

Land, Development and Conflict: Urban & Peri-Urban Phnom Penh

Center for Advanced Study

*Nick Menzies and Sou Ketya, Center for Advanced Study
Daniel Adler, World Bank (Justice for the Poor Program)*

**Working Paper
20 February 2008**

Table of Contents

Acknowledgements	3
Acronyms	4
Executive Summary	5
1. Introduction	6
2. Background to the Research	8
2.1 <i>J4P Phase I</i>	8
2.2 <i>Phase II research questions</i>	8
3. Land Management in Cambodia since 1979	10
3.1 <i>Evolution of land management</i>	10
3.2 <i>The institutional framework in Phnom Penh</i>	13
4. Summary of Cases	16
5. Map	17
6. Case Studies	18
6.1 <i>National Pediatric Hospital Case Study</i>	18
6.2 <i>Antenna Case Study</i>	20
6.3 <i>Borei Keila Case Study</i>	23
6.4 <i>Dey Krahorn Case Study</i>	27
6.5 <i>Koh Pich Case Study</i>	29
6.6 <i>Sombok Chab Case Study</i>	33
7. Factors Creating and Exacerbating Disputes	37
8. Strategies in Collective Land Disputes	45
8.2 <i>Strategies of citizens in collective land disputes</i>	48
9. Outcomes of Collective Disputes	50
9.1 <i>Success or failure and for whom?</i>	50
9.2 <i>Factors influencing success or failure</i>	51
9.3 <i>Sustainability of outcomes</i>	51
Bibliography	55
Annexure 1: Research Methodology and Instruments	59
Annexure 2: List of Informants	60

ACKNOWLEDGEMENTS

ACRONYMS

ACHR	Asian Coalition for Housing Rights
ADHOC	Human Rights and Development Association
CAS	Center for Advanced Study
CBO	Community-based organization
CDC	Council for the Development of Cambodia
CDCM	Community Development Management Council (authorities)
CLEC	Community Legal Education Center
CPP	Cambodian People's Party
CTN	Cambodia Television Network
DKCC	District/Khan Cadastral Commission
FUNCINPEC	United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia
H.E	His/Her Excellency
INGO	International non-governmental organization
J4P	Justice for the Poor project (WB)
KPRP	Kampuchean People's Revolutionary Party
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
MND	Ministry of National Defense
MoI	Ministry of Interior
MoInfo	Ministry of Information
MoLMUPC	Ministry of Land Management, Urban Planning and Construction
MPP	Municipality of Phnom Penh
NARLD	National Authority for the Resolution of Land Disputes
NGO	Non-governmental organization
OCIC	Overseas Cambodian Investment Corporation
PILAP	Public Interest Legal Advocacy Project (CLEC)
PM	Prime Minister
PUPR	Partnership for Urban Poverty Reduction (MPP)
SLC	Social land concession
SNC	Supreme National Council
SRP	Sam Rainsy Party
SUPF	Solidarity for the Urban Poor Federation
UN ECOSOC	UN Economic and Social Council
UN ESCAP	UN Economic and Social Commission for Asia and the Pacific
UNCHS	UN Centre for Human Settlements (later UN-Habitat)
UNOHCHR	UN Office of the High Commissioner for Human Rights
UNDP	UN Development Program
UPDF	Urban Poor Development Fund
UPRS	Urban Poverty Reduction Strategy (MPP)
UPRU	Urban Poverty Reduction Unit (MPP)
URC	Urban Resource Center
USG	Urban Sector Group
WB	World Bank

EXECUTIVE SUMMARY

Many informal settlements arose in Phnom Penh following the end of the Khmer Rouge period and particularly with the return of refugees in the early 1990s, following the Paris Peace Accords. Land in central Phnom Penh has become subsequently become increasingly valuable with the liberalization of the land market and the economic development of the Cambodia as a whole. The state and wealthy companies have acted to remove residents from their homes and land in order to develop the land for profit.

This study deals with 6 case studies: National Pediatric Hospital, the Antenna, Koh Pich, Dey Krahom, Sombok Chab and Borei Keila. In all cases, other than Antenna and Borei Keila, residents have been forced to leave the land in dispute. The outcomes for residents varies both within and between the case studies.

The overall findings of the study are:

- *Land disputes are caused in major part by a history of weak land management.*
- *Dealings with state land depend largely on the concrete interests of higher-level officials and those with power.*
- *All parties continue to rely upon traditional practices to some extent, for land acquisition, negotiation and dispute resolution.*

Previous Justice for the Poor studies have underlined problems around putting in place liberal-type institutions without committing also to transforming power relations and social conditions. In these urban land case studies, the liberal institutions are the courts and cadastral commissions, bound in formal state law. In the cases the residents rarely, if ever, found remedy in these institutions and those who more successfully negotiated outcomes most often used other means.

A call for assistance to more powerful state actors was common, but not the only means by which residents could improve their outcomes. Residents who were able to access the services of NGOs (particularly international NGOs), use the media astutely or had the capacity and willingness to hold out for more equitable results, often did better.

Confusion within the community about how many residents legitimately lived in the areas concerned and their residential status, undermined the ability of communities to band together to negotiate more favorable outcomes. A future option for all informal settlements should be to undertake independent periodic counting of residents, ideally before development pressure becomes acute. Such a 'census' would preferably be accompanied by the issuance of a document to each family indicating (at least) the number of residents, a physical plan of the location of the residence and a description of the dwelling. Such information would guard to some degree against 'professional squatters' who can inflame a dispute and undermine the position of many legitimate residents.

1. INTRODUCTION

Land and landlessness are of global concern. Issues around land, such as slum development, tenure, eviction, resettlement and relocation, have generated global debate and research (see de Soto, 2000 and Durand-Lasserve et al, 2006, for example). Cambodia is at the forefront of this debate as it attempts to deal with a history of conflict and complicated land reform and face a future of quickening investment and development.

Urban land disputes in Phnom Penh have been well documented (see Box 1). Heavy disputes surround centrally located prime land, often considered public but occupied by squatter settlements - in many cases since the 1980s. The Municipality of Phnom Penh (MPP) has attempted to deal with this situation but demands for development and land acquisition have often clashed with the needs of the affected populations. Divergent ideas have arisen about development, especially over state land to be acquired for ostensibly public purposes. The experiences of some evictions have made squatters suspicious, as land has been acquired for public purposes but, after forced eviction, has been transferred to private companies for private use. Current land acquisition and land dispute resolution are often accompanied by force, and can have negative impacts on affected communities. These conflicts are difficult to resolve, as the legal framework and land management regimes have changed frequently, leading to confusion and overlapping claims within a framework of weak land management. Despite the gradual development of a clearer and more precise legal framework, there is still no real policy to deal with the legacy of inconsistent land management. Without strict implementation of the 2001 Land Law, and absent formal institutions able to deal with bigger disputes, hundreds, sometimes thousands, of families are adversely affected.

Box 1: Background to urban land conflicts in Phnom Penh, Cambodia

According to Gravois (2005) ‘...in 2002 a devastating series of slum fires and forced evictions purged 23,000 squatters from tracts of untitled land in the heart of Phnom Penh. These squatters were then plopped onto dusty relocation sites several miles outside of the city, where there were no jobs and where the price of commuting to and from central Phnom Penh (about \$2 per day) surpassed whatever daily wage they had been earning in town before the fires. Meanwhile, the burned-out inner city land passed immediately to some of the wealthiest property developers in the country. Since then ... investors have been buying squatter-occupied state land from various government officials in Phnom Penh, who pocket the money, thus looting the land both from the state and from the poor. In other cases in Phnom Penh ... speculators or middle-income groups went out before titling programs took effect and bought land at slightly better than informal prices directly from the squatters, who happily sold off for a bit of cash. Then the investors just waited for the titling program – and the attendant leap in value and legal security – to come their way.’

Gravois continues ‘...it turns out that titling is more useful to elite and middle-income groups who can afford to bother with financial leverage, risk, and real estate markets. For very poor squatters in the inner city – who care most about day-to-day survival, direct access to a livelihood, and keeping costs down – titles make comparatively little sense. These poorer groups either fall prey to eviction or they sell out, assuming they'll find some other affordable pocket of informality that they can settle into. The problem is, with titling programs on the march, such informal pockets are disappearing fast. So, the poor sell cheap or

are evicted, then can't find a decent new place to settle, losing the crucial geographic advantage they once had in the labor market.'

Source: Durand-Lasserve et al (2006).

Phase I of the World Bank Justice for the Poor (J4P) project studied collective **rural** disputes as a way for the poor to access justice and redress power imbalances. 'J4P is designed to contribute to informed policy debate on how disputes and grievance handling systems can serve as a structure for empowerment, promoting increased state responsiveness to the needs of the poor' (World Bank J4P ToR Phase II, 2006). This report, Phase II, focuses on the situation of **urban** disputes and the impact of development pressure on land conflicts.

Urban disputes have different dynamics to rural disputes. Land has a much higher value in Phnom Penh, and many of the people involved in urban land conflicts are extremely high-ranking, leading to an even higher power imbalance than those witnessed in many rural disputes. Disputes over state land in urban areas have a greater destabilizing impact on public and social order: in Phnom Penh there seems to be more resistance than in rural areas. Politics and political actors are major factors in urban disputes. Phase II aims in particular to investigate what role the state has to play, and how state actors may or may not be involved, first in creating disputes on state land, and second in settling disputes between private companies, settlers and other actors.

2. BACKGROUND TO THE RESEARCH

2.1 J4P Phase I

The J4P project is designed to improve an understanding of how power is exercised through different decision-making and dispute resolution processes in Cambodia: ultimately to promote pro-poor approaches to justice sector reform.

The J4P research recognizes risks arising from implementing liberal-type institutions without also transforming existent power relations and social conditions. Elite capture and endemic corruption potentially undermine newly reformed institutions and laws so that a new legal environment may serve little benefit for the majority of citizens, particularly the poor. There have been some moves to deal with this, by creating institutions based on a combination of liberal legal interventions and more habitual practices. For example, the Arbitration Council for labor disputes has recorded some successes through neutral conciliation combined with legal measures.¹ In the area of land reform, the Cadastral Commissions have been created with donor assistance to settle disputes over unregistered land through conciliation.

Analysis (by CAS and WB, 2006; Dongelmans and Suon Visal, 2004, for example) has found that this kind of intervention can open up some space for the poor. However, there are concerns about such institutions, including regarding corruption; the ongoing impact of power relations on procedure; non-separation of state powers; limited capacity and the motivation of actors.

Phase I of the Justice for the Poor Project focused on collective grievances about land and local governance in rural areas and found that (36-8):

- Collective action in response to land disputes is prevalent and can be effective;
- The gap between law and practice in land management is a key trigger for disputes;
- There is a predominance of patrimonial over legal/bureaucratic forms of power; and
- The current system is leading to uncertainty, frustration and political pressure.

2.2 Phase II research questions

This second phase of the J4P project aims to build on these conclusions and analyze whether collective action can also be useful for those involved in urban disputes. In urban areas there seems also to be a disparity between the idea and the practice of law, as well as continued use of patrimonial forms of power.

¹ These are initial findings of the as-yet unfinished CLEC (Community Legal Education Center) research for the World Bank J4P project on labor disputes.

The Phase II research uses and adapts the J4P questions to the urban and peri-urban context, with a particular focus on:

- The meaning of 'development' to the parties involved in development disputes.
- Competing ideas of what constitutes public land and the respective rights of residents and the state are with regard to that land.
- Whether conscious efforts have been taken to mitigate potential conflicts emerging from new developments (for example by engaging in prior consultations) and what the effects of these have been.
- The nature of land which is vulnerable to development disputes in terms of its history; who is in possession of the land and on what basis; when and how the land was occupied; and what role the local authorities played in the occupation process and transfer of the lands prior to the development.
- How people have tried to organize in order to engage in contests over land and what the outcomes of these engagements have been.
- Whether trends can be identified in state/citizen engagement in these contests.

3. LAND MANAGEMENT IN CAMBODIA SINCE 1979

A short exploration of the history of land management provides context for the cases. The specificities of Phnom Penh are provided within the framework of land management in Cambodia as a whole.

3.1 Evolution of land management

During the pre-colonial period in Cambodia, land was considered the property of the sovereign. Subjects were allowed to use and cultivate land, within some parameters. At this time, disputes were virtually non-existent, as a sparse population meant there was sufficient land for everyone's survival and prosperity (Chan Sophal and Acharya, 2002). The French brought in a cadastral system of land privatization, although this was not fully successful (see Griffiths, 2004). This remained in place after independence, but was implemented in a piecemeal and inconsistent manner. Under the Khmer Rouge, Phnom Penh was evacuated. Former systems of land ownership were abolished, including land titles (URC, 2002).

After the overthrow of the Khmer Rouge in 1979, the Vietnamese-installed government declared that all land was public and was to be collectivized. Solidarity groups (*samaki*) were set up to increase production, but it was difficult to implement such a system under postwar conditions. By 1989, it was accepted that the groups were no longer operable. Land prices were low, with no real market and housing was provided on a 'first-come-first-served' basis, primarily based on the workplace, 'although informal transactions did take place as early as 1985' (Chan Sophal and Acharya, 2002: 27). 'By the end of the 1980s [in Phnom Penh], there were no more flats or houses ... and people were given permission to build shacks on vacant land' (URC, 2002: 5).

A law amending the Constitution was adopted on 11 February 1989, stating that 'the citizens have full right to manage and use land and have the right to inherit land granted by the State for the purpose of living on it and exploiting it'.² However, land remained the property of the state: what was allowed were usufruct rights for agriculture rather than real privatization (Frings, 1994: 51), although this did allow an initial form of tenure. In April 1989, a land management and use policy was adopted which divided land (of the state) into three types: ownership, possession and concession. The first was for residential land, the second for agricultural land and the third for other types of land (ibid: 52). The government did not reveal 'that agricultural land would only be given in possession to the peasants and would still ultimately belong to the State' (Frings, 1994: 53). This was likely motivated 'by the desire not to arouse the suspicion of the peasants that, if they were not the real owners of the land, the State could one day take it away from them'. As such, 'most peasants thought that they owned the land' (ibid: 53-4). A Cadastral Authority was set up in June 1989 to deal with surveying and registration. Peasants could send in an application to use and manage land if they had worked it for at least one year.

² Art. 15, Kampuchea, n.494, March 9, 1989, p.3 (in Frings, 1994: 51).

Liberalization of the land market was born in large part from the desire of high-ranking officials to officially legitimize the residential land they had amassed in Phnom Penh, land left by the Vietnamese high-ranking military. According to OXFAM GB (1999), 'as the Vietnamese withdrawal grew nearer, a massive land grab began, especially in Phnom Penh. Some officials began to act as though State property and vacant private property ... was theirs to occupy, "own" and therefore sell'. Many of the biggest land deals (especially in Phnom Penh) took place at the beginning of the 1990s, involving those who were in official positions and who had the opportunity to amass state land very cheaply for private use - and sell it off at a high profit. Companies began to buy land with state backing, leaving the land undeveloped until prices began to increase.

By the end of 1990, more than 3.6 million applications had been made to the Cadastral Authority. Those who applied for land registration believed that the receipt they received as proof of application (*bângkan dai*) was confirmation of ownership (this was not the case). Nevertheless, the land market began to boom. There was also no real land management system in place, and no official registration of state land. Those with the means to do so could easily act through self-serving objectives, even by transferring agricultural land into residential land, although this was theoretically not allowed.

Into this climate, the 1992 Land Law was born. The law proved unable to cope with the pressures of the market economy and the increasing population. Lawmakers also had dubious motivations in promulgating it. OXFAM GB (1999) states that 'the law was written in order to legitimize the transfer of state properties into private hands (in some instances those of members of the State of Cambodia government, military officers or public officials), in case the forthcoming election resulted in a change of government and put those sales in jeopardy'. The law did not stop corruption and was passed in an environment of very low transparency. The law also failed to define private and state rights and failed to ensure state land registration (despite a 1995 Sub-decree on State Land Management). The granting of illegal concessions became commonplace and the law 'effectively legitimized expropriation itself as more and more of the ruling elite came to realize how it could be used to their advantage to dispossess the weak' (OXFAM GB, 1999).

The current law, the 2001 Land Law, aimed to tackle some of these problems. Ownership before 1979 is not recognized and all property that has not been appropriated is deemed public. The law recognizes peaceful and uncontested possession of land for more than five years *prior* to 2001 as a basis for claiming ownership and outlaws any further temporary possession of this form from this date. To replace this, the law creates social concessions whereby landless people can apply for a piece of land free of charge to be used for residence or subsistence farming (Art. 51, see Hartman, 2006). The 2001 Land Law distinguishes between state public and state private land. State public property can not be sold or exchanged, whereas state private land can be privately owned and sold. These designations have caused confusion. According to Cooper (2006) '... types of state public land listed in 2001 Land Law Article 15 ... appear problematic ... in that the terms used in Article 15 to describe these types appear not precise enough to allow accurate registration'. State public land can become state private land when it no longer serves a public purpose, but what such purposes are or when they might cease is not clearly defined. Sub-decrees to clarify this situation have been slow to take effect (UN ECOSOC, 2006: 8-9).

The law provides for a comprehensive, nationwide titling system (under the Cadastral Authority of the MoLMUPC). The Cadastral Commission is tasked with resolving disputes over unregistered land, but has not been fully effective. Adler (2005) contends that unregistered land cases are the most difficult to solve, and that there are bureaucratic and transparency problems with the commissions themselves. For registered land, (UN ECOSOC, 2006: 12) 'the

investigative procedures adopted by courts to ensure the legitimacy and legality of ownership titles are perceived as insufficient ... Consequently, court decisions allegedly tend to favour those who have acquired titles illicitly.³ ADHOC (2005: 41) states that it has 'never seen any court that dares to issue arrest warrants against rich and powerful people who have taken land from poor people or who have taken over public state property. ... in these cases, the courts are keen to arrest and jail poor and powerless people'.

The coexistence of a legal regime and a continued informal system of land transactions in an unpredictable market makes for uncertainty, especially for poorer groups. As Meinzen-Dick and Pradhan (2002) assert, 'conventional conceptions of property rights focus on static definitions of property rights, usually as defined in statutory law. However, in practice there is co-existence and interaction between multiple legal orders such as state, customary, religious, project and local laws, all of which provide bases for claiming property rights.' The resulting legal uncertainty 'adds to the context of corruption, a relatively weak judicial system, deficient mapping of State land and the fact that, owing to lack of legal awareness, many of those who could request formal ownership titles simply do not know the procedure to be followed or do not recognize its importance' (UN ECOSOC, 2006: 5).

From around 1998, 'as land and real estate became the top sectors of investment ... a new wave of land speculation began to impact dramatically on housing prices' (UN ECOSOC, 2006: 16). This increased the number of land disputes and forced evictions. At the same time, those not integrated into the market have felt greater insecurity (Chan Sophal and Acharya, 2002: 5). Urban public land has become a target of development which has, in turn, increased the demand for land (often by private investors collaborating with the highest levels of the political elite), whilst the legal situation remains unclear. Cooper (2004: 15-16) goes further:

To the extent that rule of law, equitable governmental policies and fair treatment of the poor have come into existence in Cambodia in recent years, it has been due to the elite having had no way to end the fighting and develop the economy except by agreeing to create a democracy and free market system and open the country to the world ... The elite's agreement was grudging, however; it deeply resists anything that restricts its power or undercuts its ability to loot the country.

The 2001 Land Law 'fails to provide the government with the legal tools necessary to limit speculation' (Hartmann 2006: 122) as lawmakers responsible for the law are the ones doing the speculation, or are associated with them. The government has adopted certain laws and the language of development in part due to pressure from international donors but this pressure may be waning.

Corruption and the crossover between public and private spheres is a key issue in land disputes. It is often unclear whether private sector interests are really acting independently or whether they have influential backing. ADHOC (2005: 37) notes:

There is a widespread practice among some Cambodian officials to illegally obtain extra income by taking land from the poor ... by systematically misusing their high-ranking position. This is a favorable business. In this way, government officials can increase their income as much as they want. Rich and powerful people such as so called 'Oukna' or private company owners, were almost always accompanied by local authorities, including city and provincial authorities, when they tried to evict poor people from their land and houses.

³ Only disputes over *registered* land are supposed to go to the courts (disputes over unregistered land go to the Cadastral Commission). In practice, this has not been clearly applied.

3.2 The institutional framework in Phnom Penh

Municipal activities and urban poor settlements

In the early 1990s, there was little by way of support for the burgeoning squatter settlements in Phnom Penh. In 1993, the USG (Urban Sector Group) was formed as an informal group of local and international NGOs working on issues affecting the urban poor. Activities focused on credit and savings towards legal tenure, as well as health and education training. USG broke up into two groups one becoming the SUPF (Solidarity for the Urban Poor Federation), with USG becoming a local NGO. There are those who claim that the SUPF later turned to seeking profit and showed signs of corruption, e.g. through the falsification of household statistics in cooperation with authorities prior to resettlement.⁴ In 1998, SUPF was officially recognized by the MPP leading to further claims that it was controlled by the government. There have also been complaints about the levels of control held by voluntary leaders and the benefits that leaders gain from working with authorities.⁵ One NGO interviewee in this research project claimed that one of those working for the community in the National Pediatric Hospital case went on to become 'high-up' in SUPF and to 'benefit personally'. There were issues reported in all of the case study savings schemes (those of SUPF and NGOs),⁶ arising from a lack of clarity on the part of residents regarding the rules of saving, but also resulting from suspicion of representatives.

SUPF provided saving books to seven communities for development but, in fact, this was not saving for development ... SUPF and community leaders got interest for themselves, according to what I clearly know.
(Resident, Dey Krahorn)

In 2007, new SUPF savings books were printed with the logo of 7NG, one of the companies involved in two of the disputes (Dey Krahorn and Koh Pich), suggesting some kind of partnership. SUPF appears to be taking a less prominent role in recent years.

City development

In 2002, the MPP began to prepare a master plan of the city for 2020, which has recently been made public.⁷ A section of the master plan is dedicated to housing policy, accepting that inexpensive housing for 'the deprived population' is the most difficult problem to resolve. A workshop organized by the MPP in 2003 entitled 'Towards a Land Sharing Implementation Strategy' noted the following:⁸

- Land-sharing is not the same as social land concessions (SLCs): communities will have to pay for their land on a concessionary case-by-case basis.
- There should be strict conditions for private investment. Ideally there would be a 'win-win' policy, whereby investors profit but also community residents obtain quality housing and the MPP has a good city environment.
- Community residents should contribute towards payments for housing.

⁴ According to NGO interviewees and residents in Dey Krahorn.

⁵ Interview with an NGO, December 2006.

⁶ The lack of a defined framework means NGOs and INGOs also may have limited impact in influencing government policy. NGO reliance on funding and project cycles means that activities come to an end, often leaving a void. In one case, a prominent NGO was accused of colluding with a private company.

⁷ www.phnompenh.gov.kh/english/Master_Plans/Master_Plan_By2020.htm.

⁸ www.phnompenh.gov.kh/english/2003/October/october-08-03_Towards-strategy-PhnomPenh.html.

Some concerns have arisen as a result of these policies. Dongelmans and Suon Visal (2004: 70-1) state, 'the Government is rolling out development plans for the cities that do not seem very sensitive to people's needs and rights. Plans are launched from one day to the other with relatively little public consultation, leading to misunderstandings and conflicts between the Government and groups of citizens.' There seems also to be a lack of clarity about which land should be upgraded, and who should be involved in the voluntary relocation program as noted in the PUPR. UN ECOSOC (2006) urged more consultation with NGOs and civil society in the development of such plans. Recent cases (2007) in Phnom Penh around Boeung Kak Lake have seen the state revealing a development plan and a plan for community residents to pay for resettlement. Complaints are already being made by residents, who state that they already own their property and should not have to pay for a new house in a new area which they do not want.

After a number of events, such as the fires in various urban poor areas across Phnom Penh, and just before the national elections of July 2003, PM Hun Sen announced a major policy change (24 May 2003), whereby 100 slums would be upgraded in one year for the next five years. Four upgrading projects in Phnom Penh were announced by the Prime Minister in May 2003. This rests under the PUPR.⁹

According to the MPP's Urban Poverty Reduction Strategy (1999), relocation is an option only where there is no other alternative. However, the MPP has not widely accepted all of the UPRS principles; only the PURP has done this. At the same time, UN ECOSOC (2006: 15) reports that:

Since the Prime Minister's significant announcement there has been no systematic, large-scale programme to tackle slum upgrading in Phnom Penh ... There have been several smaller upgrading initiatives involving infrastructure upgrading and organizing savings groups (through various projects, including UN-Habitat and Urban Poverty Development Fund), but nothing on a larger scale that also formalizes land rights. In addition, the 'upgrading' policy should also be assessed in the light of the number of communities that have actually been 'downgraded' through forced evictions and involuntary relocations and resettlement.

Resettlement and housing policy

A draft resettlement policy was presented to the government in 2002, the UPRU having organized a workshop on relocation in 2001 to draft a set of guidelines (URC, 2002: 18). MoLMUPC approved a draft national housing policy at the end of 2004, which emerged from an agreement between UNDP, UN-Habitat, ESCAP and the ministry. UN ECOSOC (2006: 6) notes that 'the draft housing policy is expected to be adopted as a sub-decree in the next two years', but this is not set in stone. In August 2006, Human Rights Watch said 'the government of Prime Minister Hun Sen should immediately call a moratorium on massive forced evictions until it adopts a comprehensive national housing and resettlement policy in accordance with its national and international human rights obligations.'¹⁰

Trends in dealing with evictions and relocation

The UN states that between 2000 and 2005, more than 6,810 families were forcibly evicted in Phnom Penh, many under conditions of intimidation and violence. Evictions without some form of compensation stopped in 1996 (URC, 2002: 10), with the involvement of the UN and the strengthened NGO and CBO movement. More strong-arm practices returned later, when victims of fires were relocated to isolated sites. ACHR describes the setting of the 'new evictions' as follows, 'with rapid economic development in urban Phnom Penh there comes pressure on increasingly valuable and scarce land and pressure by land developers to quickly access the commercial opportunities available from acquiring and developing land as well as needs for

⁹ Borei Keila, Dey Krahorn and Roteh Ploeung A and B.

¹⁰ See <http://hrw.org/english/docs/2006/08/02/cambod13889.htm>.

other city development.’¹¹ The Asian Forum for Human Rights and Development (2006: 5) states:

In Phnom Penh, many evictees have been forcibly moved to relocation sites which lack basic infrastructure (schools, medical facilities, markets and jobs), sanitation facilities or potable water, and are prone to flooding. The health risks are immense. The government has failed to respond to recommendations ... by the Special Rapporteur on adequate housing and the SRSG on human rights defenders, and the number of evictions – often accompanied by the excessive use of force by authorities – continues to mount.

Relocation often leads to the loss of access to inexpensive centrally located infrastructure, and the loss of income-earning opportunities owing to the distance from the city. It often affects women and children the most, as women find it difficult to make an income in locations far from the city, while children have to drop out of schools. Communities have become more actively involved in the process, but there remain cases of forced resettlement. The majority of respondents in the URC study (2002) did note that one benefit was the access to secure land tenure, but stated that residents often would still prefer to be in the city and would rather participate in upgrading or land-sharing projects with the government or private landowners.

¹¹ See www.achr.net/Countries/Cambodia/Evict%20Strategies%20July06.html.

4. SUMMARY OF CASES

CASE	OUTCOME	FACTORS INFLUENCING THE OUTCOME				
		Political backing	Group cohesion	Negotiation/dispute resolution approach	Presence of middle class	Understood strength of claim
Antenna	Residents stayed on site of disputed land and granted title	High, and some residents themselves are high ranking	Good between richer and poorer residents and improved as a result of the dispute	Letter sent to PM; CPP officials approached; CTN documentary. Company not involved. Did not attack company or government.	Yes, incl. officials from MoInfo. Some residents live in large villas	<i>Very low</i> , within 70m radius, slightly stronger outside
National Pediatric Hospital	Residents were moved with considerable time to land with houses and infrastructure	MPP Governor provided money for relocation	Originally good and now ok, as all residents provided for	World Vision & UNHCS help residents negotiate with MPP	No	<i>Very low</i> , living on public roadway. Residents did not claim right to title.
Koh Pich	Varying levels of monetary compensation (largely related to the length of time holding out for a deal) and some new land provided	No, SRP tried to help but residents said no	Group was split & now some tension over those who held out for better compensation	Legal advice, training and support from CLEC/PILAP, support from UNOHCHR, US Embassy and UN Special Rapporteur.	Yes, some larger land holders and business owners	<i>Strong</i> , many residents lived on island for more than 5 years without contestation and claimed right to title
Dey Krahorn	Exchanged land in dispute for houses with title at a site with infrastructure, 15km away. Some content, some haven't moved yet.	SRP offered support for advocacy	Group split.	Negotiations direct with companies concerned. NGOs provided support.	<i>Some</i> , NGO workers & government officials	<i>Good</i> , a social land concession granted in 2003
Sombok Chab	House owners given land 21km away with limited infrastructure; renters moved to another site, with no title and limited services and low amenity	Help from SRP	Group split with residents sent to two different relocation sites	MPP represented residents in negotiation with company. PM and high ranking authorities approached with no	No	<i>Very low</i> , a company bought the land in 1991-2. Most residents did not claim to have right to

				response.		title.
Borei Keila	Approximately half of the residents have been promised or already given apartments on (part of) land in dispute	Support from SRP	Low as it is not clear who will get apartment and who won't	Community leaders negotiated with the company. SRP gained guarantees and help negotiate the agreement.	Yes, including police and military	<i>Good</i> , a social land concession issued in 2004

5. MAP

6. CASE STUDIES

6.1 National Pediatric Hospital Case Study

Location

The National Pediatric Hospital is located in Toeuk La'ak commune, Tuol Kork district. The area was populated by squatters and most people lived in wood or thatch houses, many of which were later upgraded with zinc-roofs. The land is low lying and prone to flooding. The settlement was on a road next to the hospital, parallel to the main road to Phnom Penh's airport.

Settlement history

The hospital was originally constructed in the mid-1970s, and it resumed activities shortly after 1979 with the help of World Vision. The streets surrounding the hospital were closed to traffic and families built their huts in the middle of the road. At first only soldiers, policemen and other civil servants dared to build shelters and in most cases did not inform local authorities officially. By the end of the 1980s around 10 families were living on the streets bordering the hospital.

The roads were eventually opened to traffic and selling activities increased. More small sellers came to the area, first on a provisional basis but gradually turning the place into a permanent settlement, depositing increasing household effects on the road (e.g. water butts, vending equipment). Soldiers who had lived there with their families since the 1980s started to 'sell' space around them and allowed newcomers to built huts. In 1992, a high inflow of newcomers arrived, consisting partly of returnees from border camps but also of a big portion of Kampuchea Krom people coming from South Vietnam. They were mainly small food sellers or construction workers. Employees of the hospital also benefited from the selling of food and often tolerated the squatters' activities. Official figures state that the population reached a total of 111 permanent families, or 537 people.

Water and electricity were not available so residents had to obtain both from the private sector at a high price, which led them to use the hospital water for free. The area was prone to flooding and bad drainage. Only a few families had a pit latrine, and many families used the hospital facilities creating sanitation problems.

SUPF started to encourage settlers around the hospital to 'save money to buy a house' around 1994 or 1995. In mid-1995, the first saving groups were organized and the number of families that took part rapidly increased. Most interviewees understood that the saving scheme should serve to accumulate money to buy new land to be able to relocate from the streets around the hospital. Those not taking part would not be allocated land in the future.

Status of land

Residents did not dispute that the land was public land (given that it is in actual fact a road). After 1992, local authorities attempted to bring the spiraling population under control by registering all squatters and issuing certificates of 'provisional place of residence' for each

registered family. Some families did not register and were not ultimately able to obtain land in the relocation site.

The dispute

The increasing number of squatters using the hospital's facilities to bathe, wash their clothes and sell their food led to littering, hygiene problems and put a great strain on the hospital. In addition, squatters were able to use the electricity of the hospital without paying for it. Many of the squatters acted as small-scale sellers of goods to the hospital patients (especially food), but these activities occurred in an unregulated way. After 1992-3, the number of settlers rose sharply, making the use of the roads for public traffic extremely arduous. Over the years, the area became so crowded that, by the mid-1990s, the negative impacts on the hospital's environment prompted the hospital management to ask the local authorities to take action to resolve the problem.

The hospital management informed local authorities several times (beginning around 1994) about the difficulties it had with the squatters. However, it did not take any steps to push for a resolution by requesting the removal of the settlement, as there seems to have been a feeling of sympathy towards squatters. The management only issued repeated appeals to the squatters, through hospital workers living in the area, to keep order and hygiene, especially when entering the hospital's terrain.

With the increasing numbers of squatters, occasional tensions arose between them and the hospital guards over keeping order and cleanliness, especially after the hospital made the effort to repair its fences to limit access from outside. As a result of budgetary difficulties, the hospital introduced a paying system for patients who could afford such treatment. In order to attract such patients, the hospital needed a considerably improved environment and this pushed the hospital management to act against the squatters.

From 1993 or 1994, local authorities repeatedly ordered squatters to leave the streets and seek appropriate shelter elsewhere, but without taking any initiative towards forced eviction. Squatters were worried but tried to ignore the orders as long as possible. The repeated announcements by the authorities and informal rumors of imminent eviction did not prevent newcomers from seeking space to settle there. As long as the authorities did not take concrete action, families persisted and the flow of buying and selling space and huts continued.

Dealing with the dispute

The squatters were aware a move was inevitable but they wanted to have a new place with the infrastructure and the chances for income generation that they had at the hospital site. Rumors circulated that the better off settlers had to leave immediately while the poorest could stay until a resolution has been found. As a result of a strong sense of community, nobody left and authorities did not force anyone to leave. The chief technical adviser of UNCHS encouraged the community to submit a budget proposal to World Vision to purchase land for relocation and World Vision agreed in early 1997 to provide US\$25,000 to buy 1ha of land.

In 1997, people were ordered by the MPP to vacate the area and to settle in appropriate locations elsewhere. Meetings with the MPP on the part of the community (through a community leader) took place frequently between 1997 and 1999 in an attempt to gain resolution, but the MPP did not at that time agree to help the settlers or share responsibility for the resolution process. After receiving approval from World Vision, the community met to discuss the purchase of land and trucks took people to have a look at potential land. Two years passed by without success, and the community could not agree on a suitable location. One piece of land was found

near Pochentong Market (Kork Khleang I) but the price was higher than anticipated. The community wanted to buy the land and so the community leader contacted World Vision to inform them about a shortfall of US\$10,000. World Vision recommended that they ask the MPP. The MPP did not want to provide extra money to help the community buy land.

Meetings did not go well. In early 1999 World Vision threatened to take the money back if the community was not able to spend it on a land purchase within some months. ACHR with URC and a community/hospital committee studied land-sharing as an option in 1999, as this would be cheaper than relocation and allowed people to stay in the area. The MPP rejected three options for land-sharing on the basis that the plans would be intrusive to the hospital environment. Later the governorship changed and the newly appointed MPP Governor H.E. Chea Sophara entered new negotiations and ultimately promised to obtain a further US\$10,000. This agreement was made with the input of UNCHS and ACHR, as well as the community and SUPF.

5. Outcomes and impacts

After the change of governorship, the MPP agreed to supply the required money. The community then decided to take the piece of land in Kork Khleang I. In August 1999, URC's Young Professionals began to collaborate with the community to discuss the site layout plan. The site had 111 plots of 4.5x9.5m, a market, a pre-school, a community and health center and road access. Plots were allocated by lottery. UNCHS drilled wells although water was initially unusable.

After most of the infrastructure was finished, families began to relocate in September and October 2000, with 60 families moving in the first stage, 30 families in the second and 21 families in the third. The MPP provided transportation and rice and people lived in temporary housing until houses were constructed. Houses were built according to a family's means, with housing loans through UPDF. Eventually the community was connected to a private water supply network with help from UNCHS and the MPP. Electricity was initially supplied by a private vendor, although proposals then went through to connect to the public electricity network. UNCHS also funded drainage construction with community labor and construction of toilets with labor from plot owners.

Fourteen families who had not taken part in the savings schemes were relocated to Prey Sar.

6.2 Antenna Case Study

Location

The disputed area is located in Boeung Kak I commune, Tuol Kork district (on the border of Russei Keo district) and covers land previously reserved for a TV antenna, built in the 1960s. The land stretches out in a 150m radius around the antenna, with a total area of about 15ha.

Settlement history

Settlement in the disputed area started in the early 1980s. The land has been managed mainly by MolInfo, but the actual status of the land over time has been unclear. In 1983, only a few families were occupying the area. From 1984, more people from various provinces started to settle there, using tents for shelter, with (at least tacit) permission of the authorities. By 1987, there were about 50 families, mostly of officials from MolInfo. There was no village until 1988. By

the mid-1990s, about 75 families were residing in the area. There are currently 114 families, plus 35 families of renters.

The population is mixed. Some are poor, working in low-level jobs, although their situation and living conditions have improved over time. There are also ministry employees in several large villas in the area and well off and better educated people as well. It is from this group that resident representatives came to lead the dispute. One representative in particular is noted as having very high-level backing. There has been generally good community cohesion over time although there is a clear sense of division between the poorer and better off members of the community.

Status of land

All stakeholders held the view that the land around the antenna belonged to Molnfo after 1980, even though there is no evidence that the land has been designated state public or state private according to the 2001 Land Law.

In the 1990s, a high-ranking official at Molnfo certified a number of land transactions by issuing letters to purchasers who requested proof that land they had bought was outside Molnfo land and therefore was not state land (although it was within the 150m radius of land said to belong to the Ministry). These letters were also certified by village and commune authorities. In one case, the purchaser noted that the land had been sold to her by a high-ranking official at the Ministry.

Later, the MPP wanted to know the legal status of the land as residents had asked to be granted land titles. On 31 January 2005, the MEF (as the entity in charge of inventories), on MPP instructions, issued a letter to Molnfo requesting clarification on the state land around the antenna and an inventory for 2004. Certification from Molnfo (signed also by the MPP and the Cadastral Commission) stated (around 2002) that the ministry only possessed a 70m radius around the antenna and that the rest belonged to the people.

The dispute

In 1994, the MPP, then under the governorship of H.E. Chhim Siek Leng (1993-8/9) of FUNCINPEC, asked the people to leave some parts of the area, claiming that the land was state owned. The residents went to the home of Prince Norodom Ranariddh (then First PM) to complain and the MPP took back its request. Later, in 1995-6, the MPP (under the same governorship) 'borrowed' land from Molnfo for investment, entering into a contract with Diamond Company (1997) for part of the area for a long-term (around 50 years)¹² investment in sports activities. Residents were informed of the deal in late 1996; authorities and police came to demolish homes on 10 December, with apparently no warning. Given the changing political climate, this time the people sent a petition to then Second PM Hun Sen's house and went to demonstrate there. A special envoy of Hun Sen wrote to H.E. Chea Sophara (of importance at the MPP, but not yet governor) ordering him to resolve the dispute. Resolution saw district police moving 33 families from one part of the area into another part; those moved received 80-100,000 riel, 8-10 housing poles and a 4x6m² plot of land (taken from the residents of the second piece of land). Altogether after the move, the populated area held more than 60 families (the emptied land was given to the company). There was general dissatisfaction with the result but residents felt they could do nothing.

By 1999, the CPP was the sole party in power, and H.E. Chea Sophara was governor of the MPP. At this time, the MPP cancelled the contract with Diamond Company, stating that the land

¹² This number varies according to the informant, but is certainly long term.

was not being used productively. After this, the MPP opened bidding for the area to three companies, including the area where residents had been moved (also in 1999). The Council of Ministers issued a notification on 8 May 2006 announcing that the disputed land belonged to Phanimex.

Dealing with the dispute

The notification stated that people must bring complaints and supporting documentation to the district office by 22 May 2006, or they would be evicted in the following month. The notification was signed by the Secretary of State for the Council of Ministers and was posted in the district office, the commune office and at the disputed site on 9 May. This was the only means of publicizing the issue, and no prior warning was given to the people.

People came together to discuss the situation, suggesting approaching human rights organizations or powerful individuals. The better off families approached the poorer ones and offered support. Finally, it was agreed to select representatives from those who were knowledgeable, worked with government and knew the Land Law. Finally, they selected five representatives. This decision was thumb-printed by the people and certified by the village and commune.

The representatives were led by three of the group of five with the other two, being illiterate, playing more of a background role. One representative in particular, said to have high-level backing, was seen as the main leader, and prepared a scenario to resolve the dispute. The main leader warned residents not to talk to newspapers so as not to upset high-level actors. He also claims he turned down requests for interviews from many newspapers, radio stations and NGOs. The representatives' stated intention was not to attack the company or the government but simply to try to gain what was rightfully theirs.

The representatives then undertook the following process:

- i) **Collection of documents** - over a period of four to five days, the main leader of the representatives went to the Council of Ministers and found documents about the land. Documents were found (certified by MolInfo, the MPP and the Cadastral Commission) which indicated that the land outside the 70m radius of the Ministry belonged to the people. The representative found these after asking advice from high-level actors. Based on these documents, the representative wrote letters to PM Hun Sen's Senior Adviser, Tuol Kork district, the MPP, and NARLD.
- ii) **Coalition building** - the leading representative asked the commune and village for confirmation that they would support the opposition, which they gave. The Cadastral Commission was also approached, but wanted to delay the situation, which was not seen as satisfactory.
- iii) **Dissemination** - one day before the meeting with the district authorities, the group started to disseminate information, including to Reaksmey Kampuchea and Bayon Radio (managed by PM Hun Sen's daughter). The leader also contacted Soy Sopheap, a popular TV anchorman at Cambodia Television Network (CTN), who said he would come the next day to cover the story. Very high-level CPP actors were also contacted by the main representative, and told that the CPP might lose its constituency in this area; these then warned the MPP not to damage the CPP's popularity in the city.

- iv) **Meeting the authorities** - on the day of the meeting at the district office, the main representative spoke in the presence of authorities, owners and renters, and media. He also used references to PM Hun Sen. The documents and minutes were passed to the MPP governor. People then went straight to PM Hun Sen's residence but were told that Soy Sopheap of CTN had arrived at the disputed land, so some returned. Soy Sopheap carried out an emotive report, interviewing local authorities and people. The representatives showed documentation to the TV anchorman.

The representatives never met the company.

Outcomes

As more and more senior CPP officials were approached by the opposition, it appears that there was a fear that there would be a loss of voters for the CPP if this continued. After the district meeting on 22 May (which was filmed for a CTN TV documentary), the documents from the opposition plus the minutes of the meeting were sent to PM Hun Sen, who instructed that the MPP governor meet the Council of Ministers immediately. The governor did so the next day and the notification was cancelled on 23 May 2006. The Council of Ministers issued a letter informing the governor of Phnom Penh that the government had decided to give the land to the people. The Council of Ministers issued an apology to the people, passed on by the MPP governor.

The commune and district authorities then visited the site and praised the people for dealing with the problem well and for not using violence. Nine days later, people were told of PM Hun Sen's decision that the land be given to the people. The official ownership certificate was issued on 2 October 2006. The announcement of titles was carried out by the MPP, with the participation of local authorities, UN representatives, foreigners, media and people in a ceremony-style event on October 10, 2006. The ceremony was shown on CTN.

The legal status of residents was not completely clear until the dispute in question ended. As of now, 114 families¹³ are said to have land titles, while another 35 rent houses in the area. Informants have noted that the adjoining land (which also belongs to the company) has been sold on, some of it twice. Community spirit seems stronger than before, but division remains in place between the richer and the poorer. Since the residents have been granted land titles, the local authorities have been in the process of submitting a proposal¹⁴ to higher levels of government to change the name of the village to Sen Chey, implying gratitude or honor towards PM Hun Sen.

6.3 Borei Keila Case Study

Location

Borei Keila community comprises approximately 14 hectares of land in Veal Vong commune, 7 Makara district. The area was a sports complex, surrounding two rows of four-storey apartment blocks built in the 1960s to house athletes. Some families live in apartments and the rest live in wooden and brick houses in the surrounding grounds.

¹³ This figure is different from that given by the commune chief, who said that 108 families had received land titles and three had not, for a number of reasons.

¹⁴ This proposal is not yet public and is pending approval.

Settlement history

After 1979, the area was a training school for the Mol and MND. Many staff and trainees from the Mol lived in the buildings. In 1991 there were 193 mainly military and police families. At that point, the school directors began to allow relatives of those living there to come in and run market stalls. People moved first into the buildings and started to buy or rent informally; houses then began to appear outside. By 1996, 17% of residents were civil servants and the rest were from the police and military. Later on, as people occupied more of the area outside, the number of non-police and non-military families grew. A great many people flooded in after this time, and especially from 2000 after fires in the Tonle Bassac area. In 2003, a committee of district and commune leaders, together with community leaders, counted a total of 2,329 families, both within and outside the buildings. One informant estimates that there are now more than 3,000 families in the area.

As well as military and police inside the buildings, the area holds many families of low socio-economic status, mostly living outside the buildings. The area is known for poverty, low security, drugs and crime. Water and electricity are supplied by private companies at very high rates. There are problems with flooding and sanitation. There is, however, a market and access to schools. As more non-police and non-military families came in there was a division between those inside and those outside and local authorities are generally not trusted by the community.

Status of land

The land was occupied by the Mol and the MND after 1979. In 1982, the MND transferred the land to the Mol. In 1996, the land was transferred to MoEYS, which wanted to redevelop the land as a sports ground. The residents understand the land to be state private land but it is not clear if it has ever been clearly designated as such.

All owners and 'long-term' renters inside and outside the buildings (1,246 families according to a population survey in 2000) were issued a certificate of residency from 2001 after negotiation with the authorities. In 2003, possessors of such a certificate were given the right to an apartment in buildings that were to be built as part of a land-sharing development on the site.

In 2003/4 the 2,329 resident families were into the following two categories:

- i) **Permanent families - 563** owner families with complete documents; **119** owner families without complete documents; **465** renter families there for more than three years; and **619** families who were not formed into a community.

Total: **1,766** families.

- ii) **Non-permanent families - 321** 'temporary' renter families; **49** families who 'have' land and a house in the area but do not live there; **25** families who separated from other families (e.g. after a wedding); and **168** families who have a registered name but no house or supporting documents

Total: **563** families.

Permanent families received an apartment and non-permanent families did not, except that in the permanent category the number of renter families was reduced to 181, leaving a total of **1,482** families eligible for an apartment. 284 families disappeared from the renter list without explanation.

By now, with an estimated 3,000 families residing in the area, there may be around 1,500 families without legal residency, according to the categorization of 2003. Certificates have risen in price greatly, according to many informants, with one claim that the price for a residency certificate in 2006-7 was between US\$4,000 and US\$5,000.

All residents claim the right to live on the disputed land, although most of those without legal status know they have no legal rights and all believe this is state land. Those inside the buildings claim that they have been living in the area for a long time and therefore have the right to stay. Those outside claim that since they are too poor to buy a house in Phnom Penh, the only place they can live is the Borei Keila slums.

The dispute

Around 1993-4, people inside the buildings took land additional land in the grounds which was cracked down upon by an Mol appointed committee. However, it seems that the committee was also involved in selling land informally, which contributed to the mushrooming of slum settlements outside the buildings from this point.

In 1996, MoEYS issued an eviction notice so the land could be redeveloped as a sports ground. Those with 'legal status' would be offered compensation of US\$300 per settlement, as well as relocation. Notice was short and none of the residents wanted to leave. MoEYS then created an inter-ministerial committee. One night in June, the Mol assigned its armed forces to evict residents, especially those outside, burning many houses down. Resistance was strong and organized, and the group was cohesive. Some representatives of the people took a thumbprinted petition to various institutions and powerful individuals. Then Second Prime Minister Hun Sen stated publicly that about 300 (of 376) families in Borei Keila were legal residents. He later announced that if people were not given proper compensation (at least US\$4,000) they should not move. On this basis, residents both inside and outside the buildings stayed and eviction activities were suspended. There was a further eviction announcement in 1998 but without any activities to follow this up.

A further eviction announcement was made by MoEYS in 2000. Again the notice was short, only two weeks. Again, residents preferred to stay rather than relocate, although an offer was made. Four community leaders and eight police/military representatives went to meet the governor of Phnom Penh to negotiate, including a demand for certificates of residency. When the building company came to bring materials to build a fence, people from across the community destroyed them. The representatives continued to seek help from various institutions, and negotiations led to a district/police/commune committee house count, issuing certificates of residence for everybody who had a house by September 2001 (both owners and renters). Representatives were of a high-level and resistance was successful. Continued closed negotiation occurred, and the idea of creating a SLC arose through discussion among local authorities and community leaders. In 2002, a proposal was submitted to the MPP governor. Local authorities informed residents at the time that those who had a family book or residency certificate would be allocated an apartment through lottery, and neither period of living nor size of land would be taken into account.

In May 2003, a community upgrade SLC over 4.6ha was approved by the Council of Ministers. One community leader said that the communities were given one year to upgrade; if they had not done so by this time, the land would be taken away from them. The community leaders therefore continued to negotiate, ending up with a decision to seek partners for development in building houses in a land-sharing project. This was agreed to by the MPP on 12 September 2003 and approved on 4 November 4 (with 2ha for the residents and 2.6ha for the company). By this

time, Phanimex had been slated (without community involvement) as the partner in the development.

Community leaders then conducted a meeting with community members where people were asked to agree with the proposed option. This occurred and community leaders immediately announced the name of the company and general conditions for getting an apartment. Some community members insisted on a recount of the population for the SLC because they had not been involved in the previous count and wanted a more up-to-date figure (also suspecting that there were some residents counted who did not actually own houses). This was when the categorization noted above came into play. The population statistics for the proposal as collected by the committee in 2003 (and published in early 2004) showed 2,329 families. The final numbers were 1,482 fitting the criteria for an apartment and 563 not. Categorization has not been published in full (some informants know and some do not know which category they fall into). This is complicated by the informal trade in certificates.

Negotiations went on between 2003 and 2004, among community leaders, the MPP and the company, regarding construction quality. In June 2004, a violent demonstration took place as the company moved in to clear the land for the first three buildings. The armed forces were sent in by MoI and successfully crushed the uprising. Residents (mainly from outside the buildings) became angry as the company moved in to build the first three buildings and tried to move people off the land. They were also angry because they believed that the community leaders were involved in cheating them of land.

The Sam Rainsy Party immediately negotiated with the MPP to allow protesters certification of apartments and to insist that there was a guarantee made for those who had to leave their land for the construction of the first three buildings. The company made contracts with those moved for construction and set up temporary tents for them. The MPP agreed to the building of 1,740 apartments in July 2004. The group that protested from the area of the three new buildings has achieved certification, but there are many others who have not.

Outcomes

The company is behind schedule in building the apartments (only the first three of 10 buildings were underway at the time of research, to be ready in February 2007)¹⁵ and there have been complaints that the buildings do not follow the specifications. The amount of land designated to the private company has grown since the agreement and there is also a rumor that the company has no working capital and that the project will be transferred to the Mong Reththy Group. All community leaders have expressed concern about the construction quality and have tried to write a letter to PM Hun Sen but this has been blocked by local authorities. Construction of the first three apartments seems to be different from the original plans.

The number of apartments is lower than the number of residents and as many residents have no idea of their future there is potential for further dispute. There are around 3,000 families in the area, although only around 1,482 have the right to an apartment. This number has also been confused by the granting of certification to those (unknown number) who protested in June 2004, some of whom may not have been included in the original categories for tenure.

¹⁵ The first two buildings were to be opened for residents in the middle of March 2007 (Cambodia Daily, 2007). Newspaper reports noted uncertainty in the area surrounding the new buildings and the future.

Since then, there has been little outright conflict, but trust in the company and community leaders is low. Community cohesion is divided also, particularly as it is unclear who will get tenure and who will not.

6.4 Dey Krahorn Case Study

Location

Dey Krahorn is in Tonle Bassac commune, Chamkarmorn district. The community of Dey Krahorn is arbitrary and not organized according to the municipal system. The community is split into seven further groups over an area of around 3.6ha, bounded to the west by 'Building Blanc' and to the north by Build Bright University, Chramos Chrouk (a triangular piece of grassland), and the old Bassac Theatre. The surrounding area is the scene of many recent commercial developments.

Settlement history

Between 1979 and 1989, the only occupants of the area were those living inside Building Blanc. Many of these residents were artists working for the Ministry of Culture and Fine Arts and appearing at the Bassac Theater. From 1989, people began to build houses. According to some informants, employees of the Ministry, who received a very low salary, were allowed to build on the area of land managed by the Ministry. As such, many of the residents today are artists of some kind. It seems that this was not a formal arrangement, and the Ministry of Culture claims no knowledge of it (Cambodia Daily, 2005a). In 1993, more people were arriving, migrating in or returning from refugee camps at the Cambodian borders. By 2000-3, there were people all over the area. Occupying land was not difficult: people could take land themselves or buy it at a low price from a former resident. According to the Chamkarmorn district report of September 2004, 1,465 families (5,750 people) lived (owned and rented) in Dey Krahorn.

In the surrounding area, there is good access to markets, schools, health centers, hospitals etc, with roads in good condition. However, inside Dey Krahorn the roads are narrow and difficult to walk down, and it is (or was) very crowded. There is flooding in the rainy season, and there is no drainage. There is no access to state water and electricity supplies; residents buy these from an independent agent who, in turn, buys it from the state. There are social problems such as drugs, gangsters and brothels. NGOs in the Tonle Bassac area since 1995 have included URC, UN-Habitat/UNDP, PUPR and human rights organizations. Programs have included education, capacity building, infrastructure, health, housing, environment, savings and credit, human rights and law.

Residents work in various fields, including manual jobs such as construction and garment factory work. There are also small businesses and small-scale sellers. In addition, there are company and NGO employees, artists (from the Ministry days), athletes, police, military and government officials. Life is difficult for most, but a small number are better off. Those in this group often have houses in the area to rent to others or provide services such as water and electricity. Some have a house and residence outside and have land or houses in the area for business purposes. Community cohesion was good before the dispute arose, as people came from similar backgrounds. There has not been a similar feeling of trust towards local authorities.

Status of land

From 1979, most of the land was managed by the Ministry of Culture and Fine Arts. Land outside this was also public but it is not clear who managed it: it was merely used as parkland or

exercise grounds or left as open space. The Ministry of Culture transferred the land to the MPP, but it is not clear when this was or the reasons for it. Most informants state that this was around 1993. The residents understand the land to be state public land.

Although local authorities do not acknowledge slum dwellers as legal residents, many who live in the area have voting cards, identity cards, savings books, family books etc. The number of residents is constantly changing. In 2004, 1,465 families were eligible for land tenure at a relocation site. This number includes long-term renters (it is not clear how 'long-term' is decided). Original payments for settlement were very low (when the land was empty). Informants say that this price rose to around US\$500-600 in 2000 and afterwards. Since the SLC was granted in 2003, informants state that documents for proof of long-term residence in Dey Krahom have begun to be sold informally for around US\$2,000, as people hope to gain tenure in the relocation site even if they have not been residents of Dey Krahom.

The dispute

Until 2003, there was no open threat of eviction even though rumors started around 1993. After a series of fires in the area, affected nearby residents were not allowed to rebuild their houses and were relocated. This added to Dey Krahom's concerns but eviction did not happen.

In 2003, Dey Krahom community was designated a SLC for in-site upgrading. In June 2003, the MPP created a committee to count the population, including local authorities, the MPP and community leaders, but no community members. Dissemination meetings occurred for Dey Krahom from July to November 2003, with community participation. In October to November 2003, community leaders attended workshops on planning. Apart from high-level meetings, communities met among themselves to discuss whether to build houses through a land share or through loans, finally deciding on a land share. This was confirmed by the MPP. Negotiations between community leaders and companies reached no agreement, and the land was deemed too small for a land share. From then on, negotiations were held privately (from 21 August 2004) with one company which agreed to build residences in Chaomchao in exchange for all the land in Dey Krahom. This negotiation almost came to an agreement but later the community accused the company of not really having land to exchange. This negotiation (for a land swap rather than in-site upgrading) was not made public until July 2006.

Community leaders started to negotiate officially with 7NG at the end of 2004 and by January 2005 community leaders had signed an agreement. The agreement handed over the land in exchange for relocation to apartments built by the company on part of around 20ha in Damnak Trayoeung village, Kakab commune, Dangkor district, 15km from the original settlement. Around 45-60% of the community agreed to relocate but a number of families did not want to move and claimed that the agreement had been made in secret and without participation. They accused community leaders and local authorities of being close to the company and of selling them out. They want to overturn the contract between the company and the community.

Residents are mostly poor and have been willing to relocate given that they do not have much land and are guaranteed of tenure. Those protesting are made up of slightly better off residents who do not want to move as they will lose space compared with what they have now, or would prefer monetary compensation. In addition, there are protesters who are poor and inexperienced with few options available to them. There are also other residents who may be newcomers to the area and who are said to be benefiting from protest.

In March 2005, the seven community leaders reported to the district that 1,111 families had agreed to move. By May, they affirmed that 1,234 families had agreed, apparently with different

kinds of compensation offered. High-level meetings to confirm the plan and to organize development continued (without the participation of the community). The first stage of relocation was put in motion on 1 June 2006, when the leader of Preah Phirun community reported that of 355 families, 329 had agreed. The organization of the relocation took around one month and a half, and was not forced. Since then, most families have gone to the resettlement area, leaving only some protesters in Dey Krahom (and a few other families whose apartments are not yet ready).

There have been allegations of intimidation and attempted destruction of property by local authorities and the community leaders. There has been no response by authorities to letters or protests by the opposition group. From 2005, after the community leaders signed the contract with 7NG, the representative of the opposition lodged a complaint with the MPP five times with no reply. Even when lawyers and human rights NGOs intervened in order to meet and talk with the MPP, no meetings were allowed. On May 20, 2006, the representatives wrote a letter to the MPP to reject the decision to move to a new site. The group made a complaint to the court in May 2006 to reject the contract made by the community leaders and 7NG but the court has not responded.

After receiving a complaint from residents, 25 July 2006, one National Assembly member from the Sam Rainsy Party sent a letter to Heng Samrin, President of the National Assembly. This was passed on to PM Hun Sen but there has been no response. Claims were based on the letter issued by the Office of the Council of Ministers which contributed the SLC land. On 5 August 2006, there was a non-violent demonstration as one of the lotteries to allocate apartments took place. A press conference/demonstration was held in December 2006 where participants carried pictures of PM Hun Sen and his wife Bun Rany and King Sihamoni.

Outcomes

At the time of research, around 200-400 families are yet to relocate. Representatives of the opposition say that this number is 40% of people; others say it is around 20% of the residents. Some at the relocation site are said to be content but others have said that the area is too far from Phnom Penh and from schools, and that they can not earn enough money there. Some residents have sold their land title and returned to Phnom Penh. There have been some complaints about the new houses, which are said to be small and unsuitable. The company has also built houses for sale in the area, which are much bigger and have more rooms. There is no deadline for moving or eviction and 70% of the buildings at the relocation site are finished. Most community leaders are already at the new site but some are still in Tonle Bassac.

Protester leaders have changed their strategy and status from an opposition group to a new community. The formal community leaders were to be selected by vote in a meeting on February 27, 2007 at the Tonle Bassac Theater. Group cohesion has suffered from this situation. The unity of before is fragmented. Trust towards local authorities has decreased further.

It is not known what 7NG intends to do with the Dey Krahom land.

6.5 Koh Pich Case Study

Location

Koh Pich is an island on the Bassac River directly across from the Tonle Bassac mainland and several commercial developments. The island covers an area of 68ha, and has been divided up into 10 and 20m wide strips for farming. From the 1950s, the island was small and little used, but has grown over time as a result of sediment build-up. The area has rich silt deposits and an abundance of water, making it prime farming land.

Settlement history

After 1979, the north of the island was occupied by a municipal military group and around 100 families came from the other bank of the Bassac River to grow vegetables in solidarity groups. Only some stayed on the land full-time. Around 1981-2 the solidarity groups ceased to work and the land was divided into plots for individual production, sometimes with informal permission from officials. Permanent settlement began around 1983-4. The families came from the provinces around Phnom Penh. Settlement first occurred in the north of the island and then the south. The south has most newcomers, but the north has also some well off residents who arrived later (after 2001). By 1989, there were around 30 families. In the early 1990s, Koh Pich was seen as unsafe, but settlers organized their own armed unit to protect themselves, tacitly allowed by authorities. Between 1991 and 1993, Suor Srun Co. bought land from local farmers at a low price until the total amount of land owned was around 41ha. A guard for the company divided this into plots to rent to newcomers and collected money from them. From 1993, many newcomers arrived and the land was occupied successively until it was full. In 2001, residents built a dirt road from north to south. Many residents earned a living through vegetable farming: some as subsistence farmers and some selling in Phnom Penh markets. Some people worked as fishermen and officials also owned land on the island. A dock ran private boats out to Phnom Penh. People used to walk across the river bed in the dry season, but this ceased to be possible when landfill activities began later. Most schooling and healthcare facilities were on the mainland. Numbers are disputed, but by 2005 there were around 300 families on the island.

Status of land

The island has grown through sedimentation over the past 50 years without official cadastral registration. In 1989, the state brought in its new land management policy and allowed private ownership of residential land and private use rights of agricultural land. The 'old residents' applied for official recognition around 1991 and approximately 10 families received a *bângkan dai*. This was only official confirmation that they had applied for registration and did not provide ownership: the procedure for official registration with the district/provincial cadastral office had not been completed. However, those who received them understood that this meant the land they used for vegetable growing belonged to them.

After 1993, some newcomers 'bought' land from 'old residents' although the latter did not yet have an official land title or registration with the cadastral office. Others rented land from Suor Srun Co. In March 1998, the chief of Tonle Bassac commune issued a decision to create two 50-member family groups on the island, probably in preparation for the July 1998 national elections. 134 families who had come in 1992-3 were given official residence books. All 134 families were given official recognition in 1999 by the MPP as belonging to Village 14 (as signed by the village chief and certified by the commune chief). New MPP Governor H.E. Chea Sophara allowed continued vegetable growing referring to the Sub-decree on the Declaration of State Property of July 1995. As a result, renters stopped paying the company, considering themselves owners of the land. This decision was ambiguous and had no clear legal basis.

The MPP claimed that the island was state property and that the settlers were illegal according to the Constitution and the Land Law. The settlers claimed that the Land Law 2001 does not

designate islands as state public property, and as they had lived there for more than five years without contestation they had a right to compensation.

The dispute

Renting land from Suor Srun Co. caused problems between the company and renters, as well as between those who rented from renters under informal procedures. In July 1998, the company complained that a family had not paid rent and threatened to confiscate plants if the money was not paid within three days. After payment was not forthcoming, the company workers bulldozed houses and confiscated plants. More than 100 families gathered for protests and complained to LICADHO. In August 1999, before anything could be done, the company complained to the Municipal Court, demanding eviction of the residents. The residents continued to organize resistance by seeking official recognition of their settlement from local authorities (including those not on company land). Some protesters met with the MPP to negotiate. Recognition was agreed in October 1999 and in November the company court case was rejected as 'contradictory to the spirit of the law'.

In 1999-2000, the MPP dug 50m of land out of a bank on the south side of the island to fill in land on the riverside facing Koh Pich. Residents were unhappy but did not dare complain because of the help given by the MPP against the company in 1999. Some compensation was granted along with certificates of gratitude.

After the 2002 and 2003 commune and national elections and the change of governorship, the MPP considered offers from several private companies to develop Koh Pich. In 2003-4, there were rumors about development in the area. In 2003, a group of Koreans visited and asked villagers to develop the island through a land-share. The villagers refused not trusting they would benefit from the situation. Other initiatives were suggested by villagers, including one attempt to involve a Korean company using Koh Pich as an agricultural supplier for the city. These were not agreed to by the authorities.

In March 2004, confirmation of a project for a satellite city on Koh Pich, by the OCIC, began to come through, first suggested by PM Hun Sen in a directive to the MPP, then through inter-ministerial meetings under new Governor H.E. Kep Chuktema with the participation of the local authorities. Formal approval was given by the CDC on 25 June 2004. The deputy chief of Village 14 (and leader of Community I) began to work for 7NG (owned by OCIC) with three assistants to lobby for the development project and to persuade settlers to sell their land, issuing warnings to them that they might lose everything if they did not sell. Those willing to sell (40-50 families) received the whole amount in cash from 7NG at between US\$7,000 and US\$9,000 for total plots. When other families asked the commune chief to allow them to become co-owners of the land, the commune chief sent a letter to the district governor, who sent a letter to the MPP (July 2004). The MPP governor responded in August that the district authorities should calm people down as discussions were ongoing (although the project had already been confirmed). At this time also, the family of Suor Srun Co. agreed to compensation informally, although this was not confirmed officially until February 2005.

Representatives of 7NG came to measure the land and requested villagers to move. Those not willing to sell were offered new land of 8x22m in Takhmao (Kandal province) by the company and food/equipment/maintenance grant of 10,000 Riel per month per person (eight months by 7NG and four months by Canadia Bank). 10-13 families ('owners') and 160 renter families agreed to move, leaving between December 2004 and March 2005. On 2 December 2004, Chamkarmorn's district governor officially asked settlers to meet district officials before the end of 2004 to resolve the issue. On 6 December the MPP issued an eviction order to the families

living on the land to leave within 30 days. 80 families resisted. An offer was made by the MPP for US\$2 per square meter, which was rejected. There were reports of some intimidation in response to the protest, and officials complaints by the settlers were forwarded to the MPP. After an open protest in December, one deputy governor met with eight representatives and promised not to relocate people unless they had reached a deal for compensation. By 15 February 2005, the MPP had renewed the eviction order against the families and gave them until the end of the month to leave.

Protesters were organized into two groups under Communities I and II (although the leader of Community I then began to work for the company). Members had different roles, including media liaison, working with NGOs, talking to villagers and talking to the government etc. Expenses came from villager contributions. Villagers often participated also. Training was given on legal matters, mainly by PILAP. On 13 December 2004, there was an open protest in front of City Hall against the eviction order and the US\$2 per square meter compensation. Leading members reported death threats and some gave in. Others sent complaints to the PM, the king, the National Assembly, the Senate, the Department of Land Management and the Mol. Most did not respond; the Mol forwarded complaints to the MPP.

In meetings between the MPP and PILAP, the MPP restated that the islands were state property and that the settlers were illegal. The MPP then suggested resolution through either resettlement or full compensation per square meter, asking permission from Mol to take legal action if these solutions were rejected. On 28 February, the MPP announced the creation of a committee to value the land (with members from the MPP, the district, the commune and the Department of Land Management). The eviction order passed without event and the commune chief sent in two groups (each of 12 members and comprising local authorities and community representatives) to value the land and list the settlers.

An offer was made on 27 April by the MPP and Canadia Bank, again for US\$2 per square meter, which was again rejected. On 4 May, the MPP offered US\$2.50 plus Canadia Bank coupons, which was also rejected. By June, the amount offered was between US\$5 and US\$6.75, depending on the status of the land held. Eviction was slated if this was rejected. Some families agreed to this offer and moved; only those who resisted were given a higher offer (it has been suggested that this was only community leaders). Another deadline of 31 July was given by the MPP on 28 July. The MPP increased the amount to US\$7.50 on 30 July, again without success.

The US Embassy, USAID and PILAP visited in June, and the UN Special Representative to the UN Secretary General on the Right to Adequate Housing arrived in August. At this point, some families were exhausted and discouraged and gave in.

In August 2005, the MPP lodged a lawsuit at the Municipal Court against 27 families, accusing them of being illegal settlers and requesting an injunction order for eviction. The Municipal Court did not respond to a request by PILAP to transfer the case to the Cadastral Commission on the grounds that the land was not yet registered, and issued a letter to the Department of Land Management asking for clarification of the status of land occupation by the 27 families. The latter responded that no titles had ever been issued. Requests for higher compensation were rejected and on 3 November the Municipal Court decided to evict all settlers, with use of 'force' approved by the Council of Ministers. The families were informed through their representatives around 15 November. Further negotiations between PILAP and OCIC (without the MPP) resulted in an offer of higher compensation (US\$10-12), according to the Cambodia Daily (2005d). On December 28, armed RCAF soldiers surrounded the final three homes (but did not take action against them).

Outcomes

The area in Takhmao is quite remote and said not to have as good land for farming as Koh Pich. Some settlers have left the land and some say that they did not receive as much as they were promised. Promises by the company (7NG) have not been fulfilled, such as construction of a road and installation of electricity and water. There is no access to NGOs and transportation takes a great deal of money. Those who arrived first have become integrated, though, and there is an administrative system in place. The deputy chief of Village 14 (and former leader of Community I) lives there but is not now in a government position.

Community cohesion is worse than it was before, particularly as those who left earlier are said to have sold out to the company. However, representatives say that those who left later were not resented by those who stayed on fighting the case. Two of the representatives state that they will be witnesses if the court case for the last family goes through. This was filed at the Court of Appeal on August 18, 2006, but no subpoena has yet been issued (at time of interview: January 2007).

6.6 Sombok Chab Case Study

Location

The disputed land is located in Village 14, Tonle Bassac commune, Chamkarmorn district. The area is near the Bassac River, close to the new National Assembly and many tourist attractions and recent commercial developments. The area covers nearly 7ha of land. The area was known as Sombok Chab (or 'Sparrow's Nest') after the fires of 2001, mainly because it was crowded, noisy and prone to violence.

Settlement history

In the late 1980s, a few families migrated from rural Cambodia and settled near the river to cultivate vegetables. Around 1991, new residents started to flow in gradually, especially those repatriated from refugee camps and demobilized soldiers. The community grew rapidly from the mid-1990s. Many of the residents came from Svay Rieng and Prey Veng provinces and some came from the Kampuchea Krom. Around 1992, the authorities in Tonle Bassac formed 22 groups to facilitate arrangements for the 1993 elections. From the time that the company bought the land (1991-2), some villagers paid an informal fee to the company guard to settle in the area (although poor families often did not). When the number of inhabitants began to increase, the guard could not control the people there and this practice stopped. Others noted having to pay an informal fee to local authorities.

According to savings scheme statistics, there were 1,367 families in six communities in 2001. Less than 100 were house renters at that time. The area was transient and made up of people from a relatively low economic stratum. A minority of residents worked as security guards, factory workers and company employees. Some of them often went back to their rural homeland to farm. Some families owned the structures built on the land and others rented houses. Some renters purchased houses from previous residents, and some came to share part of the land with previous residents. Some owners sold houses and became renters. Later unofficial figures gathered by local authorities gave 1,507: the final number was 1,216 (2006) but the process leading to this was unclear and was protested by community leaders and SUPF.

The area is close to schools, pagodas and areas of commerce. Water and electricity services were provided privately at high cost. Flooding was common. Basic outhouses were provided by USG and basic latrines by SUPF (both around 2002) but these were not well maintained and sanitation was a problem. Other NGOs worked in sanitation, health, training and educating orphans and poor women, and on human rights. Training courses were given by the MPP (PUPR) as well as NGOs on the Land Law, particularly to the community committee. In 1993, USG initiated a community savings scheme, the first in Phnom Penh. Community cohesion during this time was average; community leaders were relatively popular. Some members did not trust local authorities on the basis of charging of informal fees.

Status of land

The land was generally accepted as state land and although some residents owned their homes and others rented, most did not claim to have official title to the land and accepted that the land was not theirs. Some families claimed to have receipts issued (*bângkan dai*) by the MPP in 1992. Some villagers (Deum Kor community) claimed that based on the law they had lived there for five years without contestation and so were legally entitled to the land. Most long-term residents demanded proper compensation or decent relocation rather than the right to remain on the land.

Villagers only possessed savings books from their savings scheme, not family books or other documents. They were told when the scheme reopened in 2002 that, on the basis of these books, money saved would go towards relocation in the event of eviction and the books would be used as identification. Particularly after the fires of 2001 and resettlement of the area (often by those who had been relocated after the fires), people were aware that they would have to leave in the future.

The dispute

In 1991-2, Suor Srun Co. signed a contract with the MPP naming the company as owner of part of the land and granting permission to fill it in. An official contract was issued in 1994. After the landfill, no other activities took place. During the 1990s, there were eviction rumors but nothing happened. In 1994-5, the MPP selected village representatives to view relocation sites, but the sites were deemed unacceptable.

By the late 1990s, some relocations had occurred. In 1998-9, some residents were relocated to Tuol Sambo after a complaint by the Russian Embassy. Some went voluntarily to Sihanoukville. In 1999-2000, around 500 families were relocated to Prey Sar. People were apparently not happy but felt that they had no alternative (and were given two years' notice and three alternative locations, finally choosing Tuol Rokakos). 33 families were relocated to Prey Sar in 2002 to clear space for the new MoFA building.

In November 2001, a fire took place in the Sombok Chab area, affecting around 1,400 families. The MPP took 500 families from the area to Anlong Kngan and 1,000 families to Anlong Korng (both sites belonging to the MPP), receiving a plot of land according to savings. The sites were inadequate, particularly the former. Some families of renters (said to be around 170) were said not to have savings books and did not receive land for almost one year.

After this time, families began to return to Sombok Chab (around 70% by 2002), and new migrants moved in. Some families had not been relocated and did not want to go until suitable arrangements had been made for a relocation site. Many families set up homes informally in Sombok Chab. Finally, one deputy governor of Phnom Penh issued a letter allowing those in the area to stay on the land until there was resolution. In 2002, the leaders of the communities were

taken by the MPP to visit sites in Prey Sar and agreed to move but they did not have enough money in the savings scheme. They encouraged members to save more but the initiators abandoned the plan at that time.

From late 2005, negotiations started between community leaders and two representatives of Suor Srun Co. Faced with the demands of the community, the representatives soon asked the MPP to represent it in negotiations. The MPP, local authorities and affected villagers met many times. The first action was to solve the problem with the house owners: no solution was discussed for the renters. The community leaders were given the responsibility of finding a relocation site. The company agreed to separate the land into plots and infrastructure was to be provided by the company and some NGOs.

The authorities agreed to provide rice or a loan for a small business, along with some supplementary support such as water tanks and tents. Different families were given different amounts of money, some reporting around 50,000 Riel and some around 1.5-2 million Riel. The latter was for most families from Deum Kor community, who claimed they had a legal basis for staying in the Sombok Chab area based on the Land Law.

Initially, the agreement was to allocate land to families with savings books. The authorities then set up their own working group (made up of officials and the company) to document residents and count houses around April 2006 (with a final total of 1,216, a figure rejected by the community). The final allocation of houses at the site was then by house rather than by savings books, supposedly because savings books were selling outside the area and because some house owners did not take part in savings and would have lost out. A lottery took place for allocation of houses. Letters sent by the community leaders and the SRP to high-ranking authorities received no response.

In early 2006, house owners and renters in Sombok Chab were faced with eviction and relocation so that the land could be given over for development to the company. The people living on the disputed land, especially house owners, wanted well designed and developed infrastructure and facilities in the new relocation site; some demanded varying levels of compensation. Renters were not allowed any compensation and were protesting for some kind of suitable solution. The categories for allocation of land were criticized: some families had lived in the area for a long time but in a house with other families and therefore did not receive land. Other families had been relative newcomers but had succeeded in being allocated land. In addition, the number of renters grew massively during the eviction process, leading to complaints that people were coming in to try to obtain land on the back of the Sombok Chab protest. People were unhappy with authorities and the company for what they saw as an unfair relocation process.

During this period, there were allegations of intimidation and violence towards residents. A deadline for starting to dismantle houses was set for 3 May 2006, by verbal notice, apparently given by loudspeaker only a few days beforehand. As owners began to dismantle their houses, intimidation by local authorities allegedly continued. By May 29, 2006, most house owners had left, leaving the renters and some owners squatting with no shelter. The authorities (including police and military) would not allow NGOs to enter the area.

On May 31, 2006, local authorities tried to continue dismantling the area for evacuation. A large-scale riot broke out. Security officers and village officials were accused of beating a pregnant woman and knocking a girl unconscious when a house was being dismantled. On 6 June the MPP sent in police and military (around 1,000) to evict the last inhabitants. They surrounded the

residents using tear gas, electric batons and assault rifles. Police arrested nine villagers including informal leaders. Six were later released for lack of evidence and three leaders were charged with destroying public and private property and sentenced to two years in prison. The people were then trucked to Andong community (Dangkor district, Kuok Roka commune), around 20km from Phnom Penh (those from Deum Kor were taken to Trapeang Anchanh).

Outcomes

People who live in Trapeang Anchanh are generally satisfied that they possess their own land but complain that they are very far from the city and can not afford transportation to get to work. Some people complain about the corrupt procedures in allocating the land. Complaints were filed by some of the 48 families who left last from Deum Kor against the company for destruction of property during the eviction, although these were unsuccessful. This group feels particularly hopeless. The area has a school and market and an as-yet unfinished (at the time of research) health center. Water has been connected and there is a public latrine system and wells, but water is not coming through to these. Electricity is still provided privately. The King came to provide each family with 30kg of rice, 20,000 Riel, a blanket, a mosquito net and a sarong.

The renter families evicted to Andong are generally very unhappy. The land had not yet been split into plots, landfill had not occurred and there were no access roads when they arrived. The population has reached over 1,700 families and most have not yet received land. The remaining land is not yet designed fully into plots and is too small for all the people. Some families use tents and others live on villagers' land, moving when the villagers insist. NGOs frequently visit and provide food and equipment. There have been many reports of disease and lack of services. The people will not be eligible for land titles until they have lived there for five years, but informal practices of buying and selling plots have already begun. A new slum seems to be appearing.

From both sites, some people have come back to Phnom Penh to rent houses rather than stay. Some of those who have received plots have sold these and moved back to the center and some have returned to sleep in the remaining slum areas in Tonle Bassac.

Community spirit has disintegrated in both sites and there is deep mistrust among villagers. The allocation of the land is thought to be suspicious and some in Andong are accused of having jumped in to try to gain land. Different levels of compensation given to different families have increased mistrust. Some of the informal leaders of those in Andong are said to have disappeared after cheating residents in financial transactions.

7. FACTORS CREATING AND EXACERBATING DISPUTES

Each of the case studies presents a unique combination of events and outcomes. It is not possible to extract factors which determinedly lead to 'successful' and 'unsuccessful' outcomes for residents. However, it is helpful to draw out some common themes affecting the disputes and their outcomes. This section looks at the factors creating and exacerbating the disputes and the following section addresses the strategies used by both authorities and communities to deal with the disputes.

Rapid and uncontrolled growth of settlements

Most informal settlements in Phnom Penh began to burgeon in size in the early 1990s. In particular, a flood of people came into the capital when they were repatriated from refugee camps on the Cambodian borders. People began to return from Kampuchea Krom to Cambodia after political liberalization. In addition, when the first general elections were held after 20 years of war (in 1993), migration increased - particularly of rural poor in search of a better life away from crippling poverty of rural areas. An employment boom meant many people came in the hope of finding a job. There was plenty of land available at the time in Phnom Penh, and people began to occupy vacant public spaces.

After the mass influx from 1990-3, authorities lacked strong commitment to intervene, unless there was a concrete interest in the area under question. Older squatter settlements, such as that outside the **National Pediatric Hospital**, had been tolerated since the 1980s. An initial attempt to gain land by the MPP in the **Antenna** case (early 1990s) was met by protest and the MPP gave up its claim without pursuing it. Many of the original settlers at **Dey Krahorm** were employees of the Ministry of Culture and Fine Arts who claimed that they were allowed to squat on the land by Ministry officials. In **Sombok Chab**, the company (through the MPP) made an effort to relocate settlers in 1994-5, but when the relocation sites were rejected they did not pursue the action. Many of the purchases made at the beginning of the 1990s were then 'sat on' – prices did not begin to rise until the late 1990s so few interventions were made to move people off land. However, the scene was set for problems at a time when market liberalization would bring about an increase in prices.

Informal settlements have grown quickly with no infrastructure and problems include severe overcrowding and flooding, with serious sanitation issues. Most people in the settlements do not have basic education and for the most part remain poor. In all of the areas under research, security represented a problem, at least at some point. Gangs, brothels and drug abuse were rife. There is often no access to public networks of water and electricity, with residents buying from private agents at high cost.¹⁶ SUPF estimated in 2003 that there were 569 urban poor communities in Phnom Penh (35% of the total capital population), up from 502 settlements four years earlier (see URC, 2002).

¹⁶ It has been suggested by some that this has been a deliberate strategy on the part of the state to keep slum settlements from becoming permanent.

Unclear laws and lack of recognized land rights

Traditional understandings of land use and ownership became confused with modern legal regulations after 1979. The different regimes of land management, particularly the unregulated re-privatization of state land after 1989, led to a muddled land ownership situation. This was aggravated by weak management and a lack of clarity, as well as very slow and piecemeal development of the legal framework. Difficulties in implementing laws meant that, over time, slum settlements were growing while interventions to control the situation were very limited. There was a lack of a clear state position in many of these areas and a lack of systematic measurement and registration of state land allowed, particularly in the early 1990s, the selling off of state land for personal enrichment. This has been seen in the **Antenna** case, where repeated calls for the Ministry of Information (MoInfo) to deliver a state inventory in the 1990s went unheeded. When land became interesting for 'development', authorities seemed to 'wake up' and claim their property rights by labeling the land state property. It is interesting to note that **Koh Pich** (Diamond Island) only became known as such once it became universally accepted as profitable.

Despite the fact that residents may have official residence books, family books, temporary residency documents and/or savings books, most have no recognized land title and are therefore in a weaker bargaining position. Most people bought land informally from previous owners. Mehta (2004: 25) notes that in seven settlements surveyed for the National Capacity Development Project most families (93%) held only a family registration book - a form of identity card. In some cases, residents recognized they had few rights. In the **National Pediatric Hospital** case, for example, the settlement was on a public road and everybody knew they would have to move. In **Dey Krahom**, **Sombok Chab** and **Borei Keila**, many people also recognized that they needed to move one day. For **Antenna** and **Koh Pich** things were less clear. Delays in the bureaucratic system meant that residents rarely sought to have their claims officially recognized and increased the reliance on informal methods of transferal, involving brokers and intermediaries.

Whilst authorities rarely acknowledged slum dwellers as legal, the issuance of documents often confused the matter. In addition, authorities tolerated squatters until the land became useful, which was often misinterpreted as bestowing official recognition. In the case of **Antenna**, the confused situation of the 1990s actually went in the favor of residents: when MoInfo was asked to confirm by the Council of Ministers how big its land was, the Ministry stated that the land outside the 70m radius belonged to the people (although this area was said to be a 150m radius at the beginning of the 1990s). Purchasers of state land in the 1990s had demanded proof that the land outside belonged to them (these were generally from a few better off residents), and so the Ministry was left with no choice but to give up its claim to the land.¹⁷ In other cases, any certainty was irrelevant, such as in **Koh Pich**, where both the company purchase in 1992-3 and the decision to award the 'use of the land' to the settlers in 1999 were the subject of political about-turns.

In the case of **Borei Keila**, after the SLC was certified in 2003, residents were counted to determine who was entitled to an apartment in the new land share. This count produced eight categories, four of which had entitlement and four of which did not, but the allocation of families to each category failed to properly reflect the situation on the ground. In **Sombok Chab**, there were very few counts of the population, and those which occurred were often disputed. The area

¹⁷ The team did not see proof of MoInfo's claim but informants spoke of a document in existence. In any case, this certification by MoInfo was used as a tool in the residents' strategy later.

was highly transient with a fluctuating population and renters became owners or vice versa. When the time came to relocate residents, the number of occupants was extremely unclear, and local authorities did not have a uniform administrative process to ensure fair distribution of land and compensation.

Many residents in settlements today feel that they have few rights to the land and are demanding only compensation or quality relocation, rather than the right to remain on the land. This is true for **Sombok Chab**, where house owners mainly want proper conditions for relocation rather than to remain in Tonle Bassac (although one group demanded high levels of compensation based on long-term settlement, and renters had other objectives too). NGOs involved have stated that they are working from a human rights perspective rather than on the basis of settlers' legal right to the land.

Informal land market

Against the background of weak land management, an informal room-renting market sprang up within the informal settlements. These markets had a quick turnover, with transient populations wandering in and out, often expanding the area. On occasion, families who had been evicted from one piece of land would go to squat on another (see the case of the Cambodiana and Juliana Hotels. URC, 2002: 6). Because plots of settlement land were sold informally residents did not have effective proof of tenure. This problem was exacerbated by the fact that local authorities were sometimes responsible for encouraging this informal market by selling land illegally for personal profit. In **Dey Krahorm**, settlers found it easy to settle if they paid informal fees to local authorities. In **Sombok Chab** and **Koh Pich**, which were 'owned' by Suor Srun Co., settlers paid rent to the company (in the former case as an informal arrangement with a guard and in the latter case as a more formal arrangement).

In **Borei Keila**, in the mid-1990s, the Ministry of Interior (Mol) set up a committee to deal with land grabbing in the area. However, this committee was actually perpetuated the problem:

Land transactions became a lucrative business Soldiers and police, all of them high-ranking officials, demarcated the unoccupied land and sold it. Some protected the land until the price increased, then sold it. All of them were high-ranking officials; ordinary people did not dare to occupy this unoccupied land ... This committee led to the construction of anarchically built houses
(Former policeman, Borei Keila)

More people entered Borei Keila around 2000, after fires in other slum areas, and the environment deteriorated. After a big fire in 2001 in **Sombok Chab**, the MPP moved around 500 and 1,000 families to Anlong Kngan and Anlong Korng respectively. Because of remoteness and a lack of infrastructure, among other things, around 70% of residents had returned to Sombok Chab by 2002. These residents were joined by new families, and the area still contained some residents who had not left. The settlement then grew again, while the MPP allowed residents to stay while waiting for a proper resolution.

Politics and dealings in land

In Cambodia, land has commonly been used as a 'reward' by those in higher positions for those who help them. People in higher positions are also approached by residents for protection. In 1996, in **Borei Keila**, a protest broke out as MoEYS attempted to evict residents from its land. At that point, (then) Second PM Hun Sen stated publicly his support for the families (most of which were military at that time and had Mol backing); the eviction attempt was halted. Also in 1996, in

Antenna, residents protested to PM Hun Sen when the allegedly FUNCINPEC-linked Diamond Company tried to evict them. Although the residents of one block of land had to move to share land with other residents they did not have to move out of the area (and in 1999 Diamond Company's contract was revoked). In **Dey Krahorm**, protesters, while criticizing the state, also held marches holding up pictures of PM Hun Sen and his wife, appealing to them as just leaders of the country.

Some experiences have made squatters suspicious, as land has been acquired on the pretext of public purposes but has then been transferred to private companies for private use. One area where this has come under suspicion is in land swaps, usually between private sector companies and the state. These were justified to the UN mission in 2005 as vital for the development of the city and the renovation of public buildings, given the low financial capacity of the government. The Special Rapporteur queried their implementation and the UN's report) states:

The speculative game of public authorities and economic actors is analogous to the one played in Bangkok in the 1970s and in Kuala Lumpur in the 1980s: dilapidation of the public domain, weak regulation of the land and estate markets, tacit agreements between economic actors and public administrations. One of the biggest problems is that the main political and economic actors are also the main land and estate speculators. Therefore, it becomes difficult to determine sustainable objectives for the development of the city. The urban poor are the primary victims of these dubious practices.
(UN ECOSOC, 2006: 15)

The lack of legal clarity encouraged continued personalization of power and allowed the state to deal with land according to the interests of changing political parties, rather than according to the common good. The political tide turned during the 1990s, first in FUNCINPEC's favor, then in the CPP's. This was reflected in land deals throughout that decade. In the early 1990s, there were few attempts to evict settlers and one of the reasons was a weak executive. Later, under a FUNCINPEC MPP governorship, land deals in favor of companies with links to this party came to light. In **Antenna**, MolInfo leased land to the MPP which the MPP later (around 1997) leased to Diamond Company, said to be close to high-ranking actors in FUNCINPEC. On **Koh Pich**, Suor Srun (one of the owners of which is married to a FUNCINPEC senator) obtained 41ha of land. In 1992 in **Borei Keila**, land was sold to a television company in a deal facilitated by FUNCINPEC.¹⁸

After the 1997 coup and the 1998 elections, the power balance shifted in favor of the CPP. The governorship of the MPP officially changed in 1998, from H.E. Chhim Siek Leng of FUNCINPEC to H.E. Chea Sophara of the CPP. Owing to political uncertainties, however, the latter only really took control in 1999. PM Hun Sen of the CPP was the sole prime minister. In the **Antenna** case, in the early 1990s residents protested at the house of Prince Norodom Ranariddh, the First Prime PM (FUNCINPEC). Later, by 1997, residents went to the house of Second PM Hun Sen, as his influence was on the rise. This period was a difficult one, and this is reflected in the negotiations for relocation in the **National Pediatric Hospital** settlement, which took two years to reach some kind of resolution (1997-9). By 1999, the Diamond Company (**Antenna**) and Suor Srun (**Koh Pich**) contracts had been cancelled and under the CPP (and H.E. Chea Sophara) the

¹⁸ Certain members of FUNCINPEC were said to have links with Thailand and the company now called TV5, then owned by Thaksin Shinawatra. The contract seen by researchers was with the Ministry of National Defense (MND), even though the land had been transferred to the Mol in 1982.

MPP became more aggressive in acquiring land. However, Suor Srun survived and is still involved in **Sombok Chab** (purchased in around 1992) and Koh Pich. Not only did the MPP facilitate the eviction in **Sombok Chab**, but also the provided the land for relocation. Since 1999, most companies are said to have high-level CPP backing but most are difficult to contact and little information is available.

Phanimex, involved in **Borei Keila** and **Antenna**, has a director said to be backed by very high-ranking actors. 7NG and OCIC (involved in **Dey Krahorm** and **Koh Pich**) are similarly connected (7NG with Canadia Bank – affiliated to PM Hun Sen – are under the parent company of OCIC). In **Antenna**, the decision to sign the land over to Phanimex was carried out directly by the Council of Ministers, without consulting the MPP. Similarly in **Koh Pich**, the MPP seems to have intervened only in response to a recommendation by PM Hun Sen to prepare for the OCIC development. Phanimex in particular has a reputation for land deals throughout Cambodia and for land swaps with the government (Cambodia Daily, 2005b). In 2005, the company took titles for city-center plots from the Mol logistics department, in exchange for constructing new buildings for the government outside the city. In relation to the Mol deal, Oknha Suy Sophan claimed that 'It is not a sale. It is an exchange combined with construction for a new building ... With this land deal I did not make much profit. I do this to help the country' (ibid). She went on to say that she had not decided what to do with the land, but had already received offers from potential buyers. The price of such city-center plots is rising continuously. City Hall at the time valued the land at more than US\$550 per square meter, making the plot worth around US\$7.9 million. The land swap practice later came under fire, with PM Hun Sen banning such sales, transfers and exchanges of state property on 13 June 2005. Of the 14ha in **Borei Keila**, 2.6ha was awarded to Phanimex and 2ha to the community, with Phanimex responsible for developing homes for those residing on the land. The rest of the land belonged to MoEYSm which was shown clearly on a plan. On a later plan, Phanimex gained huge portions of the MoEYS land, with no explanation.

Decisions regarding settlements have sometimes coincided with political events. The announcement by PM Hun Sen to upgrade 100 slum settlements in Phnom Penh took place just before the 2003 general elections. In **Borei Keila**, the construction of buildings to house the residents coincided with the approach of the 2007 commune council elections.

The delay links to the political arena ... When the time of the election campaign arrives, they [authorities and company] will allow the people to move to the new buildings, then they will announce that the community and authority has made many great achievements so far.... This is to attract voters. Everyone knows that if someone helps us, we will have to help them in return, this is a Khmer proverb.
(Protester, Borei Keila)

They want to allow people the apartments when it is near the election campaign. They [the politicians] will get benefit from this.
(Community leader, Borei Keila)

In **Antenna**, protesters acknowledged that winning their case may have had something to do with elections approaching, and the importance that the state puts on keeping its voters:

To win a case of conflict with [the private company] is a rare case, and maybe only when it is not worth to compromise political benefit.
(Protester representative, Antenna)

Middlemen

Community leaders were often involved in negotiations towards land acquisition, with benefits arising for the leaders. By the end of the 1990s, with the governorship under H.E. Chea Sophara, there was more international pressure on Cambodia to conform to standards in terms of the rights of the poor. The state had also recently become involved in the PUPR and in community-building. As such, it would have been difficult for those in power who wanted to buy land to do so openly as before, particularly after 2001, when the new Land Law made it more difficult to buy or sell state public land. As such, actors began to use middlemen, particularly those from the community, which lent an aura of acceptability to the process of acquisition, and allowed companies to take land in poor communities under ostensible community participation and approval. The community leader position started to look more like a middleman/agent or *mékhyol* role.

The tendency to use middlemen has led to distrust and this has been a major reason for much of the conflict in the cases under study. In **Borei Keila**, community leaders negotiated without community members' participation with the MPP for a land-share.

They [the company] bought [community leaders], so the first, second and third floors are reserved for community leaders and vice leaders. They will receive these without taking part in the lottery ... The company gave [them] money for tea and noodles ... Each community leader was given US\$1,000 in return for their efforts to collect villagers' thumbprints.

(Anonymous informant Borei Keila)

When the SLC was granted to **Dey Krahorm**, two new communities were set up by the MPP next to five old ones. Both of the new communities were headed by people very close to the government. These two leaders were in a good position to act as *mékhyol* to persuade other community leaders.

It was creating [the last two] communities that led to unrest in the whole of Dey Krahorm; City Hall formed communities in order to evict people or exchange land with the company

(Protester, Dey Krahorm)

The community initially negotiated for a SLC with full participation. However, the land was small, and community leaders changed approach to look for a company for a land swap with relocation outside the city to company-built apartments. A contract was signed with 7NG and at this stage the community was informed and protest erupted.

UN ECOSOC (2006) had comments to make on both the Borei Keila and the Dey Krahorm cases: 'The Special Rapporteur ... would like to urge the authorities to investigate complaints of flawed consultative and participatory processes in Borei Keila, all the more so in view of similar complaints in relation to slum upgrading projects in Dey Krahorm and Roteh Ploeung A and B.' Negotiation with community middlemen results in benefits for private companies and the state and leadings to resident protest. However, community leaders or middlemen themselves are not privy to all decisions and often have no choice other than to go along with the state or companies. In the case of **Borei Keila**, the MPP had already decided that Phanimex would be the developer, without consulting the community leaders.

Rising awareness levels and willingness to resist

Slum settlements began to fill up not only with poor migrants, but also with richer settlers and those entering to do business. In **Dey Krahorn**, those who lived outside bought houses inside to do business. In **Koh Pich**, newcomers arrived from around 2001 and some of these new residents were relatively well off, and some very well connected. In **Antenna**, the area was very mixed: there are those who arrived in the 1990s who were poor, but land was also transferred over from MolInfo to high-ranking officials. The area today holds a number of large villas as well as small huts and houses. **Borei Keila** had Ministry employees inside the buildings, whereas the outside was settled by less secure and poorer groups. **Sombok Chab** had a group of owners and a group of renters (although these interchanged over the years). As such, it seems that, over time, slum settlements have come to represent an area for possible profit or at least a place for those other than just the most vulnerable of society.

The 'higher level' groups are more educated and usually more aware of the status of land and their rights. They also sometimes have high-level backing and the ability to resist decisions contrary to their interests. At the same time, evictions have gained increased media attention along with increased international interest, particularly by the UN and ACHR. With the inflow of NGOs offering human rights and land rights training, towards the end of the 1990s people were more willing to resist and to fight back. Although there were some cases of protest in the mid-1990s (**Borei Keila**, **Antenna**), these were for the most part not organized and only seemed to be resolved in favor of settlers if it was expedient for the state to do so (both the cases noted were resolved in a time of political upheaval when it would not have been useful for the CPP to have lost supporters; both cases also included residents with high-ranking CPP backing). Informants are also becoming more aware of the importance of tenure: in most case studies residents became members of savings schemes because they thought this would help them with housing.

'Professional squatters'

In four of the cases (**Sombok Chab**, **Borei Keila**, **Dey Krahorn** and **Koh Pich**) there were groups of people accused of 'trying it on' (*psong breng*) - trying to benefit from the situation for personal profit. 'Professional squatting' appears to be a relatively new phenomenon. Some were accused of being relatively well off, educated and taking advantage of poorer groups and those with more legitimate claims to compensation. Some were said to have experience resisting in other settlements. These groups either worked with the state/company to ensure implementation of the development plan, or protested to gain compensation.

Borei Keila's population has expanded massively in the past five years, especially after the fires in Tonle Bassac and the announcement of the SLC in 2003. Informants talk of 'those who have flown in' (*neak hok chol mok pi khang krao*) and community leaders mentioned that only the 'real poor' in the community deserved to be allocated apartments. Some professional squatters were said not only to have houses elsewhere but also said to be close to local authorities: acting in to support of the authorities to receive benefits.

They served the interests of the local authorities by supporting the development project and the company by raising their hands in order to show that many people approved the construction plan.

(Resident, Borei Keila)

One informant told of people renting out other people's houses (allegedly for US\$10) and photographing them to claim the right to an apartment, with the knowledge of local authorities.

In **Dey Krahorm**, the protest was led by a person accused by the authorities and community leaders of using the situation for personal benefit. He was said to have a house in Borei Keila as well as in Dey Krahorm, and family books and documents from many different areas.

He has two houses and 15 saving books [if he agrees to move to the new site he will receive 17 flats] ... he opposes, he is an opposition leader, he has experience advocating in Borei Keila, he has already got benefit from Borei Keila ... now he is doing the same in Dey Krahorm, he blames others [community leaders], ... he buys [saving books], he makes business, he has sold some saving books, he does not shout to insult but because he will get benefit.

(Community leader, Dey Krahorm)

In **Sombok Chab**, those involved in the rioting in 2006 were mainly renter families (although there were some owners who wanted to remain in place having been long-term settlers). Many of these may have had a legitimate claim, but the 100 families of renters counted in 2001 had expanded to around 400-500 families at the time of the protest in 2006. By the time trucks came to relocate them to Andong the number had increased to around 900 families. There are now said to be around 1,711 families at the relocation site. Newcomers assimilated with actual residents, and this increased mistrust and distorted the distribution of land. The renters' protest was led by a journalist who was rumored to have been involved in other land deals elsewhere:

He came to capture the land everywhere, not only in Tonle Bassac but in the country in Battambang, Poipet, Svay Rieng; and he brought other people to capture it too.

(Commune councilor, Tonle Bassac commune)

In **Koh Pich**, many of those resisting eviction were better off and later settlers. The last family to be evicted (February 2006) was of a village representative who had bought land in 2004.¹⁹ This was after the time that the development was widely known about. The head of the last family was educated and was said to have high-level backing (although he denied this). He was not active in discussions with other representatives and could be seen as actively trading on the risk associated with land conflicts. Such residents buy the land relatively cheaply from departing residents and back themselves to negotiate a higher return with the developer and the state. In the Koh Pich case, the last individual was not leading a group although some of the other leaders were late arrivals.

¹⁹ This would also mean he had not lived in the area in an uncontested manner for more than five years (which would allow him to keep the land, if it were deemed state private).

8. STRATEGIES IN COLLECTIVE LAND DISPUTES

The cases which occurred earliest were dealt with mainly by evasion or continued weak management. In the first cases (**National Pediatric Hospital** and **Antenna** in the early 1990s) attempts to evict residents are not particularly decisive. However, from the late 1990s, as land became more valuable, collective disputes became more common and the state and residents began to escalate activities to deal with the disputes.

8.1 State engagement with collective land disputes

Time

The case studies show that state approaches to eviction can lead to different levels of protest. In the National Pediatric Hospital case, the time given to relocate was over two years which was a factor in the lower level of protest (even though the longer time was a result of political changes rather than a specific objective of inclusion and participation). In Koh Pich, roughly three weeks notice was given each time to settlers (less at the end) and in the Antenna dispute only 13 days. Both of these cases broke out into open dispute. Din Sometharith (2002: 5-13) concludes that when projects were rushed participation was low and the end result was poor for residents. Earlier projects (before 2000), when land was in low demand, took more time and had increased participation. This contributed to the satisfaction and welfare of the residents. In Sombok Chab the relocations after the fires were extremely quick, and residents often returned. Other relocations from the area were relatively successful. Even when residents were not content they said that they had had plenty of time (around two years) to get used to the idea, had been offered a choice of site, and knew they would have to leave at some point anyway.

As land became a hot topic internationally over recent years, there was a decrease in violence on the part of the authorities - except in response to rioting or violence on the part of the protesters themselves (**Sombok Chab**, **Borei Keila**). However, this is not to say that control of the situation has lessened in any way. Often, those involved in assisting the state with acquisition of land have been those involved in helping to solve disputes, with the chance of reward. At the same time, the MPP has only been involved with negotiations or resolution when there has been a significant high-level group involved in the protest.

Levels of engagement depend on significance of actors

Levels of engagement with protesters have depended both on the strength of the resistance and on the power of the groups involved. Groups which have no power have more or less been ignored. In fact, interviewees suggested that in the case of protest with little backing or power, authorities do not act unless they have to. This has been consistently the case over time. For example, there was no need in the **National Pediatric Hospital** case in 1999 to engage with the (small) group of protesters who did not have savings group membership. The instigators were ignored and eventually relocated to Prey Sar instead of Kork Khleang I (the area chosen by the rest of the community). This group was not significant (14 families), had little power and backing, and, moreover, was protesting at a time when international and national attention to land issues

in Cambodia was negligible. In terms of negotiation towards relocation, the MPP (under FUNCINPEC until 1999) refused to negotiate with the community regarding contributions to the price of relocation, despite the involvement of World Vision and the UN. The community leader's many meetings with the MPP were unfruitful:

During the meeting at the MPP office the Phnom Penh governor stood up and said if you are good at begging why don't you go to Wat Phnom with a bowl?
(Community leader, National Pediatric Hospital)

This situation changed when the power balance shifted in 1999, which may also have been a result of the recognition of the high-level INGOs involved.

In other more recent cases, the state has also shown a tendency to ignore protests or disputes which are of little threat to it. In **Dey Krahorn**, state engagement with the protest was generally conspicuous by its absence. Despite the MPP's ostensible and public support of the SLC, there was no response to letters of protest addressed to the PM and to the President of the National Assembly. A court case was filed by the protesters (May 2006) but nothing came of this. In **Borei Keila**, after the rioting of June 2004, the MPP and the company agreed (under pressure from the opposition party SRP) to confirm that those being moved for the purposes of the construction would still have apartments. However, the MPP then continued to negotiate in closed meetings with community leaders without any increase in transparency or participation. The protest group had no real cohesion or backing, so it was not necessary for the state to take real notice of it. The PM ignored the protest until the protesters were more high-level (in 1996), when he moved to support them.

Engagement through middlemen (until this becomes insufficient)

The state initially responds to collective disputes using representatives, often in the form of community leaders or local authorities (except in cases where the protesters have very high-level backing, such as in **Antenna**). These actors persuade and intimidate residents towards a successful solution for the state. If this remains fruitless, then the higher levels of government will begin to intervene. Using middlemen consolidates vertical relationships, as those of medium power in the community can use their own tactics (persuasion, intimidation, etc) to persuade their own 'clients' to come on board with the state and abandon the protest. This use of agents is notable throughout the case studies.

In **Koh Pich**, the deputy village chief had become a crucial person in informal selling and buying of land in the 1990s and in addition was a community leader for savings schemes. When the company began to try to persuade settlers to leave and protest arose, he was said to have been given a share of the money for each plot that he could buy for the company.

He [deputy village chief] bought land for them [the company] but he also took a percentage in commission.
(Protester representative, Koh Pich)

Middlemen are used particularly when the case involves an SLC: involvement of community representatives enables the land process to look 'acceptable' and the state to look benevolent. In **Dey Krahorn**, although the MPP was highly visible in the initial stages of the SLC, when protest arose, it was left to local authorities and community leaders to deal with this.

The situation of middlemen is not clear. Different actors can be clients at the same time as being patrons. At the same time, actors may prefer to act as middlemen to the most powerful client.

There are indications that the MPP was also acting as middleman for the company in **Sombok Chab** and **Koh Pich**, negotiating settlements on the company's behalf (the latter were the parties with high-level backing). In **Antenna**, some state actors acted as middlemen for the company (when issuing the eviction notice), but then higher levels of state acted as middleman for the population (as the latter group had higher-level backing). In other cases, such as we have seen above, the MPP employs middlemen itself: local authorities or community representatives.

Salami tactics: compensation coupled with threats

'Salami tactics' refer to a process of threats and alliances used to overcome opposition, by means of which an aggressor can influence and eventually dominate a group piece by piece. It usually creates several factions and dismantles opposition 'from the inside' without causing those already 'sliced off' to fight back.²⁰ The state has employed different tactics to deal with different groups according to the level of power or influence that such groups possess. Compensation, or agreement by the state to 'buy' back land,²¹ increases in value according to the societal position of the protesters and the length/strength of protest. There is little evidence of a clear policy on relocation and compensation. Instead, informal wrangling occurs on the basis of rumors, with different informal interventions by authorities and the company (together or separately). The price offered to protesters generally begins low. Early deals take place with people who are linked or related to the authorities, consolidating the state's position and enlarging support for the state action. Later, a little more compensation may be offered and if this does not work, the protest leaders may be targeted with higher compensation again, in order to break the group from the top.

As this process plays itself out, at various points the state may find it necessary to add persuasion, threats (of legal action or eviction), or intimidation. Such tactics are often carried out by agents (community leaders, local authorities, etc) rather than the state itself, in accordance with the strategy of using middlemen. Violence only appears to occur when the state itself is met with violence by the residents. In such cases, tactics appear to be similar: to 'cut off the heads of the leaders' and split the group in this way.

In the case of **Koh Pich**, initial lump sum amounts were offered, and some families gave in immediately. It was suggested that this resulted from personal loyalty: most of these families were relatives or friends of the agents involved in negotiating for the state and the company. Then the deputy village chief tried to offer monetary compensation (before the official announcement of the development project) on behalf of 'a powerful person', with the explanation that the land was state property and earmarked for development:

He said that the buyer of the land was not small, he could turn the stars in the sky, and everybody was scared.

(People's representative, Koh Pich)

Those who did not give in were threatened with weapons:

They threatened those who would not sell, saying they could bring out guns, and they had the military police on their side.

(People's representative, Koh Pich)

²⁰ The term was coined in the late 1940s by the ultra-Stalinist Mátyás Rákosi to describe the actions of the Hungarian Communist Party.

²¹ In Koh Pich, the offer to 'buy' back land from settlers is a strange one, given that the basis of the state argument was that the land did not in fact even belong to the settlers.

Eventually, the group split because of the different offers and the varying eviction orders and threats of legal action. One family did not give in and the MPP moved sent in the armed forces.

In **Sombok Chab**, larger amounts were offered to protesters who demanded compensation and were more powerful. Initial compensation offers split off most protesters and the authorities felt little inclination to continue negotiating after the group stopped representing a significant threat. Additionally, the state divided renters and owners by creating only one relocation policy for owners. This left two groups with two different objectives (the owners wanted better relocation terms and the renters simply wanted a solution of some kind). Local authorities and the police also allegedly dealt out intimidation and threats to all residents to make them sure to comply with the agreements with the MPP, and insisted that people dismantle their houses.

The village authorities got so angry with villagers if villagers did not agree to dismantle their houses as quickly as they could. One village security officer said 'If you do not dismantle your house, be careful or it may be torched. If do not dismantle the house, be careful as you may receive nothing forever'.
(Community representative, Sombok Chab)

The military police arrested group leaders and without these the protest group could not continue its actions. The state had cut off the head of the opposition and split the group successfully.

Salami tactics were also observed in **Dey Krahorn** (protesters referred to this as the 'cold strategy'). Intimidation was also particularly notable: agents (community leaders and local authorities) were reported to have threatened people to sign up and agree to the land swap. Some houses were dismantled by a group made up of company representatives, community leaders and authorities. One protester/house owner tried to sue in the Municipal Court in September 2006, which was reportedly 'dealt with' by a community leader and the company.

When they [the community leader and 7NG] knew that the house owner was suing them, they gave US\$6,000 to the house owner and forced him to withdraw the complaint and evicted him.
(Protester, Dey Krahorn)

8.2 Strategies of citizens in collective land disputes

High level backing

Citizens have become more willing to mobilize, for a variety of reasons, but it seems that they are still only really likely to do so if high-level backing is in place. In **Antenna**, protesters worked with high-level CPP officials leading to the highest levels of power intervening on their behalf. After successful resolution, the community filed a proposal to change the community name to Sen Chey, '*chey*' meaning 'victory', in honor of PM Hun Sen. Power was acknowledged in this case as being of paramount importance in dispute resolution.

The person who issued the notification is a powerful person. So there is no point to let the powerless and petty persons beg for help from that powerful man. Just go to another powerful person and let him to talk to that powerful man.
(Representative, Antenna)

In the early stages of the **Borei Keila** dispute, residents appealed to and won support of the PM Hun Sen. The same tactic was tried in **Dey Krahorn**, but with a very different outcome. Protesters appealed *en masse* to PM Hun Sen and his wife and to the President of the National Assembly. Protesters followed the status quo, accepting that the highest levels of power are the best patrons. All these efforts were ultimately unsuccessful as the group had no powerful backing of its own. This was the case in **Sombok Chab** where protests were ignored as the protesters had no backing at all and therefore no hope of intervention by powerful officials. The search for backing will only be successful if the protesters *already* have support and are useful to the state.

Levels of organization and violence

Over time protest has become more organized. In the earlier case of the **National Pediatric Hospital**, protest was limited and not organized (around 1999). In all cases, better organization has taken place as a result of higher levels of education and higher standards of community leaders. In **Dey Krahorn**, **Koh Pich** and **Antenna**, resistance was well organized (in **Sombok Chab** too for the house-owner group but less so for the renter group). The more organized a protest is, the less likely it is to fall into violence. Although the **National Pediatric Hospital** case took place with little organization of the actual population, a long period between notice of relocation and settlement (1997-9) enabled the community leader to work with NGOs towards a suitable relocation outcome. There was no violence and the dispute ended peacefully. Meanwhile, in **Dey Krahorn**, **Koh Pich** and **Antenna**, no real violence was seen. For one group of protesters in **Sombok Chab**, the house owners, well organized resistance led to a relatively peaceful relocation.

Meanwhile, those protests which are badly organized seem to be more likely to lead to violence. The groups involved have weak structures or none at all, and contain people with little unity of objectives or backgrounds. Such groups may be those with disparate interests, including the attempt by some members to benefit personally ('professional squatters'). They also have little backing and are forced into reacting to actions of the state, such as intimidation. Not all such cases turn to violence (in **Dey Krahorn** there was little violence, possibly because of the high level of education of the main protester leader). Violence appears to achieve little other than international attention: in both instances of violence in the case studies, those protesting achieved very little, if not nothing at all. The renter group in **Sombok Chab** was badly organized and headed by leaders who sought personal benefit. This group resorted to violence which was met with force by the authorities, which then trucked them off to relocation sites on. There was a great deal of NGO and press coverage but this actually seemed to be counterproductive, leading to the authorities banning entry to these groups. In **Borei Keila**, the resistance was also badly organized, this time with no clear leaders. The protest in 2004 was triggered mainly by rage and frustration. Community feeling was disintegrating in the area at this time, owing to a confused process and an influx of new residents. This led quickly to rioting and violence. Any successful outcome achieved in Borei Keila (certificates of ownership for those moved out of the buildings under construction) was a result of SRP intervention and possibly the high-profile nature of the case with international donors such as ACHR. Otherwise, the group failed to make an impression on the process of construction and the allocation of apartments.

9. OUTCOMES OF COLLECTIVE DISPUTES

This research study reveals three key findings:

- *Land disputes are caused in major part by a history of weak land management.*
- *Dealings with state land depend largely on the concrete interests of higher-level officials and those with power.*
- *All parties continue to rely upon traditional practices to some extent, for land acquisition, negotiation and dispute resolution.*

9.1 Success or failure and for whom?

In most cases, success or failure is not an absolute. Some parties have gained more than they have lost; some have lost more than they have gained. Winning depends on individual expectations of success as well as the relative outcomes of fellow residents. In almost all cases some residents did better than others. Nevertheless, it is possible to draw some general conclusions as to which groups have achieved their objectives and which have not.

In general, the state and/or the company have been ultimately successful in their objectives, though arguably they would like to have experienced less resistance and paid less compensation (in cases where they did). The story for residents is more complicated.

The **National Pediatric Hospital** is probably the most successful example of a relocation. The residents are more or less happy with the outcome. It shows that 'good' relocations are (or at least were) possible in Phnom Penh. The timing of the case is important as the cost of land at the time was much lower, making a suitable relocation site easier to find. There was a long process of communication between the hospital and the residents and there was no company pushing for a quick relocation in order to make money. The residents had plenty of time to adapt to the idea of relocation and the MPP was reasonably well engaged (especially at the end). This approach evaporated for the cases which followed. In **Koh Pich**, a number of residents received nothing, some received little compensation and perhaps a dozen families received satisfactory payouts. People were more or less successful depending on their connections to power, their willingness to hold out and whether they obtained external legal support. There was no unity or collective resistance. By contrast, in the case of **Dey Krahorn**, the outcome was similar for everyone, but there were varied levels of contentment with the result. Secret negotiations for off-site relocation were at odds with the public position of on-site upgrading. In the case **Sombok Chab**, the population was very large, poor and with frequent turnover, making coordinated resistance hard. Low expectations of a claim were matched by low outcomes. **Borei Keila** was meant to be a model redevelopment. The different levels of original residences formed the basis of different levels of right in the redevelopment. Those residents who were better connected (and housed) before the development was proposed were able to negotiate a better outcome.

9.2 Factors influencing success or failure

Better off residents have generally succeeded. These groups often have high-level backing, such as the police/military families in **Borei Keila** and the residents in **Antenna**. In the latter case, the high level of the backing and the amount of richer residents meant that the poorer residents also succeeded, by dint of having the same objectives as the richer group. Otherwise, poorer families have for the most part lost out. Some of those with little education and no rights have followed protest leaders in the hope of gaining something from the situation. However, in **Dey Krahorn, Borei Keila, Sombok Chab** and **Koh Pich**, poorer families certainly gained less than other groups, particularly in terms of forced eviction and relocation, poor levels of compensation and livelihood deterioration at relocation sites.

'Professional squatting' seems to be a risky game. There are reports of protest leaders (**Dey Krahorn, Borei Keila**) profiting from their activities. In **Sombok Chab**, however, protest leaders accused of 'professional squatting' were jailed. It is certain that there are those without documents who have been able to gain tenure in both of the Sombok Chab relocation sites (and also in Borei Keila). This may have been a result also of inadequate relocation procedures on the part of the authorities as much as strategy of the residents (see below).

The State's salami tactics have contributed to its success: splitting off the opposition and using middlemen to put forward its arguments (for both acquisition and conciliation). Such tactics were used in at least four cases (**Dey Krahorn, Borei Keila, Sombok Chab** and **Koh Pich**) to successful effect. Violence has not been necessary apart from in response to community violence. Salami tactics have frayed weak community cohesion to its limit, working down traditional divides between rich and poor and powerful and powerless. The application of salami tactics and the use of patron-client relationships makes it difficult for opposition groups to retain any cohesion and continue the protest. In **Sombok Chab**, protest could not continue after the arrest of the protest leaders and the splitting off of the opposition through offers of compensation and intimidation. Similar salami tactics in **Borei Keila, Dey Krahorn** and **Koh Pich** gradually sliced off opposition and left those remaining in the protest group with little support and security. In particular, giving protest leaders on **Koh Pich** higher levels of compensation was an attempt to 'buy' them. This group then turned its loyalty to those to whom they have 'sold' their allegiance.

While such tactics have been put into play in the above four cases, all six cases also display evidence that high-level backing, also leads to success. Those who have high-level backing are most likely to achieve their objectives.

9.3 Sustainability of outcomes

'Success' or otherwise of relocation sites

Sustainability and cohesion in relocation sites seems to depend on the eviction and relocation procedures. Where the procedure is clear and sufficient time is allowed to find suitable options, resettlement is more straightforward. This was the case for the **National Pediatric Hospital** case. However, this case also involved INGOs (World Vision and UNCHS) and occurred at a

time when the ruling party was less firmly in control (1999) and more susceptible to outside intervention.

In more recent cases, those which have been well managed have led to more successful relocation, although this is not to say that there are not huge problems of infrastructure and other issues arising. Those cases which have been less well managed have suffered more serious issues in the relocation sites. This is illustrated most clearly by **Sombok Chab** (although this is not a stand-alone case). Here there were two groups of protesters, the house owners and the renters, and two different relocation sites. The former group negotiated with the MPP through a fairly clear process and work has been done towards improving the relocation site and providing opportunities to the people. For the renter group, no procedures were put in place for the relocation and the new site is notorious for health, infrastructure, sanitation, income generation and overcrowding problems. This finding concurs with Din Somethearith (2002: 5-13) who notes that community participation in relocation is the most important issue. When there is more participation, there are fewer problems. ACHR agrees that many of the problems arise as a result of a lack of preparation by authorities.²²

Social cohesion after the dispute

Strategies both of the state (salami tactics, power structures) and communities (power structures, personal benefit) have led to distrust and weakening of group cohesion. In all cases except one, there has been an obvious decrease in social cohesion after relocation or resolution, or at least some discontent. Anger has arisen at relocation sites when community leaders or other key persons seem to gain significantly more than other residents. This has been the case in the **National Pediatric Hospital** case (although problems of cohesion are not as marked as for other areas), **Dey Krahorn** and **Sombok Chab**, in particular. In the **Koh Pich** case, there is some conflict between the former protesters, who are angry with each other for giving in or holding out, respectively.

Relocation also increases community dislocation, particularly as more than one community can be placed together in difficult circumstances, bringing different objectives and allegiances. There is generally a continued loss of faith in the political system (URC, 2002: 7). URC also notes that relocation brings 'increased dependency on and felt need for external assistance', and that people, 'having lost their income and their social ties, become depressed and inactive'. Communities and sometimes families are broken up (when members have to spend days in the city to earn money, or children need to stay with relatives to obtain schooling).

The only case of improved social cohesion is that of **Antenna**, where there was reliance on people in positions of power to the benefit of the community as a whole. As the community achieved its objectives as a group, group cohesion grew rather than floundered. The result in the residents' favor has also meant that the former protesters now form a solid support group for the CPP. After resolution of the dispute, Antenna became a kind of showcase for the compassion of the state: commune and district authorities visited the site and praised the people for dealing with the problem well.

A risk of continuing conflict exists where eviction or relocation has been dealt with badly, particularly where allocation of land has been managed in a weak manner. In **Borei Keila**, many residents have no idea whether they will receive tenure or not and there is a population of around 3,000 (and growing) in an area where 1,740 apartments will be built. Driven once to violent uprising, it is possible that uncertainty or an announcement of the categories for tenure

²² www.achr.net/Countries/Cambodia/Evict%20Strategies%20July06.html.

(leaving out many people) could trigger further conflict. In both of the **Sombok Chab** relocation sites, tension is rife regarding who has been allocated land and who has not. Particularly in Andong (the renters' relocation site), conditions are miserable. These areas could also see future problems.

Future options for the poor

CAS and WB (2006: 5) have underlined the problems intrinsic to putting in place liberal-type institutions without committing also to transforming power relations and social conditions. The same consideration needs to be given to implementing 'democratic' ideals around social capital, horizontal linkages and voice for the poor.

In these cases, the liberal type institutions are the courts and cadastral commissions, bound in law. Residents rarely, if ever, found remedy in these institutions and those who more successfully negotiated outcomes most often used other means. A call for assistance to more powerful state actors was common, but not the only means by which residents could improve their outcomes. Residents who were able to access NGOs (particularly international NGOs) use the media astutely or were simply willing to hold out for more equitable offers, often did better. Confusion within the community about how many residents legitimately lived in the area, and the residential status such people undermined the ability of communities to band together to negotiate more favorable outcomes. A future option for all informal settlements should be to undertake independent periodic counting of residents, ideally before development pressure becomes acute. Such a 'census' would preferably be accompanied by the issuance of a document to each family indicating (at least) the number of residents, a physical plan of the location of the residence and a description of the dwelling. Such information would guard to some degree against 'professional squatters' who can inflame a dispute and undermine the position of many legitimate residents.

Most evicted/relocated groups feel miserably left out of the process of 'development', claiming that such a concept has nothing to do with them. In all cases, interviewees were sure that development meant that the poor would lose out. Residents interpreted the notion of development as related directly to their basic needs and ability to survive. One interviewee specifically expressed that any initiative taken which resulted in people being relocated to a place with no facilities and income-generation opportunities could not possibly be development. Development has come to mean one thing to the local authorities (and companies) and another to residents.

Development meant sending us to new land while they took lucrative land to serve their own purposes.

(Resident, Sombok Chab)

In **Sombok Chab**, beautification and development were an alien concept to the residents. "They use the word development as a pretext for evictions", claimed Phal Sithol, a member of the commune council for another riverside community' (de Launey, 2006).

The development of this kind is not proper. Only the company gains advantage from this ... To my mind, 'proper' development is that undertaken wherever the grassroots can participate in it. If we do not want the grassroots to take part, we should develop unoccupied areas, where people have not yet grown plants.

(Protest representative, Koh Pich)

What ever development meant, poor residents were left out of the equation when decisive action was taken towards it:

Development is for the powerful... but grassroots are affected [by it] ... This is a sort of 'curse' they utter against us to die gradually.
(Protest representative, Koh Pich)

BIBLIOGRAPHY

- ACHR (2004) 'Negotiating the right to stay in the city', in *Environment and Urbanization* 16(1): 9-26.
- ACHR (2006) 'Report on ACHR's Phnom Penh actions and strategies to deal with evictions and promote feasible alternatives', July 17, www.achr.net/Countries/Cambodia/Evict%20Strategies%20July06.html.
- ADB (1998) *Handbook on resettlement: a guide to good practice*, Manila: ADB.
- ADHOC (2005) *Human rights situation report 2004*, Phnom Penh: ADHOC.
- ADHOC (2006) *Human rights situation report 2005*, Phnom Penh: ADHOC.
- Adler, D. (2005) 'Institutions linked to the jurisdiction of land disputes in Cambodia', World Bank Briefing Note, Phnom Penh.
- Ashley, D. (1999) 'The nature and causes of land disputes in Cambodia', Paper presented at Cambodia: Moving towards a Better Future, organised by the Refugee Studies Programme, Oxford, UK June 5.
- Asian Forum for Human Rights and Development (2006) 'Ongoing deterioration of human rights situation in Cambodia – Addendum to the Written Statement submitted to the First Session (A/HRC/1/NGO/18)1', UN Human Rights Council, Second Session, Geneva, Switzerland, September 18.
- Ballard, B. and So Sovannarith (2004) 'Can land titles help reduce rural poverty in Cambodia?', in *Cambodia Development Review* 8(3), July to September: 1-5 & 8.
- Cambodia Daily (2005a) February 26-7.
- Cambodia Daily (2005b) August 8.
- Cambodia Daily (2005c) August 22.
- Cambodia Daily (2005d) November 19-20.
- Cambodia Daily (2007) March 2.
- CAS and World Bank (2006) *Justice for the poor? An exploratory study of collective grievances over land and local governance in Cambodia*, Phnom Penh: World Bank.
- Chan Sophal and S. Acharya (2002) *Land transactions in Cambodia: an analysis of transfers and transaction records*, CDRI Working Paper 22, Phnom Penh: CDRI.
- Chandler, D. (1991) *The tragedy of Cambodian history*, New Haven: Yale University Press.
- Cooper, G. (2002, revised 2004) 'Land policy and conflict', the Cambodia portion of an eight-country study by the North-South Institute for the World Bank, March.
- Cooper, G. (2006) 'Whether Land Law Art. 15 terms need more precise definitions to enable accurate registration', Memo to Volker Mueller, February 8.
- Deininger K. (2003) 'Land policies for growth and poverty reduction', World Bank Policy Research Report, Washington, DC.
- De Launey, G. (2006) 'Cambodia's 'out of control' evictions', BBC, September 29, <http://news.bbc.co.uk/2/hi/asia-pacific/5392474.stm>.
- de Soto, H. (2000) *The mystery of capital: why capitalism triumphs in the West and fails everywhere else*, New York: Basic Books.

- Deutsch, R. (2006) 'Beneficiary assessment of land title recipients under the Land Management and Administration Project (LMAP)', prepared for the Ministry of Land Management Urban Planning and Construction, Phnom Penh, Cambodia.
- Din Somethearith (2002) 'A recent changes in context and basic policy affecting urban slum dwellers communities in Phnom Penh, Cambodia and implications on participatory approach in ongoing and future relocation programs', Thesis submitted in partial fulfilment of the requirements for the degree of Master of Science, Asian Institute of Technology, School of Environment, Resources and Development, Thailand, August.
- Din Somethearith (2006) 'Human Security Fund: project impact assessment report', submitted to Urban Poverty Reduction Unit (UPRU) and Partnership for Urban Poverty Reduction (PUPR) – Phase II, FS/ CMB/ 04/ SO1, April.
- Dongelmans, B. and Suon Visal (2004) Cadastral Commission of the Ministry of Land Management, Urban Planning and Construction, Final Report to GTZ, August.
- Doran, D.F. (2002a) 'Cambodia national resettlement policy', Regional Technical Assistance 5935, Final Draft prepared for the Ministry of Economy and Finance, Regional Workshop, ADB Headquarters, February 18-20.
- Doran, D.F. (2002b) 'Cambodia resettlement policy and practice: review and recommendations', Regional Technical Assistance 5935, Final Draft, October.
- Durand-Lasserve, A., C. Rakodi, E. Fernandes and G. Payne (2006) 'Social and economic impacts of land titling programmes in urban and peri-urban areas: a review of the literature', presented at the International Workshop, Charney Manor, Oxfordshire, UK, December 12-15.
- Ebihara, M. (1971) 'Intervillage, intertown, and village-city relations in Cambodia', *Annals of the New York Academy of Sciences*.
- Fallavier, P. et al (1999) *Poverty analysis in Phnom Penh: analytical report of findings and basis for policy and project directions*, Phnom Penh: Action Nord-Sud and UNCHS.
- Fernandes, K. (ed.) (1998) *Forced evictions and housing right abuses in Asia*, Vol 2. Karachi: City Press.
- Frings, V. (1994) 'Cambodia after de-collectivization (1989-92)', in *Journal of Contemporary Asia* 24(1):49-66.
- Griffiths, R. (2004) 'The Contribution Made by French Misunderstandings of Land Alienation in Cambodia to Later Land Upheavals of the 20th Century', MA Dissertation, Birkbeck, University of London.
- Hartman, N. (2006) 'Cambodian land law: its impact on current trends in landlessness and land inequality', *Mentis Vita: The Georgetown Undergraduate Journal Of Scholarship* VI(ii): 114-25.
- Huybrechts, E. (2005) 'Evolution des formes urbaines de Phnom Penh', in *Cambodge Nouveau*, May.
- Huy Rumdoul (1995) 'Forced eviction and housing rights: urban poor in Phnom Penh', Workshop on Dispute Resolution in Cambodia: a Road to Peace and Reconciliation, CDRI, Phnom Penh, November 28-30.
- Khemro and G. Payne (2003) *Improving tenure security for the urban poor in Phnom Penh, Cambodia: an analytical case study*, Phnom Penh: MoLMUPC.
- Kim Sedara (2001) 'Reciprocity: informal patterns of social interactions in a Cambodian village near Angkor Park', in *Cambodia Development Review* 5(4).
- Kirk, M. (1996) 'The dynamics of land tenure and land management in Cambodia', www.mekonginfo.org/mrc/html/kirk/kic_inh.htm.
- Ledgerwood, J. (1998) 'Rural development in Cambodia: the view from the village', in *Cambodia and the international community*, The Asia Society, www.asiasociety.org/publications/cambodia.
- Leuprecht, P. (2004) 'Land concessions for economic purposes in Cambodia: a human rights perspective', mission of the Special Representative of the Secretary-General for human

- rights in Cambodia, Cambodia Office of the High Commissioner for Human Rights, November 7-14.
- Mann Chhouern (2002) 'Case study on the Kork Khleang I relocation process in Phnom Penh', Chief of Cabinet of the Municipality of Phnom Penh and National Project Director of UPRP, prepared for Seminar on Public/Private Sector Partnerships (PPP) for Urban Infrastructure and Service Delivery, organized by UN ESCAP/LOGOTRI, CITYNET and KRILA, Seoul, Republic of Korea, April 2-4.
- Mehta, A. with Din Sometharith (2004) 'Informal property market in Cambodia: a survey of settlements in urban areas of Phnom Penh, Kampong Cham and Kampong Chhnang', National Capacity Development Project, Development Cooperation Section, The Royal Danish Embassy, Cambodia, August.
- Meinzen-Dick, R.S. and R. Pradhan (2002) *Legal pluralism and dynamic property rights*, CAPRI Working Paper No. 22, CGIAR Systemwide Program on Collective Action and Property Rights, Washington, DC: IFPRI.
- Miwa, I. (2006) "Consolidating power in Cambodia: corruption and abuse abound", in *FORUM-ASIA* 2(3), 3rd quarter.
- MPP (2005) *Implementation of MDGs*, Phnom Penh: MPP.
- Murphy, D. and M. Pimple (1995) *Forced evictions and housing right abuses in Asia*, Vol 1, Eviction Watch Asia.
- Mussomeli, J. (2006) 'Two freedoms: freedom from corruption and freedom to own land', US Ambassador to Cambodia, Speech at Pact Cambodia Anti-Corruption Conference, Phnom Penh Hotel, Cambodia, September 28, 2006.
- NIS (2004) 'First revision population projections for Cambodia 1998-2020', June.
- Oveson, J. et al (1996) 'Where every household is an island: social organization and power structures in rural Cambodia', Uppsala Research Reports in Cultural Anthropology No. 15.
- Oxfam GB (1999) 'Improved revised land law', drafted by NGO Working Group on Land Law, Oxfam GB Cambodian Land Study Project, May 24.
- Oxfam GB (2000) 'Community development and landlessness', Mini Case Study 8, Cambodia Land Study Project, Landlessness and Development Research, 1999-2000.
- Oxfam GB (2003) 'Land reform' in NGO Forum (ed.) *NGO Sectoral and Issues Papers on Poverty Reduction and Development in Cambodia 2003*, March, Phnom Penh, www.ngoforum.org.kh/Documents/Sectoral%20Paper%20PRD2003/Land.htm.
- Pawlowski, J. (n.d.) 'Forced evictions of Cambodia's poor', *Human Rights Tribune des Droits Humains*, 11(3).
- Payne, G. (ed.) (2002) *Land, rights and innovation: improving tenure security for the urban poor*, London: ITDG Publishing.
- Payne, G. (2005) 'Getting ahead of the game: a twin-track approach to improving existing slums and reducing the need for future slums', *Environment and Urbanization* 17(1), April: 135-45.
- Payne, G. with Din Sometharith and Beng Hong Socheat Khemro (2004) 'Increasing tenure security and options for new housing in Phnom Penh, Cambodia', Final Report submitted to the Ministry of Land Management, Urbanisation and Construction, Royal Government of Cambodia, Phnom Penh Municipality, Cities Alliance, UN-Habitat and GTZ Cambodia, November.
- Phnom Penh Post (2006) 'Land evictions reaching crisis proportions', July 14-27.
- Radio Free Asia (2006) 'Dey Kraham people protest against their evictions and relocations', August 5 (translated by KI-Media), <http://ki-media.blogspot.com/2006/08/dey-kraham-people-protest-against.html>.
- RGC National Housing Policy Taskforce (2006) 'National housing policy', Council for Land Policy, with assistance from UNDP/UNESCAP/UN Habitat, Final Draft, July 24.
- RGC/ADB (1996) 'Cambodia urban development strategy study', Draft Final Report.

- Sik Boreak (2000) *Land ownership, sales and concentration in Cambodia*, CDRI Working Paper 16, Phnom Penh: CDRI.
- So Sovannarith et al (2001) *Social assessment of land in Cambodia*, CDRI Working Paper 20, Phnom Penh: CDRI.
- SUPF (1999) 'The state of poor settlements in Phnom Penh, Cambodia: a report on the city-wide survey of urban poor communities', conducted in January 1999, supported by UNCHS and facilitated by URC.
- SUPF (2003) *An information booklet on the city's development and the settlements of the urban poor*, Summary of information collected by SUPF with UPDF, URC and ACHR, under the CDS processed organized with the MPP, supported by Cities Alliance with UNCHS, 2001-3.
- United Nations ECOSOC (2006) 'Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living', Commission on Human Rights, 62nd Session, E/CN.4/2006/41/Add.3, March 21.
- UPDF (2006) *Community News 4*, October.
- UPDF and SUPF (2003) *Community News 2*, June.
- UNDP (2001) 'Phnom Penh Urban Poverty Reduction Project', Project Document CMB/01/A/01/99.
- URC (2002) 'Study of relocation of urban poor communities in Phnom Penh', Cities Alliance (UN Habitat/World Bank) assisted City Development Strategy for the Municipality of Phnom Penh, Cambodia, Draft for ACHR for internal review, March.
- URC (2004) 'Secure land tenure and poor communities in Phnom Penh', pilot project, December.
- World Bank (2004) 'Land Management and Administration Project (LMAP)', Aide Memoire, Sixth Multi-Donor Supervision Mission and Mid-Term Review, September 27 - October 11.

Case study secondary data

Secondary data for each case was also accessed for each case. This included newspaper articles; municipal, district, commune and village documents and population counts; MoLMUPC, MEF, MoInfo, MoEYS (and relevant departments) documents; Cadastral Commission and cadastral authority documents and maps; Council of Ministers notifications; documents and petitions prepared by villager representatives and community leaders; documents prepared by relevant NGOs and legal teams; documents sent by the opposition party to protest government actions; company documents, land titles and contracts; and SUPF and other savings schemes reports. A full of list of these documents is available on request.

ANNEXURE 1: RESEARCH METHODOLOGY AND INSTRUMENTS

Phase II included qualitative case study interviewing and research with fieldwork between early December 2006 and late January 2007.

Detailed case studies were to be made of six cases, to be chosen to fit in with the following criteria:

- Land allocated to investors for 'development'/business.
- Disputes that include resettlement/forced eviction.
- Disputes with various degrees of violent outbreaks.
- Disputes with strong/absent group formation.
- Older/newer disputes (time factor).

The team decided to choose the following cases for focus in this period:

- Antenna community, Boeung Kak 1 commune, Tuol Kork district.
- Borei Keila community in Veal Vong commune, 7 Makara district.
- Dey Krahorm community, Tonle Bassac commune, Chamkarmorn district.
- Koh Pich community, Tonle Bassac commune, Chamkarmorn district.
- National Pediatric Hospital community, Toeuk La'ak commune, Tuol Kork district.
- Sombok Chab community, Tonle Bassac commune, Chamkarmorn district.²³

In-depth interviews were held with disputing parties, actors involved in resolution process (e.g. NGOs and political parties), representatives of concerned communities/local authorities, and representatives of district/provincial authorities. For a full list of interviewees, see Annex G. Interviews were recorded with full permission of participants after a clear explanation by interviewers of the purpose and background of the J4P project. In some cases, interviewees asked if their comments could be off the record; the team respected their wishes.

In the meantime, the team performed a literature review, including a review of newspaper reporting on disputes in the Phnom Penh area with a view to determining trends with regard to the number and location of disputes occurring.

A number of constraints were met in the course of the research. Among these, those of major importance were: i) the lack of clear, non-contradictory information on a case-by-case basis; ii) difficulties in contacting informants for interview, particularly state actors and private sector representatives; and iii) time constraints, particularly in terms of organizing interviews and obtaining transcriptions of interviews.

²³ Although the area became known as Sombok Chab only in 2001, we will use this name here throughout, for clarity.

ANNEXURE 2: LIST OF INFORMANTS

People and village authorities

Antenna

No.	Position	Date
1	Female community member	December 15, 2006
2	Chief of Village13	December 15, 2006
3	Female community member	December 15, 2006
4	Village chief assistant	December 14, 2006
5	Motorbike repairer/motodop driver	December 15, 2006
6	Two community members	December 14, 2006
7	Community leader	December 14, 2006
8	Informal leader	December 15, 2006
9	Female community member	December 15, 2006
10	TV Reporter (CTN)	December 27, 2006

Borei Keila

No.	Position	Date
1	Community leader BRK I	December 27, 2007
2	Community leader Deum Chrei	January 8, 2007
3	Community member	January 8, 2007
4	Retired policeman	January 9, 2007
5	Community leader Mit Police	January 10, 2007
6	Policeman's wife	January 9, 2007
7	Community member	January 9, 2007
8	Community member	January 9, 2007
9	Protester leader	January 9, 2007
10	Former village chief	January 9, 2007

Dey Krahorm

No.	Position	Date
1	Three protesters	December 16, 2006
2	People's representative	December 16, 2006
3	Deputy chief of Village 15	January 6, 2007
4	Community member	January 5, 2007
5	Community member	January 6, 2007
6	DKA community leader	December 29, 2006
7	Phum Pi community leader,	December 29, 2006
8	People's representative, protester leader	December 30, 2006

9	Protester	January 6, 2007
10	Sammaki village chief and community leader	January 2, 2007
11	Community member	December 29, 2006
12	Villager	January 2, 2007
13	Community member	December 29, 2006
14	DKA community leader	January 12, 2007
15	Villager	January 2, 2007
16	Neighbor in Building Blanc	January 06, 2007
17	Protester	January 5, 2007
18	Community member	January 6, 2007

Koh Pich

No.	Position	Date
1	Praek Raing village chief, Takhmao	January 3, 2007
2	Former Village 14 deputy chief	January 3, 2007
3	Village representative	January 13, 2007
4	Female village representative	January 15, 2007
5	Village representative	January 15, 2007
6	Village representative	January 22, 2007
7	Village representative, achar and community leader	January 16, 2007
8	Village representative and community leader	January 11, 2007
9	Former soldier, exchanging land for land in Takhmao	January 3, 2007
10	Land renter, ferryboat man, ex-soldier	January 3, 2007
11	Resident selling land early to buy big piece in Takhmao	January 3, 2007
12	Old man, land renter	January 3, 2007

National Pediatric Hospital

No.	Position	Date
1	Female villager, KKI	December 12, 2006
2	50 khnang leader, male, KKI	December 11, 2006
3	Man near hospital (former soldier)	December 11, 2006
4	Seller near hospital (returned)	December 13, 2006
5	Village chief, KKI	December 12, 2006
6	Community leader, KKI	December 11, 2006
7	Female neighbor from near hospital, KKI	December 13, 2006
8	Village chief of Village 14, Toeuk La'ak I	December 12, 2006
9	Kampuchea Krom villager, KKI	December 12, 2006
10	Female Kampuchea Krom villager	December 11, 2006
11	Kampuchea Krom group leader, KKI	December 12, 2006
12	Deputy director of National Pediatric Hospital	December 14, 2006
13	Police officer, KKI	December 12, 2006
14	Former mékorm, KKI	December 12, 2006
15	Rice vendor (moved to Prey Sar)	December 13, 2006

Sombok Chab

No.	Position	Date
1	Sen Sok II village chief (former community leader)	December 28, 2006
2	Community leader (Sen Sok)	December 28, 2006
3	Former Village 14 deputy chief (Sen Sok)	December 28, 2006

4	Head of community committee (Sek Sok)	December 28, 2006
5	Community leader (Sen Sabay community, no land)	December 28, 2006
6	Community members, elderly couple (Sen Sok)	December 28, 2006
7	Community member living on dam (no land)	December 28, 2006
8	Community leader Tom Nob	January 27, 2007
9	Community committee Deum Kor	January 27, 2007
10	Opposition informal leader (T. Anch)	January 27, 2007
11	Village 14 chief	January 12, 2007
12	Deputy chief Village 14	January 12, 2007
13	Deputy village chief (T. Anch)	January 2, 2007
14	Female villager (T. Anch)	January 2, 2007
15	Villagers, elderly women (T. Anch)	January 2, 2007
16	Female small business owner (T. Anch)	January 2, 2007
17	Male small business owner/former soldier (T. Anch)	January 2, 2007
18	Andong village chief	January 8, 2007
19	Members of community committee (Andong)	December 29, 2006
20	Male villager in Andong (illiterate, small business)	December 29, 2006
21	Villagers in Andong (no land)	January 14, 2007
22	Female villager in Andong (pregnant woman)	January 8, 2007

NGOs

No.	Position/organization	Date
1.	Program Officer, USG	December 14, 2006; January 9, 2007
2.	Coordinator, Sahmakum Teang Tnaut	December 13, 2006
3.	Advisor, Sahmakum Teang Tnaut	December 13, 2006
4.	CLEC lawyer	December 7, 2006
5.	CLEC lawyer	December 7, 2006
6.	Attorney, PILAP/CLEC	January 12, 2007
7.	Head of advocacy section, ADHOC	January 23, 2007
8.	Senior Human Rights Monitor, LICADHO	January 23, 2007
9.	SUPF Coordinator	February 7, 2007

Commune, district and municipal authorities, other institutions

No.	Position	Date
1	MPP deputy governor, CPP	January 5, 2007
2	Chamkarmorn deputy district governor	January 29, 2007
4	Tonle Bassac commune chief, CPP	January 29, 2007
5	First deputy chief Tonle Bassac, SRP	December 27, 2006
6	Commune chief Toeuk La'ak I	December 13, 2006
7	Commune councilor Chbar Ampov II	January 10, 2007
8	Tuol Kork Cadastral Commission	January 29, 2007
9	CDMC Toul Kork	February 2, 2007
10	District unit, Toul Kork	February 2, 2007
11	Commune chief, Antenna	February 1, 2007
12	Commune councilor, Tr. Krasaing, SRP	February 2, 2007
13	Commune chief Boeung Kak I	February 1, 2007
14	Former commune chief Toeuk La'ak I	December 13, 2006
15	SRP commune councilor Borei Keila	January 10, 2007

Note: authorities from 7 Makara district did not agree to participate in interviews. MoEYS officials (Borei Keila case) also did not meet with researchers.

Private companies

Staff from companies did not agree to meet with researchers or made promises for appointments which were then not honored.