling, improve living environments, produce oxygen and absorb CO_2. This will also lead to reduction of cooling costs (even up to 50%).

OTHER

• Reducing greenhouse emissions, improving energy efficiency and use of renewable sources of energy are of strategic importance from a long term perspective. Promoting fuel efficient stoves and green charcoal for cooking, certified solar home based systems and other energy related in-

Pic. 11 & 12 Before and after- electrical poles installed to reduce risks of fire and electrical shocks

novations should be seriously considered for redevelopment project.

• Include in the design rain water harvesting systems, which can be used for cleaning, toilet flushing or human consumption after treatment.

• Although not yet possible in Cambodia, in partnership with an external operator, consider covering the rooftops with solar panels to produce and sell energy to the grid. It will reduce the costs of construction of the roof, provide funds for maintenance of the buildings and free street lighting.

3. GENDER CONSIDERATIONS

• Ensure street lights are installed across the settlements so the women feel safe when commuting;

• Try to identify and map any dark corners (potential hideouts) for offenders;

• Engage police authorities in the planning process for their inputs and suggestions on how to improve security in the settlements;

• In most of the cases introducing stricter police patrolling will require advocacy at the higher levels of municipality and police departments.

4. ACCESSIBILITY CONSIDERATIONS

• Ensure all access roads and sidewalks are accessible to people with disabilities and chronic disease (1.6-6% slopes at least every 50m APA, 2007);

• Ensure public facilities such as schools and health centers have ramps (1-9% slope for every 10m+ landing[22]);

• Ensure public facilities have adequate handrails (40 cm high) and the widths of the entries to the buildings are sufficiently wide for the wheelchairs to enter and maneuver (minimum 90 cm for exterior doors and 80 cm for interior doors);

• Engage people with disabilities for designing accessibility measures and test them.

Do not assume the solutions proposed here and by other accessibility manuals will fit all environments and conditions. They serve as guidance only and need to be adjusted to a specific context

E) PROJECT FUNDING, AFFORDABILITY AND MAINTENANCE

1. ECONOMIC AND FINANCIAL FEASIBILITY STUDIES

• It is recommended to engage a

housing finance specialist to complete feasibility studies as it is necessary to ensure the financial part of the project is well thought through;

• Based on the architectural and engineering designs, and bills of quantities, determine the costs of construction;

• Add at least a 15% contingency fund for the realization of the project as prices of construction materials and wages may increase over time,

• Determine costs of land which would be emptied and transferred to the municipality or developer (if relevant). The total cost of construction transferred to the community members should be adjusted based on the value of the adjacent land transferred to the investor. Consider other sources of additional funds or in kind support which could lower the total cost of construction. For initial assessments studies such as Vtrust Group's Final Report of the land price survey in Phnom Penh 2014 can be used (VTrust, 2015). More thorough land valuation should take place once the project is approved by the local authorities.

• Assess and analyze mortgage con-

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[22] United Nations Accessibility for the Disabled - A Design Manual for a Barrier Free Environment http://www.un.org/esa/socdev/enable/designm/AD2-01.htm

ditions offered by financial institutions. Look at alternative solutions such as Islamic banking (very low cost loans offered to Muslim communities) or housing trust funds, which in the long term may be more beneficial to the community members.

• Compare monthly installments with the incomes of community members. Do not look at average figures only. Check if the poorest members of the community can still afford an apartment in the area. If not try to identify alternative solutions (e.g. protected rent).
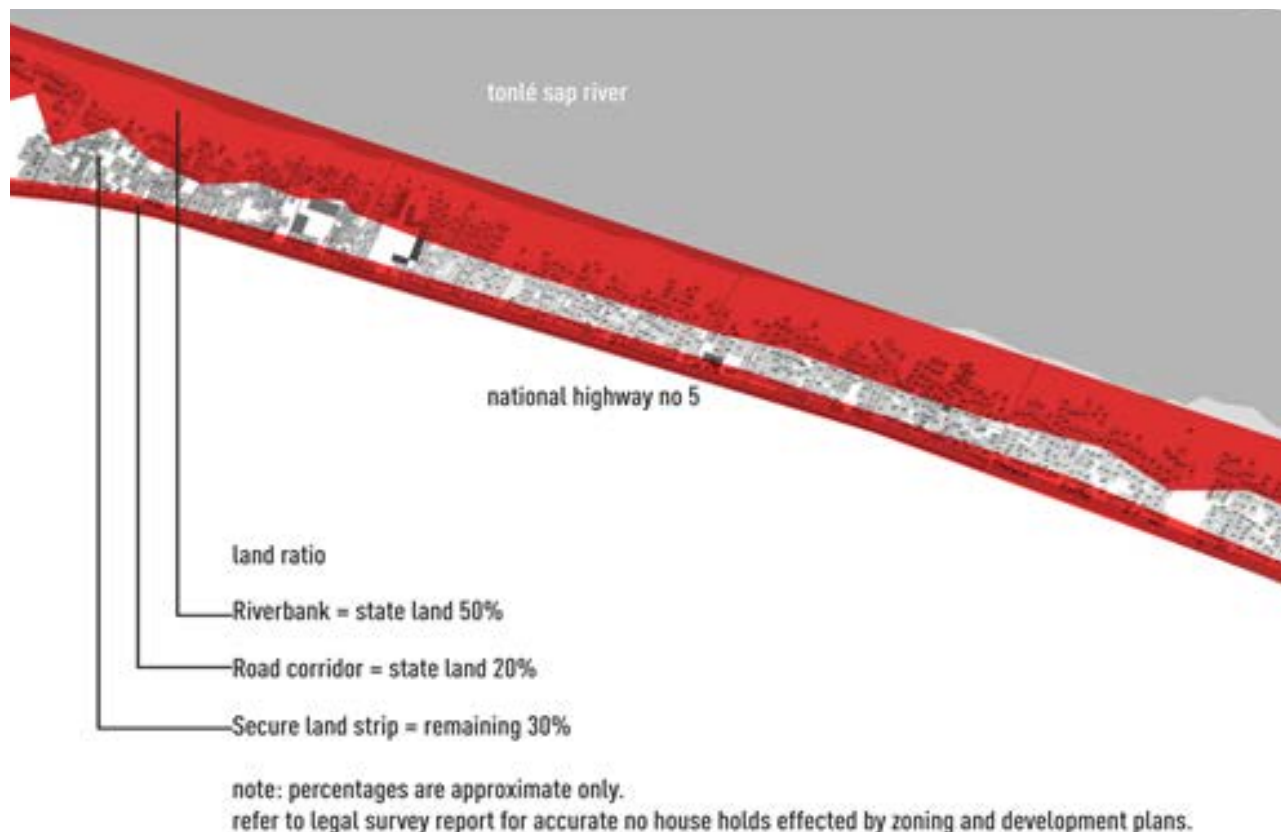
• Check costs of legal fees (original agreement, transfer of property, etc.);

• Present the financial feasibility plan to the community. Make sure everybody understands very clearly all of the conditions.

2. SOURCES OF FUNDING FOR THE REDEVELOPMENT PLAN

Depending on the complexity of the plan the cost of its realization may range from a few thousand to millions of dollars. Financial aspects of the project need to be integrated into all discussions with communities and local authorities to avoid misunderstandings and the feeling of entitlement among community members who may expect external agencies to cover all the costs associated with redevelopment. While this may be considered it would depend on the available resources and selected models.

Pic. 13. Land ratio in 4 villages in Chrang Chamres (Collective Studio, 2014)

land ratio

Riverbank = state land 50%

Road corridor = state land 20%

Secure land strip = remaining 30%

note: percentages are approximate only.
refer to legal survey report for accurate no house holds effected by zoning and development plans.

Potential sources of funding may include:

• Commune Investment Plan: If the re-development plan is integrated into the Commune Development Plan some of its elements can be covered from this source (mainly community infrastructure such as utilities connec-tions, drainage, etc.);

• Micro-Finance Institutions: Groups such as Finance First, Kredit Vision-Fund and other offer affordable hous-ing loans;

• Municipality and Private Sector: In case of more transformative re-development scenarios an exter-nal investor is essential to finance first phases of construction before community members start to repay housing loans. Later phases can be co-financed by community members who started to repay housing loans. One of the biggest concerns for re-development is the interest rate for

Pic. 14. Example of the redevelopment master plan (Collective Studio, 2014)
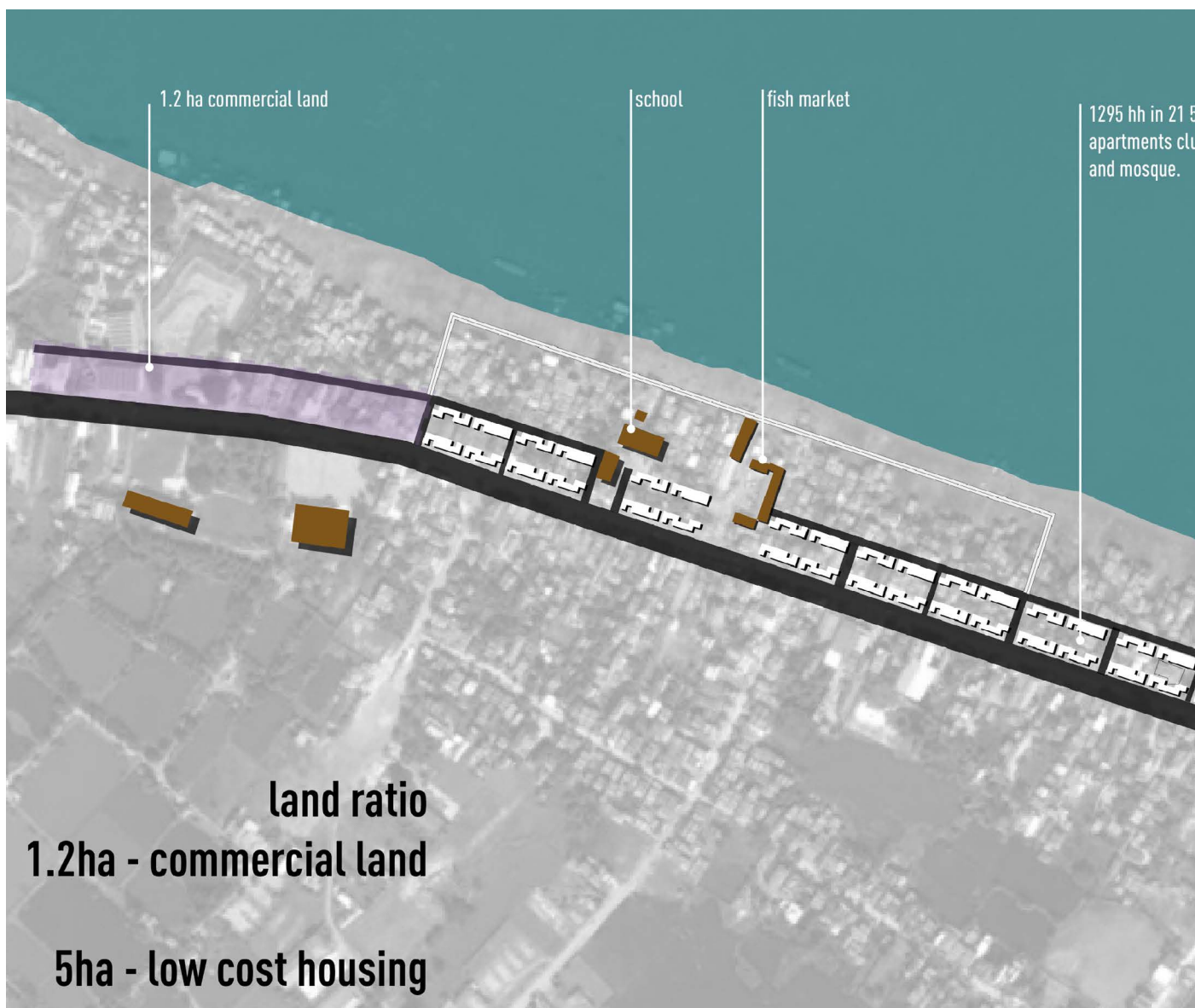
mortgage loans. Currently, the banks in Cambodia offer loans with an interest rate ranging from 8 to 12%. This makes monthly installments unaffordable for the poorest members of the community. A social housing program should be developed where the RGC would provide state guarantees to the financial institutions to enable them to reduce the interest rates down to 4-5%.

• Housing trust: In many developed countries housing trusts are found to be a very effective way to provide good quality housing solutions. It has also been piloted in some developing countries (e.g. Kenya) where it proved equally successful. The housing trust works in a way that all members of the community establish a legal entity in the form of association which is governed by a trust board elected by all members. The association applies for a single, collective

storey apartment blocks
ustered around existing schools, fish market

mosque

school

land title and uses this as collateral for the loan from financial institutions. The repayment conditions are likely to be much better than in the case of many individual loans and the trust fully controls the redevelopment process. For example it may decide to sell some parts of the land to cover costs of construction or lease it to third parties, and generate regular income to repay the loan.

• Development partners: Some organizations may be in the position to build houses for families or offer affordable preferential loans. For example Habitat for Humanity, which is a leading housing NGO in the world and has been present in Cambodia for many years works closely with MFIs such as Visionfund, Finance First, Kredit and others, providing communities with cheaper capital for loans which results in lowered interest rate. Other organizations may facilitate preparation of redevelopment plans and cover costs related to mapping, enumeration and land surveying; run socioeconomic development programs in the communities including educational and awareness building campaigns.

• When external capital is not available forming a community saving group is recommended. While initial capital will be small, over time, savings will increase enabling community members to use funds for upgrading their dwellings and community infrastructure. The Community Development Fund (CDF) supported by Asian Coalition for Housing Rights (ACHR) has supported saving groups in Cambodia for over 20 years. Reaching out and engaging CDF or similar group in the redevelopment project is strongly recommended as saving groups are not the only source of capital but also build community cohesion, promote responsible households budget management and investment.

3. MAINTENANCE

Maintenance plans shall be developed for all public facilities including housing through establishing housing associations responsible for maintaining buildings and community infrastructure.

• The housing association shall select the boards through voting. The main roles of the housing association board may include:
- Collect maintenance fees from association members;
- Bookkeeping;
- Cooperation with utilities providers;
- Archiving building documentation; Organize periodic meetings (3-6 months) with association members to report to the members and discuss priorities;

• The housing association can determine the maintenance fees independently. It is strongly recommended to include a financial contingency fund for unexpected and emergency expenses.

• Some housing association members who are in a difficult financial situation may contribute in labor (cleaning of common spaces, gardening and maintenance works) in lieu of maintenance fees.

4. SUPPORTING RENTERS

Poor rental housing is a phenomenon that is closely linked with a high rural to urban migration rate. In Cambodia, according to the MoP there were 4,241,693 internal migrants equating to 28.9% of the total national population in 2013 (MoP, 2013). This demonstrates that Cambodia is no exception to the World Bank's suggestion that developing countries must prepare to house an additional 2.7 billion people between now and 2050, as migrants move in unprecedented numbers from rural areas to pursue their hopes and aspirations in cities (World Bank, 2013).

Due to limiting socioeconomic factors, such as access to education in rural settings, an important number of rural migrants in the city will engage in unskilled roles including construc-

tion workers, street-vendors, rubbish collectors and garment workers. A large numbers of individuals in precarious employment situations with low income translates to an increasing demand for cheap urban housing. In addition to rural to urban migration, displaced communities that are victims of forced land evictions are often pushed to rent a living space. This is because they workers are given inadequate compensation to purchase a new plot and housing, or because the plot received as part of a compensation package is too far from their workplace, or the city center.

Elements which need to be considered with regards to urban poor rental arrangements are:

• Housing and living conditions need to meet basic standards of sanitation, size, and a clean and safe environment;

• Landlord-tenant agreement systems to ensure a form of tenure security;

• Availability of rental housing for urban poor residents in forms of social housing schemes, etc.

The current policy environment in Cambodia does not make much (if any) provision for urban poor renters—the RGC's National Housing Policy draft does not put forward any feasible solutions for social housing, or access to basic living standards for poor urban renters apart from "encouraging the development of various types of housing units".

Furthermore, although the Civil Code of the Kingdom of Cambodia does include a chapter on the general principles governing the terms of lease between two parties, there is evidence in research carried out by STT that the vast majority of urban poor

renters have no written agreement with their landlord (STT, 2014). Urban poor renters are typically in a precarious position vis-à-vis their landlords, who can arbitrarily increase rent, refuse basic upkeep duties, or evict tenants without notice. Improvements in conditions for renters such as increases in wages have been mirrored by landlords increasing rent, thereby perpetuating poor living conditions. In addition, in the case of eviction of urban poor communities, only household "owners" receive compensation, meaning that renters typically lose their housing with little notice and can be made homeless through this process.

Read more:

American Planning Association, Planning and Urban Design Standards, 2007

Accessibility for the Disabled- A Design Manual for a Barrier Free Environment-

http://www.un.org/esa/socdev/enable/designm/

UN Habitat- unhabitat.org

New Urbanism- http://www.newurbanism.org/newurbanism/principles.html

Global Planners Network- http://www.globalplannersnetwork.org/

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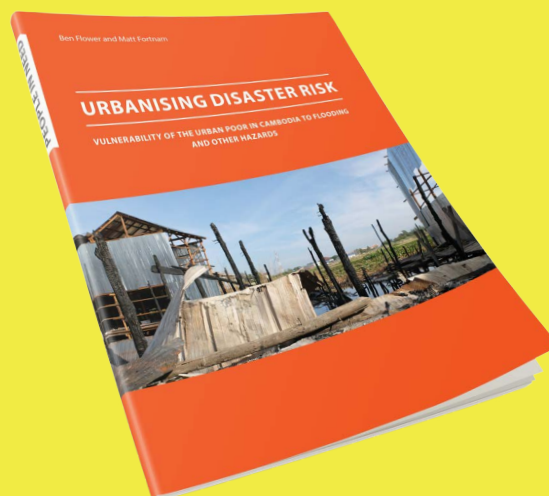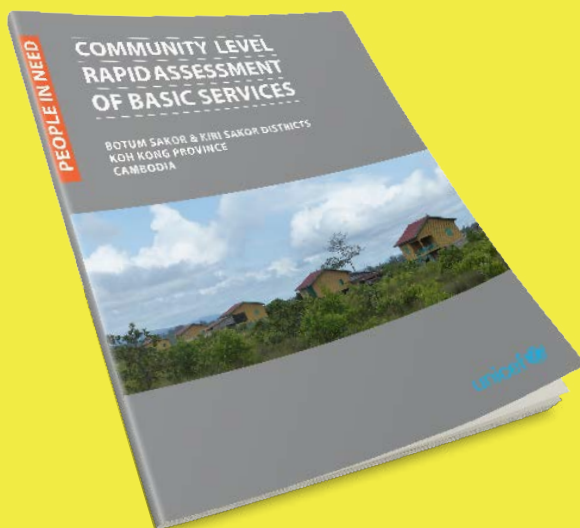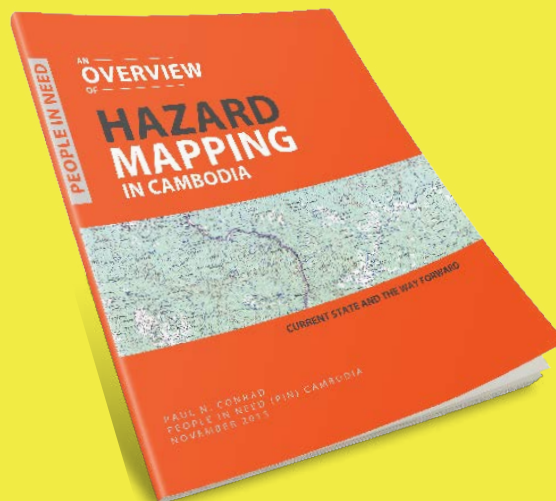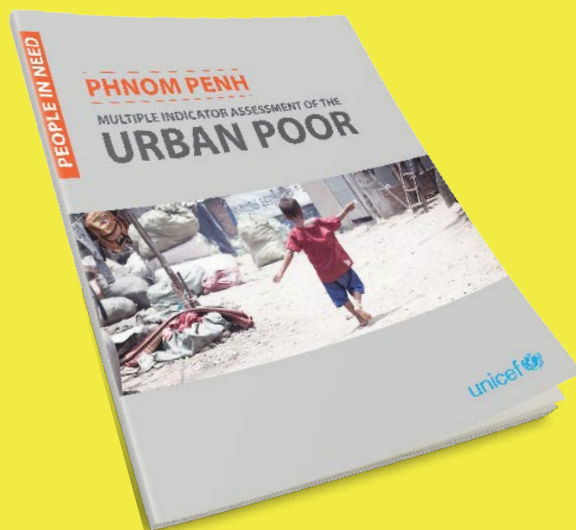
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CURRENT STATE AND THE WAY FORWARD

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BOTUM SAKOR & KIRI SAKOR DISTRICTS
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programs have assisted millions of people. In
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