

# Eviction and Resettlement in Cambodia

## Human Costs, Impacts and Solutions



**A Study on Selected Urban  
Resettlement Cases**



**United Nations  
Human Rights**

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
Cambodia Country Office - Phnom Penh - Cambodia

## **Acknowledgements**

The Cambodia Office of the United Nations High Commissioner for Human Rights (OHCHR) is grateful for the information, critical insights and suggestions offered by government officials, staff from national and international organizations, development partners, and individuals. Particular gratitude is owed to those affected communities and individuals who agreed to be interviewed for this report.

Cover photo: Residents of Borei Keila pack their belongings before relocation  
Credit: Peter Harris

Publication copyright @ 2012

Office of the United Nations High Commissioner for Human Rights  
Cambodia Country Office  
# 10, Street 302  
Boeng Keng Kang I  
Phnom Penh, Cambodia

# Eviction and Resettlement in Cambodia

**Human Costs, Impacts and Solutions**

**A Study on Selected Urban Resettlement Cases**

**By the Office of the United Nations High Commissioner for Human Rights  
Cambodia Country Office**





Side street, Akpiwat Meanchey resettlement site

Credit: R McCormack/ OHCHR



# Contents

<b>Acronyms &amp; Abbreviations</b>	<b>iv</b>
<b>Index of Boxes and Tables</b>	<b>v</b>
<b>Executive Summary</b>	<b>1</b>
<b>CHAPTER 1: Introduction and Context</b>	<b>11</b>
<b>CHAPTER 2: Methodology</b>	<b>17</b>
<b>CHAPTER 3: Legal Framework</b>	<b>21</b>
<b>CHAPTER 4: Pre-eviction Processes and Conduct during Evictions</b>	<b>25</b>
4.1 Justification of evictions	26
4.2 Conduct during evictions	28
4.3 Access to effective remedy and compensation	29
4.4 Intimidation and criminalization of communities	32
4.5 Community participation and cohesion	33
<b>CHAPTER 5: Restarting Life at Resettlement Sites</b>	<b>35</b>
5.1 Adequate housing	36
5.2 Water and sanitation	40
5.3 Security of tenure	44
5.4 Livelihood and employment opportunities	50
5.5 Food security	54
5.6 Health	55
5.7 Education	61
5.8 Civil and administrative matters	64
5.9 Community participation and social integration	65
<b>CHAPTER 6: Conclusion and Recommendations</b>	<b>69</b>
<b>Annexes</b>	<b>77</b>
<b>Annex 1: Overview of cases under study (by resettlement site)</b>	<b>78</b>
<b>Annex 2: Documents issued to resettled households to recognize ownership</b>	<b>86</b>
<b>Annex 3: Bibliography</b>	<b>90</b>

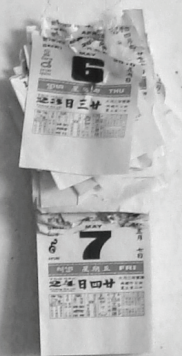
# Acronyms & Abbreviations

ARV	Anti-retroviral
ACHR	Asian Coalition of Housing Rights NGOs
BABSEA	Bridges Across Borders South-East Asia
CCAMH	Centre for Child and Adolescent Mental Health
CESCR	Committee on Economic, Social and Cultural Rights
HIV	Human Immunodeficiency Virus
AIDS	Acquired Immune Deficiency Syndrome
COMFREL	Committee for Free and Fair Elections in Cambodia
DPC	Organization of the Development for the People of Cambodia
EDC	Electricité Du Cambodge
FAO	Food and Agriculture Organization of the United Nations
Licadho	Cambodian League for the Promotion and Defence of Human Rights
MCC	Municipal Cadastral Commission
MDGs	Millennium Development Goals
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MOI	Ministry of Interior
MPP	Municipality of Phnom Penh
NCC	National Cadastral Commission
NCHADS-MOH	National Centre for HIV/AIDS, Dermatology and STD
NGO	Non-governmental organization
NSDP	National Strategic Development Plan
OHCHR	Office of the United Nations High Commissioner for Human Rights
PLHIV	People living with HIV
RGC	Royal Government of Cambodia
SLC	Social Land Concession
STD	Sexually Transmitted Disease
STT	Sahmakum Teang Tnaut
SUPF	Solidarity for Urban Poor Federation
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNCHS	United Nations Centre for Housing
UNDP	United Nations Development Programme
UN Habitat	United Nations Human Settlements Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNTAC	United Nations Transitional Authority in Cambodia
UPDF	Urban Poor Development Fund
WSA	Water Supply Authority



# Index of Boxes and Tables

BOX 1:	A note on terminology and translation	21
BOX 2:	Spean Ches eviction, Preah Sihanouk Province	26
BOX 3:	Dey Krahorm eviction, Phnom Penh	27
BOX 4:	Group 78's attempts to access remedies	28
BOX 5:	Criminalization of Spean Ches community members	31
BOX 6:	Group 78 community's on-site upgrading plan	32
BOX 7:	Components of the right to adequate housing	35
BOX 8:	Akphiwat Meanchey community	36
BOX 9:	Housing Projects in Andong	38
BOX 10:	Water assessment in Andong	40
BOX 11:	Andong: The dilemma of numbers and informal/formal plots	43
BOX 12:	Livelihoods options in semi-rural Preah Sihanouk Province	50
BOX 13:	Health of persons living with or affected by HIV	56
BOX 14:	Caritas' support to the Tuol Sambo community: towards community integration and self-reliance	65
BOX 15:	Story of Makara living in Borei Santepheap 2 in Damnak Trayeung	66
TABLE 1:	An overview of the resettled communities selected for this study	17







# EXECUTIVE SUMMARY

## **Photo opposite**

A woman resettled from Dey Krahorm in her new home at Damnak Trayeung.

Photo Credit: R McCormack/OHCHR



## EXECUTIVE SUMMARY

### Introduction

Evictions and resettlements are a common feature of modern urban development globally. Cambodia is no exception. While there is no official data available, estimates indicate that over 120,000 individuals in Phnom Penh have been evicted since 1990, and thousands more face the risk of being forcibly displaced in the coming years.

The Royal Government of Cambodia's vision of a land policy is aimed at achieving the "national goals of poverty alleviation, equitable economic development, and good governance in a democratic, market-oriented society."<sup>1</sup> The Kingdom's land administration policy seeks to "clarify and record ownership and other rights [...] in order to strengthen land tenure security, improve the efficiency and reliability of land markets, and protect social harmony by preventing or resolving land disputes."<sup>2</sup> The Government, and in particular the Ministry of Land Management, Urban Planning and Construction, has developed an elaborate legal, policy, and institutional framework to implement the 2001 Land Law. This framework recognizes and provides for important safeguards to protect the land tenure, as well as possession and ownership rights of Cambodian citizens, including protection against forced

evictions. Under these policies, forced evictions are illegal and resettlement can only be undertaken in the last resort;<sup>3</sup> when the exceptional circumstances of lawful evictions arise, proper consultation with affected communities should take place and compensation provided.

When legal safeguards are not applied, evictions occur with devastating consequences for the lives and well-being of the people concerned. They go against the basic notions of human rights, sustainable development and social justice. They undermine governance efforts and the rule of law, and contribute to aggravate poverty.

### Objectives and Scope of the Study

The Office of the UN High Commissioner for Human Rights in Cambodia (OHCHR) has undertaken the present Study to measure the human and socio-economic costs and impacts of eviction and resettlement in Cambodia, and explore solutions based on The Royal Government's domestic laws and policies and international human rights treaty commitments. OHCHR regards this study as a tool for awareness and dialogue to contribute to

<sup>1</sup> Interim Paper on Strategy of Land Policy Framework, Council for Land Policy, 2002, page 11

<sup>2</sup> Interim paper, page 13

<sup>3</sup> This principle was reiterated by His Excellency Mr. Im Chhun Lim, the Senior Minister in charge of the Ministry of Land Management, Urban Planning and Construction, when he received the United Nations Deputy High Commissioner for Human Rights, Ms. Kyung-wha Kang, on 29 October 2010.



transforming the discussion away from confrontation to constructive communication among all stakeholders in the search for long-term, equitable and sustainable solutions to the difficult problem of eviction and resettlement. The Office hopes that the Study will contribute to the Government's effort in developing a human rights-based policy framework to guide its action on resettlement.

This Study is based on the international human rights framework, in particular those standards relating to the right to adequate housing and protection from unlawful eviction and resettlement. These human rights obligations have been voluntarily accepted by the Royal Government of Cambodia through its ratification of various international human rights instruments, in particular the International Convention on Economic, Social and Cultural Rights (ICESCR). The Study also makes reference to relevant provisions in national law.

This Study focuses on eviction and resettlement processes and sites in urban areas which are due primarily to urban development. It does not discuss evictions in rural areas or resettlements linked to major public works. As the conduct of evictions in Cambodia has been extensively documented – more so than conditions at resettlement sites – the Study primarily focuses on the situation of resettled families, although it does include an assessment of eviction processes as well.

## Methodology

This Study is based on a variety of available information sources. Above all, it rests on first-hand testimonies and information collected by OHCHR staff from individuals and communities in the resettlement sites selected for this Study from late 2009 to early 2010, with follow up visits in late 2011 and early 2012. It is also based on interviews with government officials, non-

governmental organizations, and service providers, as well as data gleaned from OHCHR's case work on evictions (notably that of the 'Group 78' community in Chamkar Mon District) and a review of official and non-official documents.

This Study focuses on seven sites where people resettled, which were chosen with a view to providing a balanced picture of the current patterns of resettlement and including the most representative sites. Interviews and assessments were conducted at the following locations: in Phnom Penh - **Akphiwat Meanchey** (or Veng Sreng), Meanchey district (former road site residents near Chinese Embassy); **Andong**, Dangkor district (formerly from Sambok Chab); **Damnak Trayeung**, Dangkor district (formerly from Dey Krahorm); **Tuol Sambo**, Dangkor district (formerly from Borei Keila); **Trapeang Anh-chanh**, Dangkor district (formerly from Sambok Chab); in Preah Sihanouk province - **O'Kampuchea**, Prey Nob district (formerly in Kbal Hong area); and **Spean Ches**, Mittapheap district (formerly also from Spean Ches). An eighth site was added when those living on the roadside in Damnak Trayeung were moved to **Srah Po** village in Kandal province in late 2009.

## Pre-eviction processes and conduct during evictions

The most frequent reason given by the authorities to justify evictions has been that communities were living on public land or on land belonging to private individuals. In many cases, the legal status of the land on which communities resided was unclear, yet relevant authorities evicted communities prior to a final status determination and processing of claims by communities.

To minimize the negative impacts on people's lives (including violence), it is all the more important that procedural safeguards in line with human rights standards are respected, including providing an opportunity for genuine

## Executive Summary

consultation; avoiding disproportionate use of force; giving adequate and reasonable notice; and ensuring access to legal remedies. Several of the cases examined in this Study show a disregard for these safeguards.

While families were relocated peacefully to Tuol Sambo and Akphiwat Meanchey (in the latter case the relocation was voluntary in all respects), the other evictions examined involved varying degrees of coercion, harassment and intimidation. In the cases of Dey Krahorm, Spean Ches and Sambok Chab, the authorities did not give due notice to people prior to the eviction; they conducted the eviction during the night or in early morning; individual housing and property was destroyed, and – in the case of Dey Krahorm and Spean Ches – unnecessary and disproportionate force was used by authorities against the villagers.

In most cases examined, communities were not given any alternative to eviction, nor opportunities for genuine consultation. Alternative proposals presented by communities were ignored. Conversely, when communities organized and asked to participate meaningfully in negotiations, they were ignored or pressured, threatened and intimidated.

### Access to remedies and compensation

In the cases reviewed, neither cadastral commissions nor the courts provided avenues to resolve claims to land or to protect individuals from eviction, examples being the Dey Krahorm and Group 78 communities which were evicted before any final determination of

the legal status of the land or of the communities' claims was made. In addition, in the cases of Dey Krahorm and Spean Ches, not only communities' claims were disregarded but community representatives were charged with crimes and a number of them were tried and imprisoned.

When compensation had been offered to evicted communities, it was limited to financial compensation at a level well below market or replacement price, or to significantly less valuable plots of land. In none of the cases studied (except Akphiwat Meanchey) did families receive compensation which took into account the loss of their houses, the property destroyed or lost, or other economic losses such as the loss of livelihood. Villagers in Spean Ches and market vendors and renters in Dey Krahorm received no compensation at all.

### Re-starting life at resettlement sites

The Study examines in depth the living conditions of resettled families, including adequate housing, water and sanitation, tenure security, livelihood and employment, food security, health, education, civil and administrative matters and social inclusion. **Follow up visits to all resettlement sites in late 2011 and early 2012 highlighted that the initial findings of the Study generally remain the same with little cases of progress.**

Testimonies demonstrate that resettled families have experienced similar difficulties, both immediately after eviction, and in the following years. With the notable exception of the Akphiwat Meanchey community and the families with HIV relocated to Tuol Sambo, living



conditions for the relocated families are assessed as worse than before the eviction, especially in terms of livelihoods, food security and housing. In most cases the support from authorities has been minimal, and affected families continue to be largely dependent upon assistance provided by non-governmental, including religious, organizations.

Generally, resettlement sites lack **adequate housing**: in fact most of them did not include any housing or shelter initially upon relocation. The communities of Spean Ches, O’Kampuchea, Andong, Trapeang Anh-chanh, and market vendors and renters in Damnak Trayeung were left on bare ground, while housing in Damnak Trayeung and Tuol Sambo was originally inadequate by reference to international standards (there has since been improvements made and housing completed). In the case of the Spean Ches community and market vendors and renters in Damnak Trayeung, no alternative land was offered upon eviction and they were thus rendered landless. The Spean Ches community has since been living on the roadside under the constant fear of a new eviction. The situation of market vendors and renters from Damnak Trayeung marginally improved in December 2009 when they were relocated to bare land in Srah Po village, Kandal province.

Resettlement sites often lack **basic infrastructure, especially access to potable and affordable water and sanitation**, as well as all essential services. The situation becomes worse during the rainy season as sites, latrines, sewage systems or homes become flooded, such as in Andong, Trapeang Anh-chanh and for those families living on the roadside in Damnak

Trayeung and in Spean Ches. During follow up visits, some registered communities in Srah Po, Andong and Trapeang Anh-chanh reported greater access to some services, but due to lack of income generation opportunities the available services remained unaffordable to most. Those communities excluded from registration were unable to access the services.

**Security of tenure** at most resettlement sites continues to be an issue even years after relocations, and has been repeatedly raised by relocated communities as one of their main concerns. This is especially the case where there is possible interest in the concerned land for further development, such as in the case of O’Kampuchea. Having a lack of certainty as to the tenure of the land upon which they now reside, relocated communities are hesitant to establish themselves in the new locations, for example through investment in businesses or in better housing. This is even more so the case for those communities who did not officially receive land following eviction, such as the Spean Ches community, as well as those households awaiting official recognition in Andong.

Measures taken to ensure tenure security for resettled families differ greatly from site to site. There is no system in place to guarantee tenure security to households immediately after relocation. Despite this, in most resettlement sites, authorities have promised that land titles would be given to households after five years (or ten years in some cases), the legal basis of which is unclear. At least 12 different types of documents acknowledging the receipt of individual plots and making promises as to future titling or tenure security have been

## Executive Summary

issued to families, thus creating much confusion. There is no indication from the authorities as to how titling will take place within the timeframe promised.

Resettled families have had difficulties securing sources of **livelihood and employment** options, and in late 2011 and early 2012 this was the greatest concern reported to OHCHR. Relocation sites, usually located on the outskirts of the city, generally offer few opportunities for gainful employment. It has also been difficult for families to continue or seek employment in the city centre given transport costs and other obstacles. This has resulted in many cases of breadwinners or entire families returning to the city centre in search of employment, sometimes selling their resettlement plots in the process. The social and economic ramifications of these coping maneuvers on the family are extensive, at times causing a breakdown in the family structure.

**Food insecurity** is intimately linked to families' difficulties in securing livelihood and work opportunities. Relocated families have had precarious access to food and have overwhelmingly cut down their food intake. The Tuol Sambo community is the only community which received monthly food support following relocation; at other sites, some families continue to receive support from non-governmental organizations (NGOs), but not in any comprehensive manner and the distribution of ad hoc and voluntary handouts has proven unsustainable.

**Health** has also been an issue. Although there are health posts in the vicinity of resettlement sites, most families depend on NGOs, as their

services are free, reliable and more extensive. Interviews with resettled families have also revealed psycho-social issues and the need for additional research on the immediate and long-term impacts on mental health of eviction and resettlement. Domestic violence is reportedly prevalent, as is unplanned parenthood with many families having children they cannot afford to feed or send to school.

The situation of **persons living with HIV** is of particular concern. Authorities and health providers have not systematically followed families from their original location to resettlement sites, leaving families without support. On no occasion was an assessment made prior to relocation of these families' specific vulnerabilities with respect to health care, housing, and non-discrimination. In the case of the Tuol Sambo families living with HIV, an assessment was made after relocation which resulted in significant remedial action being taken, including securing the continuity of treatment, care and support.

Resettlement has also had negative impacts on **children's education**. Upon relocation children dropped out of school or families had to separate to keep children in the city centre to finish the school year. Families also have had to pay informal fees to transfer their children between schools, and the daily informal fees requested by teachers have put an extra-burden on families' limited income.

Families have also encountered difficulties with **civil and administrative matters** on relocation including in obtaining residency books and identity cards, updating family books, and transferring their names on voter lists. No

assistance is provided by authorities for what is often a tedious, time-consuming and expensive exercise. In addition to having to approach authorities at both their place of origin and of resettlement to transfer or secure new documentation, each set of authorities often require payment of informal fees. For these reasons and others, some individuals simply do not put their documentation in order, yet a lack of documentation presents obstacles to securing formal work and registering to vote. Some communities reported not being registered to vote in the 2012 communal elections.

Finally, the Study shows that **community cohesion and participation at resettlement sites** is generally weak. Authorities have done little to consult and involve resettled families in projects and decisions to improve conditions at sites. In addition, **social integration** with neighbouring communities is rarely taken into account in resettlement plans. The Tuol Sambo example is discussed in this regard as a potential model of community inclusion and development, thanks to the actions of the NGO Caritas which implements projects benefiting not only families with HIV but the entire Tuol Sambo village.

### Good models

The resettlement in 1997-1999 of the Akphiwat Meanchey community offers a good model of a resettlement process which was participatory, respected community choices and left adequate time for planning and preparation. The Phnom Penh Municipality genuinely engaged with the community and partner organizations to plan the resettlement of the community in a location close to their original site according to the

community's wishes. Infrastructure and adequate housing were built prior to the relocation of families. Ten years after resettlement, the community is stable, thriving and sustainable.

Another example is that of the families living with HIV who relocated in 2009 to Tuol Sambo. This case illustrates how negative impacts of resettlement can be redressed even after relocation. At first inattention to families' needs related to their HIV status resulted in the deterioration of their health and living conditions, as well as their stigmatization at the resettlement site. No proper planning was undertaken to ensure minimum living standards in respect of housing, water, food, sanitation, or health. Subsequent cooperation among national and municipal authorities, NGOs and United Nations agencies allowed for major improvements in these areas.

### Conclusion

Eviction and resettlement processes can often entail inherent risks of impoverishment and hardship for affected communities. The experience in Cambodia is no different. When there is little preparation for an eviction and resettlement, when the community does not have opportunities to participate in decision-making, when legal safeguards are not applied and evictions are forced and violent, when services, infrastructure and livelihood options at resettlement sites are insufficient, families usually face aggravated poverty.

Years after relocation, most families at resettlement sites are still struggling to make a living. Conversely, when authorities, the community, NGOs and development partners

## Executive Summary

work together to plan a resettlement, with community participation and needs given full consideration, the negative impacts of resettlement are not only mitigated, but the process can lead to improved and sustainable living conditions, as shown in the case of the Akphiwat Meanchey community.

Evictions and resettlement are sometimes justified – implicitly if not explicitly – by economic or urban development. Yet, paradoxically, such practices may not only violate domestic law and human rights treaty commitments of the Royal Government of Cambodia, but may also frustrate the country's longer-term economic growth and poverty reduction objectives. Human rights are important in and of themselves, and do not require any additional justification. At the same time, there is an increasing body of empirical evidence which demonstrates the importance of secure tenure and human rights relating to water, sanitation, health, among others, for economic growth and development.

Against this backdrop, it is crucial to invest the necessary resources required to address the negative impacts of resettlement and firmly anchor resettlement processes into Cambodia's development and poverty reduction agenda.

As urbanization gains in speed, the need for effective and equitable models of resettlement becomes more urgent. It is hoped that the Royal Government of Cambodia, together with partners, will build on local and international good practices to advance a model of resettlement which is predicated not just on narrow and short-term calculations of compensation and cost mitigation, but on a

comprehensive vision of recovery and sustainable development – indeed, a “win-win” policy for authorities and communities.

### **Recommendations**

This report proposes a number of recommendations and solutions. They are primarily addressed to the Royal Government of Cambodia, including municipal and local authorities, the Ministry of Land Management, Urban Planning and Construction, and HIV/AIDS authorities. However many of these recommendations are also relevant to Development Partners. A more detailed list of recommendations can be found in Chapter 6 of the Study.

Recommendations include:

#### **1. Processes pre-eviction and resettlement:**

- Evictions should only be carried out as a last resort. All other alternatives should be explored first
- Adopt a comprehensive and transparent plan for resettlement/compensation prior to any eviction
- Ensure the participation of affected communities in the planning process both prior to and after relocation
- Recognize people's right to information and set up mechanisms to adequately disseminate information to affected families
- Take into account specific needs and vulnerabilities of particular individuals or groups, such as persons with disabilities or persons living with HIV



## 2. Conduct during eviction and access to remedy:

- Conduct evictions with full respect for the due procedural requirements set by international human rights standards, in accordance with general principles of necessity and proportionality
- Ensure strict compliance with relevant judicial and criminal procedures in case of prosecution of community members
- Offer compensation not only for loss of land and buildings but also for losses to livelihoods and non-economic losses

## 3. Resettlement sites:

- Ensure that resettled communities enjoy at least the same standards of living after eviction
- Ensure that land plots and housing offered are of adequate size and quality. Ensure minimum standards of adequacy and size for all families, irrespective of the type of housing they enjoyed previously
- Ensure services and infrastructure at relocation sites prior to relocation
- Assess livelihood opportunities at resettlement locations and address the issue of lack of income
- Ensure that minimum services and infrastructure are set up prior to relocation, including access to affordable potable water, adequate sanitation and sewage system, basic infrastructure and housing, and access to health care and education

- Strengthen coordination between and within Government institutions and departments to ensure access to services

## 4. Tenure security and land registration:

- Prior to eviction, demarcate and register the land upon which affected communities reside, and determine the legal claims of households to the land in accordance with the law
- Protect possessors and owners of land from illegal eviction and offer them fair and just compensation in case of expropriation in the name of public interest, as per the Law on Expropriation
- Streamline the procedures and documents guaranteeing tenure security to those resettled families with no property claims, immediately after relocation and until people are granted land titles. Models from the Sub-Decree 19 on Social Land Concessions and from the Land Allocation for Social and Economic Development Project (LASED) could be used
- The Ministry of Land Management, Urban Planning and Construction, with other relevant authorities, should devise procedures to systematically register and title land of resettled households, within an appropriate and consistent time frame from the day of relocation

## 5. Legal and policy framework:

- Adopt comprehensive guidelines to guide eviction and resettlement processes, such

## Executive Summary

as a Resettlement Policy or regulation to that effect, which incorporate international standards and good practices

### 6. Gaps in research:

- Conduct further research on the impacts of eviction or relocation on the mental health of families; the incidence and prevalence of domestic violence; and the socio-economic situation of those families who opted for financial compensation over resettlement

### 7. Addressing needs at existing relocation sites:

- Ensure or improve housing, access to potable and affordable water, and sanitation, in Andong, Trapeang Anh-chanh (Phnom Penh), Srah Po village (Kandal province), and O’Kampuchea (Preah Sihanouk province) and in other sites in dire need
- Conduct a population survey in Andong to establish the exact number of residents before further implementing housing projects
- Authorities in Preah Sihanouk Province should provide adequate land and housing to the Spean Chey community
- Assess food security and malnutrition of families at all resettlement sites in order to determine the extent to which families are

in need of food and livelihood support

- The National AIDS Authority, together with the National Center for HIV/AIDS, Dermatology and STD, and in cooperation with relevant partners, should assess the needs and vulnerabilities of HIV-affected families currently living at various resettlement sites in Phnom Penh in order to ensure treatment, care and appropriate impact mitigation measures

### 8. Piloting a Cambodian model of resettlement:

- A pilot project could be developed and implemented jointly by the Royal Government of Cambodia and development partners, using the present Study’s recommendations, international guidelines and best practices
- Through such a pilot project the Royal Government of Cambodia and development partners would develop a model of resettlement that is fully adapted to the Cambodian context and that can be replicated for future resettlement cases. OHCHR stands ready to support such an initiative.

# 1

---

# INTRODUCTION AND CONTEXT

This chapter gives an overview of patterns of evictions in Cambodia over recent decades up to the present day, and highlights factors that may have contributed to the current trends in eviction. This chapter also offers some statistics on the extent of evictions in Phnom Penh and in Cambodia. The chapter then discusses the rationale for and objectives of the present Study. Finally, the structure of the Study is explained.



## CHAPTER 1: INTRODUCTION AND CONTEXT

Evictions and resettlements are a common feature of modern urban development, and in particular of societies subjected to unregulated economic development and “modernization”. Cambodia is no exception. While there is no official data available, estimates indicate that over 120,000 individuals in Phnom Penh have been evicted since 1990, and thousands more are facing the risk of being forcibly expelled from their homes in the decade to come.

Evictions and resettlements in the Kingdom have taken place in the past decade, in both cities and rural areas, in the context of land conflicts. The civil war (1970-1975), the Democratic Kampuchea regime (1975-1979) and the continuation of the war following the overthrow of this regime by Vietnamese troops (1979-1991) led to massive displacement of populations throughout the country and across its borders, and resulted in the complete destruction of the system of land records and ownership. In the 1980s people settled or resettled throughout the country. While land was re-collectivised in 1979, its possession and private ownership were recognized in 1989 and guaranteed in the 1992 Land Law, and

subsequently in the 2001 Land Law. During the transitional period (1991-1993) administered under the auspices of the United Nations Transitional Authority in Cambodia (UNTAC) nearly half a million people who had been trapped along the Thai-Cambodian border refugee camps for a decade, were allowed to return home.

These traumatic events have left deep scars in people’s memories that evictions, when they are forced, have often revived. Home should be a place where one feels safe. Losing one’s home, seeing it bulldozed and being made homeless, or being relocated to a place without the minimum infrastructure and opportunity to rebuild one’s livelihood and life can be disempowering.

Starting in the late 1990s, as political stability was achieved, local and municipal authorities (in Phnom Penh), encouraged by non-governmental organizations and development agencies, sought to address evictions in a more humane manner. A successful example from this early period, namely the Akphiwat



Meanchey community case, is discussed in detail in this Study.<sup>4</sup> In parallel there were some initiatives to improve the situation of urban poor settlers and in 2003 the Prime Minister announced that 100 informal settlements would benefit from on-site upgrading.<sup>5</sup> This was hailed as a major shift towards managing the urban poor.

Practices since then have differed considerably, however, and evictions have continued, often in a forcible manner. High-profile evictions (often linked to urban or commercial development) have at times been characterized by a disrespect for existing legal safeguards, including harassment, intimidation, violence, arrests and the threat of legal action. Low-profile evictions or relocations (often of communities on State public land), by contrast, have generally been more peaceful and voluntary.<sup>6</sup>

Evictions in the last ten years should be assessed against a backdrop of rapid economic growth and urban expansion characterizing Phnom Penh and - to a more limited extent - smaller towns and tourism centers such as Preah Sihanouk and Siem Reap. Property development and real estate became major sectors of investment, with capital investment increasing considerably since 2004,<sup>7</sup> along with land speculation, thus creating difficulties in managing the housing and land sectors in an equitable manner. The absence of cadastral records, the uneven implementation of the 2001 Land Law and related procedures, and

unclear delineation of state versus private land, have also contributed to and exacerbated the current trend of evictions. In addition, while the Government gradually developed a sound legal and policy framework for urban land management, including land registration that has successfully ensured the legal titling of an estimated 2 million plots of land in rural areas, its implementation is yet to ensure adequate security of tenure for the urban poor under threat of eviction.<sup>8</sup>

The Royal Government of Cambodia's vision of a land policy is aimed at achieving the "national goals of poverty alleviation, equitable economic development, and good governance in a democratic, market-oriented society."<sup>9</sup> The Kingdom's land administration policy seeks to "clarify and record ownership and other rights [...] in order to strengthen land tenure security, improve the efficiency and reliability of land markets, and protect social harmony by preventing or resolving land disputes".<sup>10</sup> The Government, and in particular the Ministry of Land Management, Urban Planning and Construction, has developed an elaborate legal, policy, and institutional framework to implement the 2001 Land Law. This framework recognizes and provides for important safeguards to protect land tenure as well as the possession and ownership rights of Cambodian citizens, including protection against forced evictions. Under these policies, forced evictions are illegal and resettlement can only be undertaken as a last resort<sup>11</sup> and, when the exceptional circumstances of lawful evictions

<sup>4</sup> See Box 7.

<sup>5</sup> UPDF, *Community News*, Issue 2, June 2003.

<sup>6</sup> Based on OHCHR's case work in the last decade.

<sup>7</sup> In 2004, 2,800 construction projects were approved, worth US\$823 million, a 152 per cent increase from 2000, when 1,448 projects worth US\$326 million only were approved. In 2008, 1,156 construction projects worth US\$3.192 billion were approved. The worth of investment in 2008 represents an 878 per cent increase from the total investment in 2000. Due allegedly to the global economic crisis, while 2,230 projects were approved in 2009, their total value was of US\$1.989 billion, 38 per cent less than in 2008. Data from Ministry of Land Management, Urban Planning and Construction (MLMUPC). See also 'Project approvals down 83 per cent', *Phnom Penh Post*, 30 April 2010.

<sup>8</sup> See for an analysis of the land management system: Bridges Across Borders South-East Asia, Centre on Housing Rights and Eviction, Jesuit Refugee Service, *Untitled: Tenure Insecurity and Inequality in the Cambodian Land Sector*, (October 2009), [hereafter: *Untitled*].

<sup>9</sup> Interim Paper on Strategy of Land Policy Framework, Council for Land Policy, 2002, page 11.

<sup>10</sup> Interim paper, page 13.

<sup>11</sup> This principle was reiterated by His Excellency Mr. Im Chhun Lim, the Senior Minister in charge of the Ministry of Land Management, Urban Planning and Construction, when he received the United Nations Deputy High Commissioner for Human Rights, Ms. Kyung-wha Kang, on 29 October 2010.

## Chapter 1: Introduction and Context

arise, proper consultation with affected communities should take place and compensation provided.

When legal safeguards are not applied, evictions occur with devastating consequences for the lives and well-being of the people concerned. They go against the basic notions of human, sustainable development and social justice. They undermine governance efforts and the rule of law, and contribute to aggravate poverty.

### Data and statistics

It is difficult to determine with precision the extent of evictions in Cambodia today. One of the challenges is the lack of official public data in this regard either in Phnom Penh or countrywide. Existing data mostly comes from non-governmental organizations (NGOs) active in the housing sector. Amnesty International has claimed that in 2009 at least 26 evictions displaced approximately 27,000 people<sup>12</sup>. The NGO Sahmakum Teang Tnaut (STT) estimated in April 2009 that over 120,000 Cambodians in Phnom Penh had been evicted since 1990;<sup>13</sup> this estimate has received broad support among the NGO community.<sup>14</sup> Another source estimated in 2008 that over 15,000 families were relocated in Phnom Penh in the past 10 years, and two thirds of these relocated families returned to Phnom Penh.<sup>15</sup> Finally, according to Amnesty

International in 2008, at least an estimated 150,000 Cambodians were at risk of eviction nationwide.<sup>16</sup> As for resettlement sites in Phnom Penh, sources state there were 41 sites in 2006<sup>17</sup> and over 50 by 2009.<sup>18</sup>

According to the municipal authorities, over 300 of the 569 poor community settlements identified as such in 2003 in Phnom Penh have been 'solved'.<sup>19</sup> It is unclear how many among these 300 communities have truly benefited from adequate on-site upgrading or relocation. A recent unofficial estimate puts the number of existing urban poor communities in Phnom Penh at 410.<sup>20</sup>

It is worth noting that while attention has been placed predominantly on the situation in urban areas, evictions in rural areas due to the granting of economic land concessions or other land sales are also taking place. In 2009 and early 2010, at least six such evictions took place, involving approximately 2500 families.<sup>21</sup>

### Objectives of the Study

Given today's eviction trends, and based on its own experience and cooperation with the authorities and other partners to find legal and humane solutions in eviction cases, the Cambodia Office of the United Nations High Commissioner for Human Rights decided to conduct this Study on Eviction and Resettlement. The Study aims to measure the human and social costs of eviction and

<sup>12</sup> Amnesty International, *Rights Razed: Forced evictions in Cambodia*, (2008).

<sup>13</sup> From October 2000 to June 2006, 41 sites were established with 15,831 families relocated according to an STT survey of August 2007 on resettlement sites in and around Phnom Penh.

<sup>14</sup> STT, *The 8 Khan Survey: Urban poor settlements in Phnom Penh*, (December 2009) [hereafter: the 8 Khan Survey].

<sup>15</sup> Intervention by H.E. Im Chhun Lim, Senior Minister, MLMUPC, at 15<sup>th</sup> meeting of Government-Development Partners Coordination Committee, (29 September 2009). In 2003, the Solidarity for the Urban Poor Federation estimated that 569 urban poor communities equivalent to 374,836 people were living in Phnom Penh, which represented 35 per cent of the total population.

<sup>16</sup> The 8 Khan Survey.

<sup>17</sup> The evictions took place in the provinces of Kampot, Kandal, Kampong Thom, Takeo, and Oddor Meanchey (two occurred in the latter).

<sup>18</sup> STT, *The 8 Khan Survey: Urban poor settlements in Phnom Penh*, (December 2009) [hereafter: the 8 Khan Survey].

<sup>19</sup> Intervention by H.E. Im Chhun Lim, Senior Minister, MLMUPC, at 15<sup>th</sup> meeting of Government-Development Partners Coordination Committee (29 September 2009). In 2003, the Solidarity for the Urban Poor Federation estimated that 569 urban poor communities equivalent to 374,836 people were living in Phnom Penh, which represented 35 per cent of the total population.

<sup>20</sup> The 8 Khan Survey.

<sup>21</sup> The evictions took place in the provinces of Kampot, Kandal, Kampong Thom, Takeo, and Oddor Meanchey (two occurred in the latter).

## Chapter 1: Introduction and Context

resettlement in urban areas in Cambodia and at exploring solutions to address the problems identified.

The Study is an initial effort to provide an overview or snapshot of the main features characterizing resettlement processes and sites in urban areas. It is hoped that the RGC, organizations with technical expertise and assistance programmes will take the study forward to assess in depth some aspects of resettlement highlighted in this Study and devise programmes accordingly. Some recommendations are made in this regard at the end of the study (see Chapter 6).

It is hoped that the Study can move the discussion in Cambodia away from confrontations over specific eviction cases towards cooperative discussions among all stakeholders towards finding solutions to the resettlement problem in Cambodia. It is also hoped that further discussions and practices will make resettlement processes and sites an integral part of the development agenda, whereby resettled families are offered means to not only recover their livelihoods but also to improve them compared to their situation prior

to resettlement and thus overcome poverty and take part in national development.

### Structure of the Study

This Study contains six sections: Chapter 1 outlines the context of the Study, its the rationale and objectives. Chapter 2 explains its methodology and focus. Chapter 3 briefly outlines the international and national legal provisions relevant to eviction and resettlement. Chapter 4 focuses on processes and conduct before and during evictions. Chapter 5 discusses the situation at resettlement sites, by themes or rights affected. Chapter 6 concludes the Study, and offers recommendations for discussion with the RGC and its partners to move towards solutions.

Finally, Annex I presents an overview of the eviction/resettlement process for each resettled community under study, Annex II contains descriptions and pictures of documents issued to families related to land ownership, and Annex III contains the bibliography.



*OHCHR Researcher discusses resettlement conditions with a member of the Akphiwat Meanchey community.  
Photo Credit: R. McCormack/ OHCHR*





A family pumps water at Trapeang Anh-chanh resettlement site. Photo Credit: B. Keat/ OHCHR



# 2

---

## METHODOLOGY

This Chapter outlines the methodology used in this Study. It explains its focus and scope and outlines how information was gathered, and lists the resettlement sites in Phnom Penh and Preah Sihanouk Province which were examined.



## CHAPTER 2: METHODOLOGY

### Focus and scope of the Study

This Study focuses on eviction and resettlement processes that took place in urban areas, due mainly to urban or high-end commercial development. These processes have attracted much public attention in recent years, and the complications encountered in conducting them highlight the numerous challenges faced by Cambodian authorities in the current context of rapid urbanization and development in the country. The Study does not examine evictions in rural areas, nor does it look at resettlements linked to major public works and supported by development agencies, such as railway rehabilitation.

The assessment of the Study is based on the international human rights framework. Human rights principles such as equity, non-discrimination, accountability, and participation, underpin the general approach on which the Study is based. Eviction and resettlement processes are assessed by reference to relevant international human rights standards, in particular those pertaining to protection from unlawful eviction, the right to adequate housing and other socio-economic rights. Chapter 3 provides a fuller discussion of these standards and the legal provisions applicable in Cambodia.

The conduct of evictions in Cambodia and the costs suffered by the victims have been extensively documented. Much less has been

written about what families have experienced moving to resettlement sites after eviction, and how they have coped with rebuilding their lives. This Study thus focuses primarily on the situation of resettled families, although it also briefly discusses processes before and during eviction and relocation.

### Information gathering

Information was collected in the following way:

- (i) Review of existing literature on eviction and resettlement in Cambodia
- (ii) Community surveys: in-depth individual interviews and group discussions at selected resettlement sites in Phnom Penh and Preah Sihanouk Province, conducted from October 2009 to April 2010 by OHCHR and incorporating previous interviews conducted in 2008 (see Table opposite).<sup>22</sup> OHCHR developed a general questionnaire based on the relevant human rights affected at resettlement to guide interviews
- (iii) Organizational interviews: Meetings and interviews with government authorities at local, municipal and national level, community representatives, as well as representatives from housing and human rights organizations, service providers and development NGOs
- (iv) Technical assessment on water and sanitation at Andong site, with 45 persons interviewed and water samples sent to

<sup>22</sup> OHCHR is grateful to staff from Sahmakum Teang Tnaut (STT) for the extensive research and interviews conducted in 2008.



Pasteur Institute for microbiological and physico-chemical analyses. A checklist on water and sanitation needs was developed and used for these interviews

- (v) Information drawn from OHCHR's own case work about the resettled communities under study and other eviction / relocation cases, notably that of the 'Group 78' community in Chamkar Mon District, Phnom Penh.

### Site selection

The selection of the sites is not exhaustive. The choice of sites for this Study, out of all existing resettlement sites, is aimed at providing a

balanced picture of the current patterns of resettlement through the most representative sites. Below is a brief overview of the resettlement sites under study. The estimated number of families and the names of original settlements only refer to those communities directly studied in this report; some sites such as Tuol Sambo and Damnak Trayeung include families relocated from other settlements which were not part of this Study. A more detailed explanation of each case and eviction or relocation processes, as well as of estimated figures, can be found in Annex I. See also map of Phnom Penh sites on next page.

**TABLE 1: An overview of the resettled communities selected for this study**

Name and location of resettlement site	Total families at resettlement site	Date of eviction/ relocation	Original settlement	Interviews conducted
<b>PHNOM PENH</b>				
<b>Akphiwat Meanchey or 'Veng Sreng'</b> , Mean Chey District	129	Jan 1999	road site in <b>Toul Svay Prey</b> , Chamkamon District	30 interviews; 1 group discussion with 4 people
<b>Andong</b> , Dangkor District	800 to 1,800	June 2006	<b>Sambok Chab</b> , Chamkamon district	70 interviews; 5 group discussions with 4 to 6 people
<b>Damnak Trayeung or Borei Santepheap 2</b> , Dangkor District	91 (in flats); over 300 on road side	Jan 2009	<b>Dey Krahorm</b> , Chamkamon District	20 interviews; 7 group discussions with 3 to 8 people each
<b>Tuol Sambo</b> , Dangkor District	42 families living with HIV	June/ July 2009	<b>Borei Keila</b> , Prampi Makara district	20 interviews; 2 group discussions with 4 to 6 people each
<b>Trapeang Anh-chanh</b> , Dangkor District	700 to 1,400	May 2006	<b>Sambok Chab</b> , Chamkamon District	53 interviews; 4 group discussions with 3 to 5 people
<b>KANDAL PROVINCE</b>				
<b>Srah Po village</b> , Ponhealeu District	300 to 510	Dec 2009	<b>Damnak Trayeung</b> (market vendors and renters previously evicted from <b>Dey Krahorm</b> )	4 interviews; 2 group discussions between 3 and 4 people
<b>PREAH SIHANOUK PROVINCE</b>				
<b>O'Kampuchea</b> , Prey Nob District	46	April 2009	<b>Kbal Hong</b> , Prey Nob District	2 interviews; 1 group discussion with 20 to 25 people
<b>Spean Ches</b> , Mittapheap District	71	April 2007	<b>Spean Ches</b> , Mittapheap District	29 interviews; 2 group discussions with 4 to 5 people



Map of Phnom Penh, with resettlement sites under study marked. Map based on data from Sahmakum Teang Tnaut.

# 3

---

## LEGAL FRAMEWORK

The Study is based on the international human rights framework, in particular human rights standards relating to the right to adequate housing and the specific obligations of conduct and results pertaining to eviction and resettlement. This chapter gives an overview of these obligations and the main sources of these obligations. The chapter also examines relevant commitments under national law, and clarifies the terminology used relating to eviction and resettlement.



## CHAPTER 3: LEGAL FRAMEWORK

### The right to adequate housing

While over half of the world population now lives in urban environments, millions live in conditions which undermine life or health, in slums or informal settlements, and do not enjoy the minimum housing conditions that are truly ‘adequate’.

The international community recognized the ‘right to adequate housing’ as part of the right to an adequate standard of living as early as 1948 in the Universal Declaration of Human Rights, and later on in the International Covenant on Economic, Social and Cultural Rights (ICESCR), article 11(1). It was recognized that housing is not a just a physical structure with just a roof and walls; rather, it is a much broader concept which encompasses material and non-material elements that are necessary to create a secure and healthy place to live.

### International standards pertaining to eviction and resettlement

The right to adequate housing under ICESCR includes secure tenure, including the protection against unlawful evictions and the arbitrary destruction and demolition of one’s home. The

International Covenant on Civil and Political Rights (ICCPR) also prohibits arbitrary or unlawful interference with privacy, family and home (article 17(1)).

The Committee on Economic, Social and Cultural Rights (CESCR) in charge of monitoring the implementation of ICESCR, identified in its ‘General Comment on the right to adequate housing: forced eviction’<sup>23</sup> minimum standards required in the conduct of eviction. It noted that if such legal and procedural safeguards were not respected, the eviction was illegitimate under international human rights law, and deemed a ‘forced eviction’. The United Nations Special Rapporteur on adequate housing, in his ‘Basic Principles and Guidelines on Development-based Evictions and Displacement’ (2007), specifically addressed the human rights implications of evictions and displacement linked to development.

The above two sets of guidelines offer the methodological and legal basis on which the present Study is based.<sup>24</sup>

International standards require authorities to follow strict legal and procedural safeguards to

<sup>23</sup> Committee on Economic, Social and Cultural Rights, *General Comment No.7 on the right to adequate housing (Art. 11 (1) of the Covenant): Forced evictions*, E/1998/22, annex IV [hereafter: CESCR General Comment 7].

<sup>24</sup> United Nations Special Rapporteur on adequate housing as a component of the right to adequate standard of living, and on the right to non-discrimination in this context, *Basic Principles and Guidelines on Development-based Evictions and Displacement*, A/HRC/4/18, Annex 1 [hereafter: Special Rapporteur, *Basic Guidelines*].



ensure that evictions take place without violating the human rights of those affected and respect principles of due process, reasonableness and proportionality. Safeguards include providing an opportunity for genuine consultation, avoiding disproportionate use of force, adequate and reasonable notice, and availability of legal remedies. In addition, the outcomes of evictions should not result in people becoming homeless or being in worse conditions than they were prior to the eviction. Minimum conditions, infrastructure and services must be ensured at resettlement sites.

Secure tenure is also included in the Millennium Development Goals (MDGs), under Goal 7 (Environmental Sustainability).<sup>25</sup>

### National legal obligations and commitments

Cambodia, like any other state, is legally bound by the international treaties that it has ratified. This fundamental principle and legal obligation is reflected in the Kingdom's Constitution. Article 31 incorporates human rights treaties ratified by Cambodia into its domestic legislation. As a party to the ICESCR, ICCPR, and other human rights treaties, the Government has committed to guarantee the right to adequate housing and protection against arbitrary interference with one's home recognized in these treaties. This commitment is also reflected in the draft National Housing Policy, which states in its introduction: The Cambodian Government is committed to implement the principle of human rights, especially the "right to adequate housing" for all citizens by setting out strategies [...] in order to ensure the right to adequate housing for all Cambodian citizens, especially the poor and vulnerable groups."<sup>26</sup> The draft National Housing policy is based on the following guiding principles:

#### BOX 1: A note on terminology and translation

In Khmer, the term '**eviction**' is generally translated as '*ka bandenh chenh*,' which comes from the verb '*denh chenh*' meaning 'to chase someone away'. It carries negative connotations which are not necessarily shared with the legal term 'eviction' in English, although a process of eviction – even when legal and justified – is often painful.

Instead of using the word 'eviction,' some people and institutions use the term '*ka pardo ti tang thmey*,' which literally means 'to change to a new location', and would thus rather be translated as '**relocation**' in English. Similarly, others use the term '*ka tang ti lumnov thmey*,' which means 'to go to reside at a new place,' and would translate as '**resettlement**' in English. While relocation or resettlement might follow an eviction, it is not always the case. Thus these two terms do not precisely describe the process by which people are forced to leave their home. The two terms can to some extent be used interchangeably. In this Study, we use the term 'resettlement' to describe the long-term conditions associated with moving to a new place; we use 'relocation' to describe more specifically the act of moving to a new location.

There is no official translation of the term '**forced eviction**' in Khmer. The CESCR Committee itself discussed that 'forced eviction' in English did not necessarily cover all legal implications of the term but was chosen to differentiate it from those evictions that can be legitimate under international law. As the Study does not focus on the legal aspects of eviction, the term 'eviction' ('*ka bandenh chenh*'), without the connotation of 'forced,' is used here.

<sup>25</sup> See Target 11, ('improvement in the lives of at least 100 million slum dwellers') and Indicator 31 ('proportion of people with access to secure tenure'). <http://www.undp.org/mdg/goal7.shtml>

<sup>26</sup> General Secretariat of Council for Land Policy, National Housing Policy, Draft No. 2, March 2010, released following the 24 March 2010 consultation. At the time of finalising this study, the draft was under review at Office of the Council of Ministers.

- a. *Address future demand for new housing units with special attention toward low-income and middle income households and vulnerable groups;*
- b. *Allow illegal settlers and their communities to occupy their settlements for a specific period of time in order to study the factual situation of each temporary settlement.*
- c. *Consider relocation as a last option, used in accordance with the principles of good governance (participation, transparency, accountability, sustainability).*
- d. *Support and empower the participation of people and local communities.*
- e. *Integrate settlement structures into commune/sangkat and urban/municipal land use plans.*
- f. *Assure functional, structural, and social sustainability of new and old settlements.*
- g. *Establish basic housing, as well as infrastructure and service standards, and, in the case of temporary settlements, in close cooperation with the communities.<sup>27</sup>*

Cambodian national law provides for the protections against forced evictions and unlawful expropriation. Both the Constitution and the 2001 Land Law recognize the right to own immovable property. Land/property expropriation can only occur in the public interest, with the requirement that fair and just compensation be paid in advance.<sup>28</sup> A peaceful, undisputed occupation of state private land (which can be lawfully possessed) for at least five years commencing prior to the adoption of the Land Law in 2001 gives rise to ‘possession’ rights and the right to request a definitive title of ownership.<sup>29</sup> The Land Law further protects legal possessors’ rights until full ownership is conferred. Article 248 prohibits the hindrance of

peaceful occupation in an area not yet covered by a Cadastral Index Map. The effect of this provision should be that until a peaceful occupant’s possession rights are determined, no eviction is legal. *The effect of this provision should be that until a peaceful occupant’s possession rights are determined, no eviction is legal.*

A Law on Expropriation was adopted in February 2010. It provides for adequate and fair compensation to be given in advance, at market price or replacement price, to owners (who, in article 4, are defined as including ‘possessors’), thereby strengthening protections already in the Land Law. The Law also limits expropriation for public infrastructure to those cases which meet the definition of ‘public interest’ (article 4). In May 2010 the RGC adopted Circular No.3 on ‘Resolution of temporary settlements on illegally occupied land in the capital, municipal and urban areas.’ The Circular offers solutions to support the development of urban poor settlements deemed illegal and sets minimum standards for resettlement sites; however it does not include adequate legal safeguards for relocation. A Housing Policy is also being drafted. The latest public draft contains reference to the right to adequate housing and outlines various options to ensure tenure security and adequate housing.

More generally, Article 31 of the Constitution states that every citizen is equal before the law and enjoys the same rights and freedoms irrespective of status. The Constitution further recognizes the obligations of the RGC to ensure children’s and women’s rights, the rights to education and health, and to take a number of social measures to promote the well-being of Cambodian citizens. These obligations are directly relevant to resettlement processes.

<sup>27</sup> Draft National Housing Policy, cited above, page 4.

<sup>28</sup> The Constitution of the Kingdom of Cambodia 1993 (as amended in 1999), art. 44; Land Law, art. 4 and 5.

<sup>29</sup> Land Law, art. 30. The possession must fulfill five criteria, namely it must be continuous, peaceful, in good faith, unambiguous and known to the public (art. 38). Art. 16 and 43 highlight conditions in which ownership cannot be acquired.

# 4

## PRE-EVICTION PROCESSES AND CONDUCT DURING EVICTIONS

This chapter examines processes that take place prior to and during evictions. In many of the cases under study, evictions have had very negative impacts on affected families.

Section 4.1 discusses justifications given by authorities to proceed with an eviction. It shows that, in some cases, families were evicted before the relevant authorities had duly examined the status of the land and claims by all parties.

Section 4.2 examines the manner in which evictions are conducted in comparison with international norms. As evictions can easily become violent or traumatic, respect for procedural safeguards is critical, including providing an opportunity for genuine consultation, avoiding disproportionate use of force, giving adequate and reasonable notice, and ensuring access to legal remedies. Some examples of evictions which lacked such safeguards are discussed.

Section 4.3 examines whether affected communities had access to remedies, and how compensation for loss of land or property was granted.

Section 4.4 discusses how community members and representatives have been intimidated during negotiations and even charged, arrested and detained.

Section 4.5 examines community participation (or lack thereof) in the eviction or resettlement processes.



## CHAPTER 4: PRE-EVICTION PROCESSES AND CONDUCT DURING EVICTIONS

Most evictions assessed in this Study have had negative impacts on the affected communities. In many cases, the evictions involved coercion and intimidation. Procedural safeguards were not respected. Community participation was restricted. Existing avenues of redress and mechanisms of resolving land disputes did not offer solutions for those communities threatened by eviction. In fact, in a few cases the opposite happened, with the pursuit of criminal charges by courts against community members who were defending their claims to the land on which they resided. See below the personal account of one lady evicted from her home in Spean Ches:

*"I feel so hopeless, my heart is heavy, and I feel pain thinking about what has happened to us. The eviction was so violent I have no words to describe it. Our homes and properties we worked so hard for with our bare hands, sweat and blood for nearly 20 years were destroyed within a few hours by armed forces right before our eyes. They beat us up and electrocuted us. Many of us got arrested and put in prison. I am worried daily as we live on the road side, we lack income and we don't have enough food to eat."*

Chan,<sup>30</sup> 54-year-old woman from Spean Ches, Preah Sihanouk province.

### 4.1 Justifications of evictions

Government authorities have given various reasons to justify the eviction or relocation of communities examined in this Study. A common reason is that people live on state public land, such as in the case of Dey Krahom,<sup>31</sup> or the land is needed for public interest purposes or for a government institution, such as in the case of Borei Keila<sup>32</sup> and Group 78 in Phnom Penh, and Kbal Hong in Preah Sihanouk Province.<sup>33</sup> All six eviction notices issued to Group 78 make some reference to public development. For instance notices dated 14 and 24 July 2006 stated that the purpose of eviction was to "develop a good drainage system, wider roads, road lights, parkland, environment and beauty fitting for tourism", as well as because the site was located along the river side and near important government ministries.<sup>34</sup> Another related justification is that evictions are needed 'for development' or 'to beautify the city.'<sup>35</sup>

It is important that the Government promotes economic development, but this should take place within the framework of the law, and procedural safeguards should be respected. The expropriation of owners or possessors can only be decided in the public interest, as determined by the Constitution and the Law on Expropriation. In cases examined, even when

<sup>30</sup> The true names of this community member and of all other community members interviewed for the purpose of this report have been changed in order to protect their identity.

<sup>31</sup> According to the RGC, Dey Krahom was state public land as the area was close to important government institutions and within the touristic zone. Also, the area had apparently been used for criminal activities affecting local security and social law and order in the past. OHCHR Cambodia Office, *Annual Report 2008-2009, with comments by the Royal Government of Cambodia*, p.48.



evictions were purportedly justified for public interest reasons or because the land was public land, it later on appeared that they were undertaken in the name of, or benefited private interests. For instance, the 7NG company received the Dey Krahorm land and the Suor Srun company received the Sambok Chab area. Both plots of land have been lying idle to date.

In some cases, it was claimed that the land did belong to a private developer or individual, such as in the sixth eviction notice to Group 78,<sup>36</sup> as well as the case of the Monivong Hospital community in Psar Thmei 3, Daun Penh District,<sup>37</sup> the Chong Chroy's community in Chroy Changva, Russey Keo District, and the Spean Ches community in Preah Sihanouk Province.<sup>38</sup>

Evictions of poor people residing in slums or "informal settlements" have also often been denied attempts to determine whether they have legitimate rights to the lands on which they live. Communities slated for eviction have sometimes been labelled "illegal settlers", "squatters", "anarchic elements", and their settlements branded as breeding grounds for social evils, such as crime, prostitution and drug

use and trafficking. While there have been cases where people have taken advantage of these land conflicts to seek undue advantage in the form of compensation, in many cases examined, local residents could provide evidence of legitimate possession if not ownership rights but were nonetheless arbitrarily evicted.

It is not the purpose of this Study to go into much detail or make judgments on the legality of evictions and their justifications. Whether or not an eviction may go against article 5 of the Land Law (which provides guarantees for those with ownership) or article 248 (which provides guarantees for possessors) *this should be determined on a case by case basis and is the responsibility of relevant authorities such as the courts or cadastral commissions*. OHCHR has been working on a number of cases where the legal status of the land and households were unclear, encouraging competent authorities to postpone eviction until a final legal determination was made. However such assessment was not carried out in many cases examined, such as those of the Dey Krahorm, Group 78, and Spean Ches communities (see Box 4).<sup>39</sup>

<sup>32</sup> Families at Borei Keila who were living in the so-called 'green shed' were told they had to relocate to Tuol Sambo as the shed was on Ministry of Tourism's land.

<sup>33</sup> The Navy claimed the land occupied by the Kbal Hong community before relocation to O'Kampuchea belonged to the Navy and the Ministry of Defense needed the land to construct a Navy Military school.

<sup>34</sup> Letters No. 060/06 and No. 062/06, both signed by Chamkamom District office.

<sup>35</sup> H.E. Mann Chhoeun, Deputy Governor of MPP, was quoted as saying: "The activities of tearing down the homes at Dey Krahorm is not an eviction but just an effort to clear the area for development", 'City, developer, demolish Dey Krahorm homes', *Phnom Penh Post*, 24 January 2009. In the case of Group 78, its first eviction notice made reference to the need to beautify the city (letter No. 055/06, dated 22 June 2006, issued by Chamkamom District office); the land was ultimately incorporated into a new road going to the high-end housing development on Koh Pich island.

<sup>36</sup> The sixth eviction notice stated that part of the land on which Group 78 lived "belonged to Suor Srun Company" while the rest was "public streets". Notification by Phnom Penh Governor, No. 19 sar.char.nar.sar, 20 April 2009.

<sup>37</sup> For the Monivong Hospital community the Royal Group claimed the land, and 168 families were evicted on 29 June 2006 and relocated to Ang Snoul District in Kandal Province. For the Chong Chroy community, Sokimex company claimed the land, and 132 families were evicted on 2 November 2007 and relocated to Trapeang Anh-chanh. Licadho, *Land Grabbing and Poverty in Cambodia: The Myth of Development*, May 2009, p.8.

<sup>38</sup> See *Untitled*, p.13.

<sup>39</sup> See also *Untitled*.

## Chapter 4: Pre-eviction Processes and Conduct during Evictions

### 4.2. Conduct during evictions

*“The eviction created panic for everyone. Children were crying. I could not see anything and felt too weak to pack or collect any belonging due to the teargas. I could only grab my children. Two of my children got sick due to the teargas and they were vomiting for two days afterwards. Today, my children are still frightened when they see a bulldozer; they ask if the bulldozer is coming to bulldoze our home again.”*

Kompheak 40-year-old, mother of four children, evicted from Dey Krahorm in January 2009.

Evictions should be conducted with full respect for the due procedural requirements set by international human rights law. Any legal use of

force must respect the principles of necessity and proportionality.<sup>40</sup>

While families were relocated peacefully to Tuol Sambo and Akphiwat Meanchey (in the latter case the relocation was voluntary in all respects), all other evictions under study involved varying degrees of coercion and intimidation. In the cases of the Dey Krahorm, Spean Ches (see Boxes 2 and 3 overleaf) and Sambok Chab communities<sup>41</sup> authorities did not give due notice to people prior to the actual eviction. They conducted the eviction in the night or in early morning, individual property was destroyed, and – in the case of Dey Krahorm and Spean Ches – unnecessary and disproportionate force was used. These cases epitomize the disrespect of procedural safeguards during evictions. People interviewed

#### BOX 2: Spean Ches eviction, Preah Sihanouk Province, 2007

The Spean Ches community resisted an eviction attempt and two eviction notices in 2006 and early 2007. On 20 April 2007, as families were enjoying Khmer New Year and some of them were still in the province, the community was evicted. Some 150 heavily armed forces, including military police, police, and Royal Cambodian Armed Forces personnel armed with guns, electric batons, shields and tear gas, conducted the eviction. They fired their guns at the ground and above people’s heads. Community members who tried to resist were beaten with sticks and electric batons. A 54 year-old woman who tried to get into her house to take some rice was beaten up by four military police personnel, who electrocuted her leg with the electric baton and pushed her to the ground breaking her hand. A 77-year-old man received electric shocks to his forehead and was later on admitted to the hospital. In total five women and 13 men were injured. All houses were burnt down or demolished during the eviction. Villagers reported that forces used fire-trucks to spray the houses with petrol to set them ablaze more easily. Thirteen community members were arrested and later prosecuted.<sup>42</sup>



*Burning of houses during the eviction of 20 April 2007. Credit: Anonymous*

<sup>40</sup> Special Rapporteur, *Basic Guidelines*, paras 45-51.

<sup>41</sup> The eviction of Sambok Chab residents in Bassac area took place in early May 2006. From 3 to 5 May, authorities with the aid of security forces armed with guns and electric batons demolished the houses of those families who were eligible for land plots at Trapeang Anh-chanh resettlement site. Families were forcibly moved to the resettlement site. Following the demolition of all houses in Sambok Chab, renters who were not eligible for land in Trapeang Anh-chanh remained on site without shelter for over a month, fenced off from the public view. On 6 June 2006, at dawn, approximately one thousand municipal and military police forces gathered in front of Sambok Chab, heavily armed with guns, rifles, electric batons, gas masks and riot gear. At 6 a.m., company workers escorted by these security forces began the eviction of Sambok Chab renters. Families were placed onto trucks and moved to Andong. See also Annex I.

<sup>42</sup> Internal Notes from OHCHR and NGO monitors [2006-2007].

## Chapter 4: Pre-eviction Processes and Conduct during Evictions

have all stressed how damaging the experience of the actual eviction - when disproportionately violent or unfair – has been for them.

As for Group 78, the Municipality of Phnom Penh (MPP), with the support of OHCHR, made efforts to avoid a violent eviction and conduct negotiations on the very day of the eviction. However the relocation was not voluntary, as families left under duress.<sup>43</sup> The Kbal Hong community in Preah Sihanouk Province had no

choice but to move to the new place in O’Kampuchea by themselves, under pressure from the Navy and local authorities to do so.

### 4.3 Access to effective remedy and compensation

All persons threatened with or subject to forced eviction have the right to remedies, such as a fair hearing in court, access to legal counsel, legal aid, return, restitution, resettlement, rehabilitation and compensation.<sup>45</sup> However

#### BOX 3: Dey Krohorm eviction, Phnom Penh

Dey Krahorm residents were under threat of eviction since 2006. As the prospects of eviction became stronger, OHCHR successfully encouraged the MPP to allow sufficient time for proper negotiations to take place between the private developer 7NG and the community. As a result the eviction was postponed for some time in order to finalize negotiations. Yet in mid-January 2009 negotiations were abruptly stopped and the eviction followed shortly thereafter. The eviction took place during the night and early morning of 23- 24 January 2009. Dey Krahorm families were not informed about the exact day and hour of the eviction but were only told a few days earlier that eviction would be carried out “at some point”. Police, gendarmeries and company workers used force to threaten and evict people. Heavy machinery including bulldozers was used to demolish houses and property. The police assaulted a villager, to which people responded by throwing stones at the police. The police fired tear gas at waist level, rather than in the air, and some police were seen throwing stones at the villagers. Other police, along with workers, were seen assaulting villagers and hitting them. A woman was injured as the bulldozer destroyed her house with her in it. A staff member of a local NGO, Licadho, was thrown to the ground and beaten up. As houses were being demolished and people evicted, most of them were not given the opportunity to take their personal belongings with them. NGO doctors treated at least 18 people for injuries.<sup>44</sup>



*Police, military and company workers evict people 24 January 2009. Credit: J.S. Lee.*

<sup>43</sup> See OHCHR Cambodia statement at: <http://cambodia.ohchr.org/EN/PagesFiles/NewsIndex/NewsArchives2009.htm>

<sup>44</sup> Internal Notes from OHCHR and NGO monitors, (2008-2009).

<sup>45</sup> Special Rapporteur, *Basic Guidelines*, para 59; CESCR *General Comment 7*.

## Chapter 4: Pre-eviction Processes and Conduct during Evictions

communities under threat who lodged appeals and petitions and protested publicly before all levels of authorities including parliamentarians, the Prime Minister and the courts, met with little success. The existing avenues for redress

and mechanisms for land dispute resolution did not offer solutions for communities threatened by eviction, as the cases of Group 78 (see Box 4) and Dey Krahorm<sup>46</sup> clearly illustrate.

### BOX 4: Group 78's attempts to access remedies

Residents of 'Group 78', living in village 14 of Tonle Bassac Commune in Phnom Penh's Chamkamon District, had strong evidence to show that possession of their homes and land fulfilled the possession right requirements under the Land Law 2001, namely that possession was "unambiguous, non-violent, notorious to the public, continuous, and in good faith".<sup>47</sup> In 2004, a number of residents of Group 78 applied to the cadastral authorities for land titles (through the sporadic land registration process). Their request received no response from the commune authorities and District Cadastral Commission, so in June 2006 they complained to the National Cadastral Commission (NCC). In July 2006 the NCC referred the Group 78's complaint to the Municipal Cadastral Commission (MCC),<sup>48</sup> a few weeks after Group 78 received its first eviction notice. This notice was followed by five others over the years, the last one being in April 2009.<sup>49</sup>

Group 78 members sought redress from the municipal court on the eviction notices in both 2006 and 2009, and also sought assistance from parliamentarians and other institutions, without success. The municipal court either referred motions filed by Group 78 to the municipal cadastral commission (in 2006) or dismissed them (in 2009).<sup>50</sup> There is no public information as to whether the MCC (which was referred the case by both the court and the NCC) conducted an investigation, wrote a report or arranged meetings between disputants as is required by law. No decision was made by either the MCC or the NCC over the case.

On 17 June 2009, the Council of Ministers issued a notice which supported the last eviction notice, stating the community had four options to choose from, ranging from cash compensation alone to various combinations of cash and plots of land.<sup>51</sup> The Council's intervention is surprising, considering that a decision by cadastral commissions on the legal status of the land was still pending. On 17 July 2009, the remaining families were evicted.

On 28 July 2009, the NCC finally issued a decision, stating that as the government had approved compensation and relocation options, the MLMUPC and the National Cadastral Commission had no competence to resolve the issue.

<sup>46</sup> Licadho/Licadho Canada, *Dey Krahorm Community Land Case Explained* [hereafter: Licadho Dey Krahorm report], (January 2008), p.14-15.

<sup>47</sup> Most residents lived there since the mid-1980s. They were officially recognized by local authorities and the Phnom Penh Municipal Cadastral Office through the issuance of house statistic receipts on 24 October 1992. Since then, other official recognitions of interest in or possession of the land included: birth certificates and "house receipts" (issued by Tonle Bassac commune officials in the 1990s); house and land selling contracts; title transference contracts; family record books (issued by district officials in 1999); voting receipts (issued by commune officials in 2003); identity cards (by the MPP in 2003); and house-repairing requests. In 2006, it was estimated that there were 146 families, among which about 70 families had house receipts issued for them by the local authority in 1992.

<sup>48</sup> By letter No. 722 dated 24 July 2006.

<sup>49</sup> The first eviction notice was issued on 22 June 2006 by Chamkamon District Governor, requiring residents to relocate to Trapeang Anh-chanh. The sixth eviction notice was issued by MPP.

<sup>50</sup> In response to the motion filed by Group 78 to nullify eviction notice No. 055/06 of June 2006 Phnom Penh municipal court issued decision No. 4118 dated 31 July 2006, referring the matter to the Phnom Penh Municipal Cadastral Commission (MCC) (case file No. 950 dated 17 July 2006). On 18 May 2009, the same court dismissed Group 78's application for an injunction order following the issuance on 20 April of a sixth eviction notice. On 13 July 2009, the Appeal Court upheld the Municipal Court's decision not to grant an injunction; it also ruled on the legality of the eviction notice, although this was not asked in the appeal, saying that MPP's eviction notice dated 20 April was legal.

<sup>51</sup> Notice N. 820 SNC.



### *Compensation:*

According to international law, and as reflected in the Constitution, the Land Law, and the Law on Expropriation, compensation to owners must be 'just and fair' or 'full', and be allocated in advance. That is, compensation must be no more or no less than the loss resulting from land acquisition. Compensation must include all types of losses, i.e. in addition to land and buildings all losses to livelihoods as well as non-economic costs or disturbances (e.g. removal of building, personal properties, business expenses, lost/decreased wages/income, equipment).

There should be some flexibility in determining compensation for those without legal rights to their land, based on principle of equitability and equivalence. All those evicted, irrespective of whether they hold title to their property, should be entitled to compensation for the loss, salvage and transport of their properties affected, including the original dwelling and land lost or damaged in the process.<sup>52</sup>

It is difficult to discuss what would constitute 'adequate' compensation for all the cases under study, in the absence of clear determination of the legal status of the land and possession rights of residents by the responsible authorities. Yet irrespective of whether compensation should reach market price or not, minimum standards of adequacy should be upheld, in consultation with communities, to ensure families' losses are addressed. The recent Law on Expropriation also specifically recognizes the right of 'possessors', in addition to owners, to compensation equal to the market or replacement price.

In many of the cases examined, compensation offered to evicted families in cases examined was inadequate and, when offered, only focused on the lost dwelling, ignoring all other

losses. Three types of compensation have been generally offered by Phnom Penh Municipal Authorities: (a) a plot of land at a resettlement site on the outskirts of the city; (b) a smaller plot but with extra money, or; (c) low amounts of cash compensation, below market or replacement price. The MPP's recent offers - for high profile cases in particular - represent an improvement compared to previous practices and to those of Preah Sihanouk Municipality whereby nothing or very little has been offered. Indeed the Spean Ches community did not receive any compensation at all and the O'Kampuchea community received only land.

Negotiations around Group 78's eviction are illustrative of the discrepancies between compensation received, compensation considered adequate by communities, and compensation at market price. In 2006 the first compensation offer to the community was a 5m by 12m plot in Trapeang Anh-chanh. In the second half of 2006, Group 78's lawyers commissioned a real estate company to do an appraisal of the land value, which showed that the land was worth US\$500 per m<sup>2</sup>. Another appraisal of the land value in October 2007 showed it had risen to US\$1,200 per m<sup>2</sup>. By 2009 the official monetary offer had increased to US\$8,000. In June 2009 the community publicly announced that it would accept compensation discounted by 15 percent from market rate, bringing the total amount to US\$1.176 million (compared to an estimated land value of US\$4.8 million in 2006).<sup>53</sup> The MPP did not accept the proposal. By the eviction date some families received US\$20,000 while the majority received US\$10,000 to 12,000 but no plots. A few accepted a lower sum and a plot.

The Dey Krahorm residents were first offered flats at Damnak Trayeung in lieu of compensation. A few hundred families accepted

<sup>52</sup> Special Rapporteur, *Basic Guidelines*, para. 60-63; Food and Agriculture Organization of the United Nations, Land Tenure Studies 10, *Compulsory acquisition of land and compensation*, (2008).

<sup>53</sup> "G78 is offering the price of the community's land to Phnom Penh Municipality at US\$1,105 per m<sup>2</sup>, which is a 15 per cent discount to market price estimated by Bonna Realty real estate company (US\$1,200 per m<sup>2</sup>).\" Group 78, Press release, 25 June

## Chapter 4: Pre-eviction Processes and Conduct during Evictions

to move there in 2006 already. In 2007, the first cash compensation (US\$7,000) was offered, as the community started organizing and asking for better compensation. By February 2008 1,374 families (93 per cent of all residents) had accepted the offers.<sup>54</sup> The monetary offer ultimately increased to US\$20,000 a few days before the eviction of January 2009. The residents who stayed until the day of the eviction (144 families) were denied cash compensation and were given only a flat at Damnak Trayeung.

Other communities, with weaker legal claims or lower profiles, often received much less compensation. For instance the Chong Chroy community in Chroy Changva, who were evicted in 2007, received only US\$200 and a plot in Trapeang Anh-chanh.<sup>55</sup>

Affected families in all cases examined were not compensated for any other losses such as loss of income or health problems incurred as a result of the eviction. None of the individuals interviewed have sought redress for such losses.

### 4.4 Intimidation and criminalization of communities

During negotiations prior to a number of evictions under study, the most active community members or community representatives were intimidated to stop advocating for the rights of their community. In some cases such as Dey Krahorm or Group 78, both the developers and the authorities pressurized activists to stop advocating for their community and allegedly succeeded in buying a number of community representatives off. People interviewed alleged that those community representatives who agreed to cooperate with the authorities and the company received better compensation.<sup>56</sup>

In other cases, charges were brought against community members and their representatives (see Box 5). In 2005, two community representatives from Dey Krahorm were charged with destruction of 7NG company property and use of fake documents and one of them was imprisoned for six months in 2008. In 2007, 15 community members from Dey Krahorm, including seven community representatives, were charged with various crimes as the community was being mobilized to resist its potential eviction.<sup>57</sup> One community representative was imprisoned for six months. Later that year eleven community representatives were charged.<sup>58</sup> Several of them



*Dey Krahorm residents demonstrate, 2007.  
Credit: Licadho.*

<sup>54</sup> Letter from the MPP Governor H.E. Kep Chuktema to the Prime Minister on the request for guidance to finalize the Dey Krahorm case, 19 February 2008.

<sup>55</sup> OHCHR and NGO Internal Notes.

<sup>56</sup> For instance, as Group 78 was negotiating compensation offers in early February 2008, two of the key community representatives reached secret deals with authorities under which they agreed to leave. One representative managed to bring 26 other families with him. He was alleged to have received a commission from MPP staff for each family he convinced to leave. The other representative's deal fell through.

<sup>57</sup> Charges related to destruction of company property, destruction of police property (motorbike), mobile phone robbery. Case file No. 1090 dated 3 July 2007, No. 1697 dated 3 October 2007 and No. 1698 dated 3 October 2007 respectively.

<sup>58</sup> Charges were of destruction of commune property (banner) - Case file No. 1800 dated 22 October 2007- and of destruction of company property and physical assault - Case file No. 2070 dated 4 December 2007.

faced a number of charges at numerous occasions, and most of the charges against them are still pending today. In effect these charges served as a deterrent against community members' involvement in advocacy work for their community.

People interviewed for this Study felt strongly that authorities have overlooked their complaints and concerns largely because they are poor. They saw the conduct and decisions of the authorities and the court as discriminating against them, often punishing them on no legal or reasonable grounds, and deciding in favour of the rich and powerful, they said. Such perceptions could in some way be addressed by ensuring a strict compliance with existing judicial and criminal procedures and better inclusion of communities in negotiations and eviction processes.

### 4.5 Community participation and cohesion

Participation and inclusion of affected people into processes and decisions that concern or affect them is one of the core principles of human rights law and is key to ensuring inclusive and sustainable relocation processes. All potentially affected groups and persons have the right to relevant information, full consultation and participation throughout the

entire process, and to propose alternatives to eviction that authorities should duly consider.<sup>60</sup> To meaningfully participate communities need to be strong and cohesive. Yet in most cases under study, community participation in pre-eviction processes was weak and communities were divided.

Prior to eviction, concerned families and communities often approached NGOs and relevant authorities from the commune to national level, hoping they would assist them in negotiation and engage in meaningful discussions regarding the planned eviction. Although communities such as Group 78 made efforts to engage with authorities in the planning and preparation process, they often received no meaningful or genuine response from relevant authorities, if at all.

In some other cases consultations with affected communities were ostensibly conducted, yet they did not adequately allow communities' meaningful participation. Communities which had tried to organize themselves to prevent the eviction became weak and fragile due diverging interests but also to pressure and coercion by companies or individual officials. Negotiations were then led with individuals rather than letting a community as a whole participate. Negotiations also stopped abruptly, with no fair

#### BOX 5: Criminalization of Spean Ches community members

13 community members were arrested on the eviction day and preliminarily charged with battery with injury and wrongful damages to property under Article 41 and 52 of UNTAC Law. On 2 July 2007, the court in Preah Sihanouk Province conducted a hearing and convicted eight of the detained villagers to three to eight months imprisonment on charges of wrongful damages to property and battery with injury, and dropped charges against five others. OHCHR staff monitoring the hearing observed procedural and substantive inconsistencies during the hearing.<sup>59</sup> As the prosecutor appealed the decision, the villagers remained in prison for another nine months. On 3 April 2008 the Appeal Court upheld the original decision. The eight community members, all of whom had spent excess time in prison, were released on 10 April 2008.

<sup>59</sup> Criminal proceedings in general aim to establish individual responsibility for alleged criminal offences. OHCHR staff monitoring the hearing observed that at no stage during the trial did the prosecution produce any evidence that personally linked the defendants to the crimes they were accused of, nor did they produce evidence of a single item of allegedly damaged public property. Moreover, the court never considered questions related to affirmative legal defenses such as self-defense that might have applied in this case in favor of the accused. The court took no interest in examining the legality of the eviction and ensuing police action, which could have to some extent explained the eruption of violence on 20 April. OHCHR Internal Notes.

<sup>60</sup> Special Rapporteur, *Basic Guidelines*, para 38. See also paras 37, 39, 53, 55, 56(h) (i), 65.



## Chapter 4: Pre-eviction Processes and Conduct during Evictions

justification and were conducted in a non-transparent manner, such as in the case of Dey Krahorm. Phnom Penh Municipality was the only negotiating partner with the Dey Krahorm residents, despite their requests to negotiate with the company 7NG who was to receive their land. While negotiations with individual families were ongoing in mid January 2009, the Municipality and the 7NG company suddenly

announced the last compensation offer - at US\$20,000. A few days after people submitted requests for this compensation amount or higher but were told that 'the door was closed'. People were not given an opportunity to continue the negotiations.<sup>61</sup>

The case of Akphiwat Meanchey community (see Box 8 below), who participated in discussions over its relocation with authorities,

### BOX 6: Group 78 community's on-site upgrading plan

The experience from Group 78 could be seen as a model of community organisation and participation in a planning process. The community organized itself in response to the first eviction notice handed to it in 2006 by selecting a number of representatives and asking for legal aid from the Community Legal Education Centre.

The advocacy approach of the community revolved around an on-site development plan. The plan and its design were inspired by the Pom Mahakan Community in Bangkok, Thailand.<sup>62</sup> The plan consisted of an open process whereby the community worked with NGOs, architects and urban specialists to create its own plan for its future on site.

The community launched its development plan and design at a press conference in May 2007, which government, donors and NGOs were invited to attend.<sup>63</sup> The community's intention was to present the community's conscious efforts to improve its location with new on-site residences and engage with authorities as an alternative to eviction and a way to support the Governor's stated goal of 'beautifying the city.' Copies of the development plan, with associated costs, were submitted to the MPP. A few companies expressed interest in the plan (as it included a land-sharing agreement beneficial to private developers), however, without approval from the MPP, any action along these lines was impossible.

The government's response to the community's submission was swift and dismissive. The MPP stated that the Group 78 location was "state land" and was included in the city's 2020 Master Plan for road construction, to connect to the bridge crossing to Koh Pich island, thereby making an on-site development plan impossible.<sup>64</sup> The community together with their lawyers continued to negotiate with MPP to support the onsite plan. However the community received further eviction notices and municipal and local authorities limited discussions with the community to negotiations around compensation or resettlement. As pressures on the community increased, community members started leaving the site. Other community members continued to advocate for on-site upgrading, but, despite efforts, all remaining residents were evicted by 17 July 2009.

<sup>61</sup> The eviction went ahead ten days after this date, and people evicted only received flats at Damnak Trayeung, instead of the financial compensation they had requested. OHCHR Internal notes [2008-2009]; *Licadho Dey Krahorm Report*.

<sup>62</sup> The community of Pom Mahakan in Bangkok, Thailand, successfully negotiated with the relevant authorities plans that were based on their own on-site renovation plans.

<sup>63</sup> Several draft plans were prepared and revised by the end of March 2007. Architecture students prepared drawings that proposed five, four story multi-unit buildings on the site. Only three and a half buildings would be required to properly house all Group 78 residents, and the vacant remaining units could be offered to a development company, thereby giving it an incentive for undertaking the construction.

<sup>64</sup> Statements to Group 78 and private correspondence dated July 2006 to OHCHR.

# 5

## RE-STARTING LIFE AT RESETTLEMENT SITES

This chapter examines the living and housing conditions of families at resettlement sites. With notable exceptions, living conditions for families at the sites under study are worse than pre-eviction, especially in terms of livelihoods, food security and housing.

Living conditions are assessed by theme:

- Section 5.1 examines conditions of housing
- Section 5.2 looks at access to potable water and sanitation
- Section 5.3 discusses security of tenure and the lack of clarity regarding promises for land titles
- Section 5.4 discusses livelihoods and employment opportunities and the ways families have coped with lack of income and employment
- Section 5.5 shows the extent of food insecurity at resettlement sites
- Section 5.6 discusses health issues, highlighting in particular the situation of persons living with HIV
- Section 5.7 discusses the impacts of resettlement on education
- Section 5.8 examines problems related to civil and administrative matters such as voting
- Section 5.9 discusses community participation and social integration at resettlement sites.

The example of the Akphiwat Meanchey community is discussed separately in Box 8 as representing good resettlement processes.



## CHAPTER 5: RE-STARTING LIFE AT RESETTLEMENT SITES

Families at the resettlement sites under study encounter similar difficulties, both immediately after the eviction, and many years later. With notable exceptions such as the Akphiwat Meanchey community and more recently the Tuol Sambo families, living conditions for the relocated families are worse than before the eviction. The difference is very striking for some; the Spean Ches families for instance enjoyed decent livelihoods and housing pre-eviction and have had to survive on bare ground on the roadside since.

Living conditions are assessed by theme to give an overview of all major elements affecting people's lives, from adequate housing, basic services and infrastructure, security of tenure, livelihoods and employment opportunities, to food security, health, education, civil matters, and social inclusion. The example of Akphiwat Meanchey community is explained separately in Box 7 as a good process of resettlement which was participatory, respected community choices (such as the location of the new site) and left adequate time for planning and preparation.

### 5.1 Adequate housing

The right to adequate housing has seven major components (see Box 8), which governments

are primarily responsible for ensuring. Resettled families stressed how five components of this right in particular, namely availability, affordability, habitability, location and security of tenure, were relevant to their situation. Location will be discussed under employment opportunities (Section 5.4) and tenure security as a separate Section 5.3 given its importance in the Cambodian context. Under international human rights law no person should be made worse off after eviction, and minimum standards of adequacy of housing should be ensured at all times.

#### *Housing infrastructure and size*

In most cases under study, housing at resettlement sites is inadequate. In fact in many cases examined no shelter or housing was provided to families upon relocation. When shelters were built they did not cater for the different requirements and needs of affected families, for example persons living with HIV, or those large families needing more space. The size of plots or housing offered is generally below technical construction standards set up by the Ministry of Land Management (whereby flats in urban areas should offer at least 12m<sup>2</sup> per person, including toilet).<sup>65</sup>

<sup>65</sup> There are at the moment no particular standard specific to urban poor. Information from MLMUPC.



### BOX 7: Akphiwat Mean Chey Community: Positive results when authorities, the community and organizations work together

#### Background

Akphiwat Meanchey - also known as Veng Sreng - is located 5km south-west of Phnom Penh. The site was selected in 1997 to relocate 129 families who lived on the roadside near the Chinese Embassy at Toul Svay Prey. The community came under threat of eviction when, around Khmer New Year in 1996 and without prior notice, a bulldozer attempted to clear houses for a drainage project. The community requested local authorities to explore alternative options to the eviction, which was agreed. The community leader also sought support from organizations, including the Asian Coalition of Housing Rights NGOs (ACHR) and the United Nations Centre for Housing (UNCHS - now UN Habitat).

#### Engagement and Support from MPP

Discussions, facilitated by UNCHS, took place between the community and the MPP in May and August 1996. The MPP first proposed to give US\$200 for each family, but the community declined the proposal, asking for land instead of money. The community leader requested that the Governor pay slightly more than envisaged - US\$25,300 would have been the total amount given in cash - to enable the community to buy a plot. In response, the governor offered land at Tuol Sambo or Anlong Korng sites, but the community refused and asked to be allowed to identify appropriate land by themselves. The Governor then agreed to give US\$30,000 to the community to buy land, whilst other relevant organizations agreed to financially support the resettlement process. In November 1997, an agreement was signed between the concerned parties.

#### Community's full participation and support from NGOs and UN

Since early 1996, community members had organized themselves as a savings group under the Solidarity for Urban Poor Federation (SUPF). It is likely that it strengthened their ability to further organize. Community members, supported by NGOs and UNCHS, examined various land sites, and eventually decided upon a site located 5km from their old site with a low price of US\$3 per m<sup>2</sup>. The size of the land could offer each family a plot of 45m<sup>2</sup>.

Community committees were created to manage the work such as layout, infrastructure, and to carry out contracts between the community and UNCHS. Relevant NGOs and UNCHS provided technical training to community members (e.g. on brick making) and paid them for their work at the construction site. Local authorities provided security and safety. The design of housing and the whole resettlement site was done with the full participation of community members. Most families moved to the new site, with the help of the MPP, in January 1999 when work on infrastructure and sanitation were completed. In April 2000, the 'Akphiwat Meanchey Community' was inaugurated by the Prime Minister.

#### Results

*High satisfaction and retention rates:* People interviewed have been generally satisfied with the process and outcomes of the resettlement. They indicated that since the relocation they have enjoyed strong social bonds and good work opportunities. Interviewees were grateful to the MPP, UNCHS and NGOs for the support offered.

*Better living standards:* Residents feel that their living conditions have markedly improved, even though they are farther from schools and hospitals. Water and electricity supplies are more constant and at a steady and reasonable rate. Interviewees did not complain about livelihood opportunities, given how close to the centre of Phnom Penh they remained. There is also a low incidence of reported domestic violence or other social issues, compared to other sites. Even before people received land titles, they felt they had tenure security.<sup>66</sup>

<sup>66</sup> In 2000, the local authority issued each family a residency book. In 2002 the community received a "Certificate of possession rights over the immovable property", issued by the MPP Land Department. In 2009, the community received land titles through systematic registration.

The best model is clearly that of the Akphiwat Meanchey community (see Box 8). In this case, the community participated in the decision-making process about the size of plots and housing, the design and type of housing, the materials used, and houses were built with financial and technical support from municipal authorities, NGOs and the UN.

In the cases of Andong (see Box 9), market vendors and renters from Dey Krahorm, Spean Ches, O'Kampuchea, and Trapeang Anh-chanh, people were left on bare land, without basic shelter, services or infrastructure. There was no connection to water, electricity, and sanitation. In these sites people had to build their homes by themselves, with support coming from NGOs (see also section on homelessness, page 44).

In Damnak Trayeung and Tuol Sambo, flats or shelters were constructed (by 7NG company for the former, and by Municipality of Phnom Penh for the latter) prior to relocation. They provide minimum protection against weather conditions, but as a long-term solution, these houses need improvements to provide truly habitable and adequate conditions for the families (see photos overleaf).

Flats in Damnak Trayeung are 4 by 10m (40m<sup>2</sup>), with a toilet attached to the main building from the outside. Residents have complained about the poor quality of the housing and security concern related to the toilet being located outside the main flat. They also said that the water leaks through the roof when it rains. In addition some of the families who received flats weeks after the eviction in January 2009 had no access to running water. Some families have made improvements to the flat, including adding a front extension to the roof to decrease the heat, linking the toilet with the rest of the house, and constructing a sub-floor or adding one more storey to accommodate more family members.

In Tuol Sambo, six corrugated iron-sheds, each having ten rooms, were built to accommodate the 42 families living with HIV relocated from Borei Keila. The plot size was extremely small for a whole family (4.8m x 3.5m = 16.8m<sup>2</sup>), even

### BOX 8: Components of the right to adequate housing<sup>67</sup>

- *Security of tenure*: housing is not adequate if its occupants do not have a degree of tenure security which guarantees legal protection against forced evictions, harassment and other threats
- *Availability of services, materials, facilities and infrastructure*: housing is not adequate if its occupants do not have safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage or refuse disposal
- *Affordability*: housing is not adequate if its cost threatens or compromises the occupants' enjoyment of other human rights
- *Habitability*: housing is not adequate if it does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards
- *Accessibility*: housing is not adequate if the specific needs of disadvantaged and marginalized groups are not taken into account
- *Location*: housing is not adequate if it is cut off from employment opportunities, health care services, schools, childcare centres and other social facilities, or if located in polluted or dangerous areas
- *Cultural adequacy*: housing is not adequate if it does not respect and take into account the expression of cultural identity.

<sup>67</sup> CESCR, *General Comments 4 and 7*.



Housing at Akphiwat Meanchey, Tuol Sambo and Damnak Trayeung, respectively. Credit: OHCHR and Licadho.

below minimum humanitarian standards.<sup>68</sup> This lack of space was compounded by the absence of exterior individual and collective space (except for houses at both ends of the six housing units). The housing was not secure as the rooms within the sheds were not closed, and walls were made of 2mm thin green tin sheets that were easily breakable (some of the families had their walls broken into only weeks after relocation). The sheds did not protect families from the heat. People complained they were exhausted and more prone to disease because of the heat, and that the heat had damaged their antiretroviral (ARV) medication.

UN agencies and NGOs alerted national and municipal authorities about the inadequacy of the sheds in Tuol Sambo. A project to improve the housing and infrastructure at the site was ultimately agreed between the UN Country Team, the National AIDS Authority, the MPP and the NGO Caritas. At the time of writing, Caritas, with financial support from UN agencies, was finalizing the construction of brick flats for the families. Phnom Penh Municipality offered additional land to build larger flats. Housing and living conditions of families will improve considerably thanks to this project. (See also Boxes 13 and 14 below).

### Electricity

Adequate housing includes energy for cooking,

heating and lighting. Many rural and poor Cambodians have been living without electricity for a long time, so electricity may not be considered a priority at resettlement sites. Nonetheless people interviewed in fact referred to electricity as part of the necessary services they felt were needed at the sites. A problem is the lack of access to State-run electricity (Electricité Du Cambodge - EDC), sold at 720 Riels per kwh (approximately US\$0.17)<sup>69</sup> per household. EDC supply is limited to central urban areas. The connection of some areas close to the main electricity line is possible on request but connection costs may be too high for the poor to afford.

In Andong and Trapeang Anh-chanh there is no connection to EDC. Most families use oil lamps for lighting, while a number of families get electricity from privately owned generators at an expensive price and only for a few hours. In Andong, families pay 3,000 Riels per kwh or 500 Riels for one lamp from 18.00 to 22.00. In Trapeang Anh-chanh, electricity is provided in the same way for a price of 1,000 Riels per kwh from 18.00 to 21.00. Authorities announced that people in Trapeang Anh-chanh will be connected to EDC by June; at the time of writing some work had started for this purpose. In Damnak Trayeung, some families who lived on the road side and could afford to pay for electricity had it supplied by a private

<sup>68</sup> In relief operations, the minimum covered floor area per person (without toilet and showers) is set at 4.5m<sup>2</sup> to 5.5 m<sup>2</sup> in cold climates or urban situations including the kitchen and bathing facilities; the standard is 3.5sqm in hot climates, provided there is adequate external space for cooking, which is generally not the case at resettlement sites under study. This is an emergency response standard but serves as a good minimal standard to compare housing at resettlement sites. The Tuol Sambo plots could barely accommodate a family of 4 members, based on the standard of 4.5m<sup>2</sup> per person. Sphere Project, *Humanitarian Charter and Minimum Standards in Disaster Response, Handbook* [hereafter: *Sphere Project Handbook*] and UNHCR, *Handbook for Emergencies*, second edition, Chapter 12 [hereafter: *UNHCR Handbook*].

<sup>69</sup> As of 1 July 2010, US\$1.00 was equal to 4,200.00 Riels.

### BOX 9: Housing Projects in Andong

As families were relocated to bare land in 2006, they had to build shelters by themselves, or with the financial or material support of a number of NGOs.<sup>70</sup> Since 2007, the MPP has collaborated with UPDF to build flats of 4m by 5m (20m<sup>2</sup>) in Andong. Approximately 200 flats have so far been constructed. The Municipality plans to construct another 400 flats on remaining plots.<sup>71</sup> Families interviewed who received flats were generally satisfied, as they include a toilet and provide protection against heat and rain. Residents also felt that these flats offer them better security of tenure than the flats built with NGO support as they see the granting of a flat as an official recognition of tenure – in fact, authorities promised to families that once they repay the UPDF loan they will receive an official document certifying their ownership of the flat (see Annex II).

Families who have yet to receive flats expressed concern over their ability to pay back the loan (US\$1,000, to re-pay in five years) as many of them do not earn enough for adequate food.<sup>72</sup> Other families whose houses were built with materials donated by NGOs stated they preferred to keep their house as it has a larger space (families generally added a 'sub-floor' as Cambodian houses traditionally have, which they couldn't build in the MPP flats).

Families said that municipal authorities never discussed the flats project with them. Authorities told people that the flat project was underway and those that did not want the flat should move elsewhere. An organization supporting families with housing materials was also told to stop doing so as the planned flats may be built on land where other houses were already being built.<sup>73</sup> Another problem was the risk that there may be more families currently in Andong than there were available plots of land. It is therefore not assured that flats will accommodate everyone, and at the time of writing, this uncertainty still remains.<sup>74</sup>

This example illustrates the urgent need for coordination and consultation between stakeholders, including affected families, when designing housing projects and improvements at resettlement sites.

businessman for a few months; however it was cut off after the announcement that those families would be evicted again. Those living in flats have electricity. The broader Tuol Sambo site is connected to EDC, so it is a matter of connecting up each house, which some families could afford, while some cannot. Caritas offered to loan 50 per cent of the US\$70 deposit required to connect flats to electricity, thus allowing people to connect and repay the loan later.

Energy for cooking is not a concern. As in many parts of Cambodia, firewood and charcoal are

used. Access to them is generally not a problem. Families at Phnom Penh resettlement sites buy some from the market, and they also go to collect firewood from neighbouring areas. Families in Preah Sihanouk Province collect firewood for free.

### 5.2 Water and Sanitation

Safe and secure access to water and sanitation is not only crucial in itself but the lack thereof can contribute to various problems. Many diseases are caused by the lack of access to safe sanitation and water is essential for hygiene.

<sup>70</sup> Habitat for Humanity offered housing loans to seven households in Andong. Friends helped 40 families build houses. The Korean church and the Organization of the Development for the People of Cambodia (DPC) donated housing materials to more than 100 poor families.

<sup>71</sup> Interview with Deputy Governor H.E. Mann Chhoeun, 10 February 2010 [hereafter: Interview with Deputy Governor].

<sup>72</sup> In the past, some 30 families received financial support from an NGO to repay the loan. At the time of writing no NGO was supporting families, although Deputy Governor Mann Chhoeun said he would look into this issue and ask for support from NGOs to help the poorest families. Interview with Deputy Governor.

<sup>73</sup> In fact some of the houses built thanks to the help of another organization have been destroyed and replaced by the flats already.

<sup>74</sup> At the time of the eviction, the MPP marked off around 777 plots of 4 by 6m to allocate to each family. The Deputy Governor however acknowledged that there might be up to 1500 families living in Andong and that solutions must be found for them.





*Sanitation conditions at Andong site at the end of the rainy season. Credit: B. Keat/ OHCHR*

Unsafe sanitation is also a major cause of contamination of drinking water supplies.

Water and sanitation remain a major problem for most of the resettlement sites under study, both as an immediate issue, and a long-term problem when there has been no action by authorities to improve conditions. There is generally a lack of clean water, no drainage systems and waste disposal systems, and no or expensive latrines. As a result families have been living in unsanitary conditions since their relocation. Women and children are the most affected as they spend more time than men at the sites.

### **Access to potable water**

The lack of clean water greatly affects families in Andong, and to a lesser extent families in Trapeang Anh-chanh, Damnak Trayeung, Spean Ches and O'Kampuchea. Water is not readily available, especially in the dry season (during the rainy season most people collect rain water for their consumption).

Families in Preah Sihanouk Province are not

connected to the town's water supply. In Spean Ches, people generally use a well on the roadside near their site, whose maintenance is paid for by a foreign national. When there is not enough water in the well people go to collect water from a well further away in the neighbourhood. In O'Kampuchea, villagers collect water from a river two kilometres from the village as the well they originally dug is not deep enough to meet their needs.

At most resettlement sites in Phnom Penh the water supply is managed by private businessmen who in effect have a monopoly over water management. The price of the water available is often much higher than villagers' were paying prior to eviction and is often double the price or more of that offered by the Water Supply Authority (WSA).<sup>75</sup>

In Trapeang Anh-chanh, the Suor Srun company first brought 16 water tanks. A few months following relocation, it connected the water from the WSA line and sub-contracted its management to a private business person. Only

<sup>75</sup> The WSA has four rates depending on individual consumption, ranging from 550 to 1,270 Riels per m<sup>3</sup>.

## Chapter 5: Re-starting life at resettlement sites

one point of water distribution was set up for approximately 700-800 families at the site. People come to collect the water themselves at a price of 700 Riels per tank of water of approximately 220 litres. This is equal to 3,500 Riel per m<sup>3</sup>, while the lowest rate set by WSA is 550 Riels per m<sup>3</sup>. Alternatively, residents can pay for someone to bring the water to them at twice this price. It is very time-consuming to collect water, especially as there are only ten water tanks available on the site.<sup>76</sup> This is a burden especially for those people who must go to the town centre for work as they must either wake up very early to collect water and then are still often late for work; the water pumps are not operational at night.

In Damnak Trayeung, water supply infrastructure is in place. The system is managed by a private businessman, and families must pay for their own connection. Depending on the flat location, the water provider may

refuse to install the connection, forcing families to collect water from a neighbouring well or buy water in tanks or buckets. The water provider may also charge double the price of the WSA. Families complained that the water meter 'works faster' than when they used to be connected to WSA in the centre, and that there is not enough water coming through. The market vendors and renters who were living at the road side until December 2009 had to buy water for 200-300 Riels per bucket of 20 litres from a private businessman.

In Tuol Sambo, there was no clean water on site until several months after the relocation. For cleaning (and sometimes for cooking and drinking) people used the well water, which was assessed as not potable.<sup>77</sup> For cooking and drinking, most people bought water for a price of 1,200 Riels per 20 litres which did not last more than a few days. The situation was unsustainable but dramatically changed when

### BOX 10: Water assessment in Andong

Immediately after people's arrival in Andong, UNICEF supplied clean water, placing approximately 20 water tanks at various places at the site. The service only lasted a few months. Since then, people buy water from a private provider or use natural sources of water comprising a well and two ponds.

The old local well has clear water. It is located about 100 meters from Andong and is used by both the local community and relocated families, mainly for cooking and drinking. The well's supply is limited as it is fed by a natural underground filtration system and is also in frequent use. It therefore cannot meet requirements for villagers' daily use, especially in the dry season. When OHCHR staff visited the site in February 2010 a long queue of villagers was waiting to get water from the well which at this time had a water level of only 300mm from the bottom. A young boy carrying two 20 litres buckets said that he had to carry the same quantity of water five times a day to fulfil the needs of his family. Some villagers were washing clothes next to the well which may pollute the underground source in the future.

The first pond is located about 130m from the site; its water is not clear. Only 20 to 30 per cent of families interviewed used its water, mainly for washing and bathing, and sometimes for drinking. The pond is unprotected, and a villager drowned in it in the past, which seems to be another reason why families do not use it a lot. The second pond is located about 200 meters from Andong and is used by over half of the interviewed families. People interviewed felt that the pond was near enough for them, and water was in sufficient quantity. They nonetheless expressed concerns about shortages and water quality in the future as many people use the pond. The businessman who sells water to villagers also pumps water from this pond as well as from a lake farther away.

<sup>76</sup> People have to wait for others to return one of the water tanks at the distribution point before being able to collect their own water.

<sup>77</sup> Samaritan's Purse, internal water assessment, 23 June 2009.



Caritas built up a new well and connected it to a large water tank set up to provide water for the community, free of charge. It is planned that by July 2010 water maintenance will be handed over to the community, which will together decide on a reasonable fee for the water. The money collected will be used for community activities.

The MPP recently announced that communities in Andong and Trapeang Anh-chanh would be connected to the main water supply, thanks to funds by the International Association of Francophone Mayors (AIMF). The project was supposed to start in March 2010 but by June it had not yet started; the community representative in Andong said that water connection might be delayed until all remaining MPP flats are built. Water connection will be a major improvement for families and will also help them reduce costs of living (see also Box 10).

Due to these difficulties in accessing potable water, and the high price people must pay for it, people have reduced their water usage compared to their pre-eviction use; for instance people in Andong reported they use only 10-15 litres per person per day. According to the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, 20 litres per capita per day is the minimum quantity required to realize minimum essential levels of the right to water, but with this level there remain significant health concerns. Governments should aim at ensuring at least 50 to 100 litres per person per day.<sup>78</sup>

### Sanitation

Sanitation is used to describe many different aspects of hygiene, including access to latrines, and the disposal or recycling of waste. International emergency standards recommend



Water pond, Andong. Credit: B Keat/ OHCHR

Test results from water analysis at the Pasteur Institute indicated that all three water sources were not potable. However, as the water did not contain high doses of iron or arsenic, it was safe for drinking after being boiled (at 100 degrees) or purified with ceramic filters. All families interviewed either boil or purify the water.

Normally, villagers use 20 litres buckets to transport water home from these water sources. Almost 60 per cent of people interviewed have cement jars to store water while the remaining 40 per cent have only plastic buckets of 20 litres. Access to water to the ponds and

well is free. The private businessman supplies water at a price of 200 Riels per 20 litres; if delivered directly at people's homes, the water costs between 3,000 to 4,000 Riels per jar - jars usually used by villagers are of 200 litres each. One jar of water lasts from 2 to 7 days depending on each family. Almost 60 per cent of the families use about 15 litres of water per person a day and the remaining 40 per cent only use 10 litres per person per day.

<sup>78</sup> <http://www2.ohchr.org/english/issues/water/iexpert/docs/watersant.pdf>

that a maximum of 20 persons share a toilet in disaster response situations to maintain minimum standards of health, safety, dignity and well-being.<sup>79</sup> Most sites and homes under study do not even have latrines. It is only in Akphiwat Meanchey, Tuol Sambo and in Damnak Trayeung's flats that a toilet is attached to the individual house. The situation to some extent reflects the overall situation in the country – it was estimated that in 2004 only about 17 per cent of Cambodian people had access to latrines of adequate standards.<sup>80</sup>

People in Andong, Damnak Trayeung and Trapeang Anh-Chanh relieve themselves in open spaces around the site or in the neighbouring fields (or, in the case of Damnak Trayeung, in neighbouring flats under construction). Women often go to relieve themselves at dawn or after dark, for reasons of modesty. This practice has on some occasions created tensions with the local community who see the relocated families damage their rice fields or threaten their environment, and people have been chased away by fields' owners. Open defecation creates certain risks, and in Andong the situation is particularly dire. The smell of human waste is strong when one gets closer or inside the site. Human waste is swept back in to the residential area when it rains and the site floods.

There are approximately ten latrines (with two shower blocks) in Andong<sup>81</sup> but they are locked and people must pay 200 Riels per use. In Damnak Trayeung, people living on the road side had to pay 300 Riels per use of the toilet. Most people are aware of the existence of the latrines but do not use them because they are too poor to pay for their use and prefer to invest the money in buying water.

In Spean Ches, people also go to vacant land and bushes around them to relieve themselves. Apart from Damnak Trayeung, which is visited

by the town's garbage collector 'Cintri', none of the communities have a waste disposal system. As a result, people leave rubbish around them at the site, or burn it. This has exacerbated the already poor health of the community. There are no drainage systems or networks in the resettlement site or surrounding areas. It floods in the rainy season, and there is no sewage or channel system to drain water out of the site. Often people have no means to protect their dwelling from being flooded, thus increasing health risks.

Doctors who regularly provide health care to resettled communities associate many of the conditions that are prevalent at the sites with lack of sanitation and resulting severe lack of hygiene (see also section 5.6 Health).

### 5.3 Security of tenure

According to resettled families, having tenure security – that is, being protected from involuntary removal or expulsion from land or residence except through legal process, from harassment and other threats - is among their top priorities. At all sites families expressed the importance of having a secure plot of land and housing to allow themselves to settle with peace of mind, and to engage in employment and plan for the future. Measures taken to offer some security to resettled families differ greatly from site to site.

#### *Feelings of insecurity among resettled families*

Having a lack of certainty as to their tenure to the land on which they now reside, some of the communities studied are hesitant to establish themselves in the new locations, for example through investment in businesses or in better housing. This is particularly the case for those communities that did not officially receive land following eviction, such as the Spean Ches community (who has been living on the

<sup>79</sup> Sphere Project Handbook, Chapter 2.

<sup>80</sup> World Bank, Water and Sanitation Programme –East Asia and the Pacific, *Economic Impacts of Sanitation in Cambodia. A five-country study conducted in Cambodia, Indonesia, Lao PDR, The Philippines and Vietnam, under the Economics of Sanitation Initiative* [hereafter: *World Bank Sanitation Study*], (2008).

<sup>81</sup> The latrines were constructed by funds from a Singaporean organization and supported by the MPP, Department of Rural Health Care of Ministry of Rural Development, and Rainwater Cambodia.



roadside since 2007), market vendors and renters in Damnak Trayeung, as well as those waiting official recognition in Andong.

As a group of women from Spean Ches explained:

*“If and when we get land, we must obtain solid documentation in order to protect us from another eviction. And this way we could go as far or near as we wish to find employment without worrying about losing our land or being concerned that something may happen to our children when we are away”.*

The Spean Ches community has approached provincial and national authorities, including the Prime Minister, to be granted land and they are today awaiting an answer.<sup>82</sup> Market vendors and renters living in Damnak Trayeung until they were granted land in December 2009 reported similar feelings of insecurity and their inability to go on with their lives as a result.

Families living on “informal plots” (see Box 11 below) in Andong feel insecure as well. They were told they had to live continuously on the land for five years to receive land title. However they have never received any document from the authorities recognizing their occupation of

### BOX 11: Andong: The dilemma of numbers and informal/formal plots

Families in Andong are divided between those who have ‘formal plots’ and those who have ‘informal plots’. Within weeks of the relocation, authorities delineated 777 plots of 4m by 6m each, which they intended to formally transfer to families. The MPP and local authorities distributed these ‘formal plots’ in various ways, such as at a ceremony on 22 June 2006 (when 306 plots were distributed),<sup>83</sup> through individual registration of families over the years, or through the distribution of flats built with UPDF funds. According to the Deputy Municipal Governor formal plots were given to those families who were originally from Sambok Chab in Bassac commune and recognized by authorities; there might be up to 600 families who qualify, while the rest of the people came from elsewhere.<sup>84</sup> Those who have received formal plots were given an official stamped ‘card’ from district authorities, referring to a plot number and the name of the plot recipient. However, those who are still to repay loans for their UPDF flats did not yet receive any official document. According to the community representative, by 2009, 525 families had received formal plots one way or another. A number of families interviewed who claim to be genuine residents from Sambok Chab have expressed concern that they have not yet received formal plots.

It is unclear how many families currently live in Andong. According to the MPP there might be up to 1,500 families. The community representative however referred to a survey conducted in 2009, which identified 832 families remaining permanently in Andong. The village chief and village assistant estimated that there were approximately 1600 to 1800 families in late 2009. As numbers differ greatly, it is important that authorities conduct a survey to determine exactly the number of families as the number of households has a direct impact on future housing plans and the development of the community.

<sup>82</sup> In early 2010, families were told that national authorities instructed the provincial authority to look for land to distribute to them. However, when community representatives approached the provincial authority they were told that the community needed to show them the letter issued at the national level. The village chief told OHCHR staff member in November 2009 that the Municipality is considering giving land to some 70 villagers in another commune.

<sup>83</sup> At a ceremony some weeks after relocation, municipal and district authorities read out loud the name of 316 families entitled to plots. Family representatives were called one by one to stand before the crowd which then confirmed through public acclamation whether this particular family had resided in Sambok Chab prior to the eviction and was therefore entitled to be allocated a plot of land in Andong. At the end of the ceremony, 10 more families had been taken off the list by the authorities for alleged fraudulent practices, reducing the number of families to 306.

<sup>84</sup> Interview with Deputy Governor.

## Chapter 5: Re-starting life at resettlement sites

the plot. Families are afraid they might be evicted again and stated that there were rumours that authorities would relocate them either to Aural district in Kampong Speu or other places in the province. Families expressed concerns that such rumours might be true as they knew there were probably more families living in Andong than plots available.

Security of tenure can facilitate people's livelihoods. Conversely, the lack of tenure security has negatively impacted on people's access to jobs and employment. A family on the road side in Damnak Trayeung reported how their eldest daughter could work in the garment factory nearby only because they lied about their location. The mother said: "I had to lie to get my daughter a job, because I heard from the company staff that 7NG does not want to recruit people from the tents, either for the garment factory or construction work, as 'they don't want people from the tents to have a good income and want to stay here'." Most people working at the factory are thus flat-owners. Those from the roadside who could be hired at construction sites allegedly received lower wages than the flat-owners.

The lack of tenure security has greatly contributed to residents' anxiety and stress levels. Former Dey Krahorm market vendors and renters, when living in Damnak Trayeung most of 2009, expressed their constant fears about being evicted again. One ex-vendor said:

*"I depend on God's will now. I am hopeless. We are just surviving. It is one day after the next. I wish to have a secure place so that I can plan and do business."*

Seiha, with wife and three children in Damnak Trayeung

People interviewed also said they or one of the adult members in the family needed to stay permanently at the site to make sure they did not miss an announcement of eviction or of the granting of plots elsewhere, which could

happen any time. One former market vendor, 48-year-old Tola, said:

*"I need secure land and housing to live. I have many children, so I need the land. I have been waiting to get the land for almost a year by living temporarily under a tent at the road side. I have not gone to find work. I stay permanently here to ensure that my family gets the land when the authority and 7NG relocate us. I will go to find a job as soon as I get the land."*

Ultimately, in December 2009 most people moved to a new location provided by the 7NG company in Srah Po village, Phnom Bath Commune, Ponhealeu District, Kandal Province, where people received a plot of 4m by 6m, on empty land in a remote area. There is no basic infrastructure or access to clean water, and one part of the site is prone to flooding. While 7NG has built a basic canopy for a market on higher ground, it has not supported families who are on lower grounds to build housing. People have complained that part of the site flooded as high as their knees level when it rained in January 2010. The site is also far from employment opportunities. These are all signs that this new arrangement might not be sustainable and therefore security of tenure is not guaranteed.

The lack of tenure security also impacts on access to basic services such as health services. Pregnant women and children living temporary at Damnak Trayeung road side had no access to vaccination programmes as they were in an administrative limbo, and depended on NGOs for support (see Section 5.6 on health).

### **Homelessness / Landlessness**

Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State Party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.<sup>85</sup>

<sup>85</sup> CESCR General Comment 7, para 16.



*Vendors and renters previously from Dey Krahorm in the temporary shelters they constructed at Damnak Trayeung, 2009. Credit: Licadho*

The eviction of Spean Ches community in Preah Sihanouk Province and of the renters and market vendors from Dey Krahorm in Phnom Penh rendered them homeless and landless. The Spean Ches community has lived under tents on the roadside since April 2007, while the Dey Krahorm market vendors and renters lived on the road side in Damnak Trayeung for almost a year before they relocated to Srah Po village in Kandal Province in December 2009. Families relocated to Andong, Trapeang Anh-chanh and O’Kampuchea were not given any shelter or housing immediately after relocation.

Years after relocation, there is anecdotal evidence that people at these resettlement sites have been rendered homeless for a second time. OHCHR is aware of one example for which

the explanation points to a private deal among individuals and authorities, depriving one family of housing.<sup>86</sup> However in most cases examined, families became homeless because they either sold their land either to pay for medical treatment, or had the money lender or the bank confiscate their land due to loans accumulation and a lack of income to repay them. Many families at the resettlement sites seemed to have taken loans from various money lending institutions, either private or public, or NGOs (at various interest rates), to improve their housing, or run small businesses or cover emergency medical treatment. Almost all residents interviewed for this study have used their land documents to take out loans. Some expressed concerns over losing their land should they not be able to pay back the loan.

<sup>86</sup> Bopea, a 35-year-old woman living with HIV in Andong, had her house that was built with NGO help in earlier 2007 removed when she was not at home. The house was replaced by a UPDF flat. She said: “When I returned to Andong around a month later, I saw a flat built on my plot and someone living in it. Community representatives kept my belongings for me and they told me to wait to receive a new flat once other flats are constructed. They told me to live temporarily on a roadside near my former plot. I have been living under a tent ever since.”



## Chapter 5: Re-starting life at resettlement sites

### *Promises for titles: the 'five year' promise*

Families who received land in an official manner at resettlement sites were all told that they were required to stay continuously on the land for five years in order to gain a land title, and were prohibited to sell their plot in the meantime. This 'five year rule' was stated either verbally (Tuol Sambo and O'Kampuchea, Damnak Trayeung, Akphiwat Meanchey) or in writing (Trapeang Anh-chanh, Andong). The Spean Ches community and those living on the roadside in Damnak Trayeung were not promised anything. Local and municipal authorities had different explanations for the five-year rule, saying it is to ensure that people do not become landless (by selling the land immediately), but also to make sure people do not misuse the process of eviction in order to obtain titles.

Authorities seem to have adopted the social land concession model, i.e. - the legal mechanism to transfer private state land to the poor who lack land for residential and/or family farming purposes - as justification for the five year rule.<sup>87</sup> Most authorities interviewed referred to this model. Yet, as Annex II shows, reference to the Sub-Decree on Social Land Concessions in official documents is rarely made, thus leaving resettled families in a legal limbo.<sup>88</sup> None of the sites examined appear to have been properly registered as social land concessions.

Another issue is that the five-year rule seems not to apply from the date of relocation, but from the date documents acknowledging occupation of the land are issued. For example, the land certificate issued to families in Trapeang Anh-chanh referred to the Sub-Decree on Social Land Concessions, prohibiting the recipient of the certificate from selling, taking out a mortgage on, transferring the rights of, or giving away the land for a period of five years from the date of issuance (25 August 2008). As the date of issuance of a document depends on

various factors outside of the families' control, they should not be held responsible for any delay authorities create in issuing documents, and therefore the five-year rule should apply from the exact date of relocation.

As resettled families (in sites examined, but also generally) may have had various legal statuses prior to eviction, distinction should also be made between families who had possession rights at their previous location and were thus effectively expropriated, and those who did not.

### *Guarantees and documents given by authorities*

Documents and guarantees by authorities vary greatly from one resettlement site to another, and even within one resettlement site. OHCHR obtained nine different documents which were issued to individual families by authorities in Phnom Penh and Preah Sihanouk Province to transfer rights over the plot or flat, and two additional documents only bearing the signature of a company (7NG for those families relocated to Srah Po in Kandal, and Suor Srun for the ex-Sambok Chab residents now living in Trapeang Anh-chanh). While families with HIV in Tuol Sambo did not receive any individual documentation, their names and related plots are listed on an official list. Families in Spean Ches have not received any documents, not even a verbal guarantee they could remain where they currently are.

These official documents are used to obtain loans and have been readily accepted by loan agencies. The documents have also been used to sell and transfer plots.

It is hard to see any coordination or coherence, at either local or municipal level, in the granting of such documents. Authorities and affected communities would benefit from one unified system, as it would streamline the process and give a stronger sense of certainty and security to people being resettled. Interviewees were

<sup>87</sup> Art.2 (a) Sub-Decree on Social Land Concessions (SLC) No. 19, 19 March 2003.

<sup>88</sup> It also needs to be noted that other provisions of the Sub-Decree on SLC are not followed (such as public participation and notification). Also, the five year-rule seems to have been used by Phnom Penh Municipality before the adoption of the Sub-Decree. In 1999 authorities told the Akphiwat Meanchey community to live continuously on the land for five years.



unsure whether they would receive land titles after five years as promised, what types of documents they would be issued in the meantime, and what the precise legal status those documents are intended to confer is.

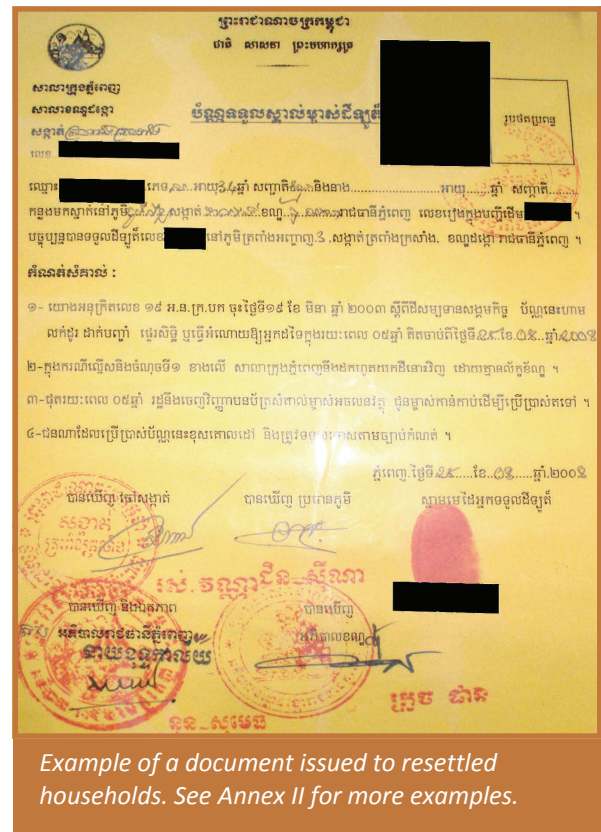
A description and pictures of the documents can be found in Annex II.

### *Selling plots and moving around*

Despite the ‘five year rule’ prohibiting sale of the land within five years, land transactions prior to obtaining proper land titles seem to be common. Relocated families and community representatives interviewed confirm this. The Andong village chief even estimated that at least 40 per cent of the original settlers had ‘either sold up or moved back to the city.’

It is unclear how the ‘five year rule’ is thus applied, as local authorities and community representatives are often involved in the signing or witnessing of sale agreements and in effect authorize them. Deputy Governor H.E. Mann Chhoeun said authorities understand that in some circumstances, such as medical or other emergencies people must sell their land prior to the five years, against their will.<sup>89</sup> However, interviews with him and other local authorities did not clarify whether those who buy land during this five year period in good faith will be legally recognized and would eventually receive titles, and if so after which period of time.

There seem to be an absence of clear instructions or guidelines at local, municipal or national level on how to determine the rights of those who buy plots from the original owners. The Andong community representative, for example, has said he believes that those who buy plots from the original owners will not encounter problems and will be able to obtain land titles at the same time as the original owners. This, however, could not be confirmed officially.



*Example of a document issued to resettled households. See Annex II for more examples.*

Some families have moved around within Andong, while a number of other families have moved there from other resettlement sites, such as Trapeang Anh-chanh or Anlong Krognan, or from other locations in Phnom Penh. People have either bought a plot in Andong or bribed community representatives to allow them to stay in small plots in areas left free or not officially demarcated for people. According to the Andong village chief, many original Sambok Chab families who received land sold it to outsiders for speculation purposes or to people who moved from other resettlement sites.

There are various reasons why people have moved to Andong: the majority because of the affordable land or rent (lower than at other resettlement sites or than in town). One family moved because they thought the community was large enough to set up a small business<sup>90</sup> and others because of their inability to make a

<sup>89</sup> Interview with Deputy Governor.

<sup>90</sup> Boromei's family was evicted from Sambok Chab to Trapeang Anh-chanh in 2006. She moved two years ago from Trapeang Anh-chanh to Andong. She bought two plots and runs a small business from home in Andong, selling goods. She moved to Andong because land was cheaper there than at other sites and with a larger number of people living in Andong, she reasoned she would be able to make a better living with her small business.

living at other sites, such as Trapeang Anh-chanh. One woman followed her job with an NGO and some other families living with HIV moved from the Anlong Krogan site to live with their relatives in Andong in order to receive better support from NGOs there. Movements such as these contribute to the difficulties in providing specific statistics about Andong and other populations at resettlement sites.

In Trapeang Anh-chanh, official records show there are 1,437 families originating from Borei Keila, Sambok Chab, Chba Ampov in Mean Chey District, Chroy Changva in Reusei Keo District, and Group 78, although the community representative and community members estimated there were approximately 700-800 families living permanently at the site. The rest either sold their land or kept it empty, as they moved back to Phnom Penh to find employment.<sup>91</sup> For example, a renter from Borei Keila voluntarily relocated to Trapeang Anh-chanh two years ago, but as he could not make a living there he sold his land to buy a motorbike and became a motor-taxi driver in Phnom Penh. The family still lives on the land, thanks to the generosity of the buyer, until the family finds another place to live.

Some people had to sell their land because of health problems combined with lack of employment and income. A 45-year-old woman, Sovanna, former Sambok Chab resident, sold her plot one month after she relocated to Trapeang Anh-chanh due to lack of income and her need for money for medical treatment. She has since been living on the road side at the resettlement site.

### 5.4 Livelihood and employment opportunities

A major component of adequate housing is the location, which must allow access to employment options.<sup>92</sup> This helps explain why families in Akphiwat Meanchey are satisfied with their livelihood conditions and why the

relocation is sustainable, as their site is approximately 5km from their original location. Conversely, other resettled families in Phnom Penh complain that their employment opportunities and/or income have been dramatically reduced by the relocation. This is largely because the sites are far away from the city centre, approximately 20km away (see also map of Phnom Penh sites, on page 18, Chapter 2). To rebuild their livelihoods, people must either find income-generating occupation or be able to cultivate land, or both.

In the worst cases, the move to the resettlement sites has resulted in unemployment and a drastic loss of income. In the best cases, people brought their work with them to the resettlement site; however it has often proven more difficult or costly for them to continue their activities (for instance selling products), because of limiting factors such as transport costs and reduced access to markets. In many cases, people have had to return to the city centre to find work.

Women appear to have lost jobs and sources of livelihood more so than men. The main reasons are the location and the nature of their jobs. The types of jobs women held pre-eviction (such as selling snacks from their homes or on streets close to their homes) depended on the high number of customers available in the town. Some activities were only possible in town, such as scavenging. The same work at the relocation site did not enable them to earn a living. In addition, in some cases such as for the Spean Ches community or the market-vendors and renters in Damnak Trayeung, because of fear of another eviction, families decided to have one of the heads of households – generally women – stay permanently at the site to secure the land. This prevented women from seeking employment in town.

#### *Work at the resettlement sites*

Some people at the resettlement sites looked for employment within the local community.

<sup>91</sup> Interview with Chin Sarith, community representative in Trapeang Anh-chanh, 19 November 2009.

<sup>92</sup> CESCR *General Comment 4*, para 8 (f).

The most common work is that of labourers in rice fields during the rice transplanting and harvesting seasons, which offers job opportunities for a few weeks per season, at approximately 10,000 Riels per day.

The other option is to run small businesses. It is mostly women who do so, selling snacks and goods from their shelter or at the market established onsite, a job they often continue from pre-eviction times. Customers are generally limited to neighbouring families. A woman selling goods from her house in Trapeang Anh-chanh complained:

*“I do not make any profit. Some months, I lose money because people take goods but pay me only when they earn money, so sometimes I am not paid for a few months, and sometimes not at all as people leave the resettlement site. I am thinking of closing down the shop. I sold the same things in Borei Keila and there I could make a living from my business, but here it is impossible.”*

In Damnak Trayeung, a former Dey Krahorm family continued its business of selling cooked food. Family members complained that they could not save any money from their business, while at Dey Krahorm they were able to save approximately 40,000 Riels each day.

Some people have been unsuccessful at setting up their business at resettlement sites and found themselves in debt, adding to their difficulties. 28-year-old Khiev, a former Sambok Chab resident, started selling fish and vegetables (which she bought from Phnom Penh markets) at the market in Trapeang Anh-chanh, putting all her savings into this new activity. After three months in business, she had lost approximately US\$500 due to unpaid bills from people who promised to pay her later, and because she had many leftovers at the end of the day. She had to sell her plot for US\$700 and is currently living on the roadside at Trapeang Anh-chanh. With the money earned from the sale, she bought a motorbike for her husband to become a motor-taxi driver. Khiev does not

work any longer, and her family is barely surviving.

The above examples illustrate how resettlement, in many cases, has negatively affected people's ability to access sustainable, worthwhile and secure livelihood options.

### *Going back to town for work*

As a result of difficulties in securing income-generating activities at the site, people have returned to the city centre for jobs. Men are mostly motor-taxi drivers, construction workers, or labourers, while women sell edible snails, small food items, or collect scrap in the streets.

Many people leave the resettlement site in the mornings and return in the evenings. However, this arrangement is costly. People complain about how little money they have left after transportation costs are deducted, which is sometimes not enough to buy food. A man in Damnak Trayeung recounted that it was impossible to save money at resettlement sites, as, he said, “all money is spent on petrol and food.” Chet, a former Borei Keila resident who has continued being a motor-taxi driver since his relocation to Tuol Sambo said:

*“I hardly save any money as I have to spend almost 8,000 Riels for petrol to go back and forth from Tuol Sambo to town. Some days I earn only enough for the petrol and some days I lose money.”*

Other people are concerned about traffic accidents as they must travel long distances, and some reported they have had accidents already. Those working as labourers in Phnom Penh can expect to have their daily wage reduced by up to 50 per cent if they turn up late for work.

Against this backdrop, some people have decided to leave the sites for longer period of times, for days or weeks at a time. Many others have decided to move to rent a place cheaply in town, close to their work. This way they reduce costs. Interviewees have explained that it is

### Box 12: Livelihoods options in semi-rural Preah Sihanouk Province

The Spean Ches community is solely dependent on fishing for its livelihoods. Some community members work as motor-taxi drivers, in fishing boats owned by businesses, or as construction workers in town. Jobs are scarce, however, and for construction work for instance, they are only available a few days per month, for a few months. Before the eviction, in addition to fishing, almost all families had farmland upon which to grow rice, fruit trees and cash crops like water melon, and they also raised animals. Since the eviction, the community lives on the roadside and thus cannot farm or raise animals. Without access to fishing, most families could not cope with their living conditions on the roadside. Prior to their eviction and since then, the Spean Ches community has been asking authorities to give them land (of at least 20m by 30m) in an area close to the sea so as to be able to fish and have enough land to raise livestock and grow vegetables, but so far to no avail.

Families evicted by the Navy in O’Kampuchea received plots of 20m by 30m, which allow them to raise poultry or grow food, although they complain the size of the land is not big enough for large families (prior to eviction the community had asked for plots of 40m by 40m).

more practical for them to rent cheaply in town, at a price that is equivalent to their transportation costs from the resettlement site to the town centre. In the centre, they also save time and energy and are closer to other public services and businesses.

Former Dey Krahorm house owner Sok and his wife Sopheap left their flat at Damnak Trayeung because it proved too difficult to open a business there due to the lack of customers and the extra costs to rent a market stall. The couple and their child rented a house in Boeng Trabek area in Chamkamon district. This way Sok can work long hours as a motor-taxi driver in his immediate neighbourhood, while Sopheap sells cooked food and coffee from their rented house. Her income covers home expenses including food, and Sok’s income (a minimum of 15,000 Riels per day) contributes to extra expenses and savings. If they lived in Damnak Trayeung, Sok would have to spend 2 litres of gasoline to go back and forth (approximately 8,000 Riels) and he would have shorter working hours in order to return to Damnak Trayeung before dark. He would therefore be unable to make significant savings.

#### *Families separated*

Many families have had to make arrangements in order to sustain a minimum income, with impacts on their family relations and children.

Parents who work in town during the day generally leave their small children by themselves at the site, with the eldest child looking after his/her small siblings, or with neighbours helping to do so. In Andong, a woman said she leaves her children locked inside the house for half a day or a whole day while she goes scavenging in town. Others stay a few days or weeks in the town before returning to the resettlement sites. A 44 year-old widow leaves her 10 year-old daughter with a neighbour in Tuol Sambo so she can work in town, and she only comes back to see her daughter over the weekends.

NGOs and families interviewed expressed concerns over the adverse impacts these separations have had on family relations and the additional complications separations might create, such as exposure to HIV (through the husband working in town and having extra-marital relations), exposure to drugs among older children who work in town, and negative impacts on the well-being of other children left at the site.

Some families are forced to separate or disperse in order to survive, with some family members sent to live with parents or close relatives in the provinces or even farther away. Uddor, a former Dey Krahorm resident, emotionally told interviewers: “We can’t survive if we live





*Tuol Sambo community members knit products, as part of a livelihood project supported by the MPP.  
Credit: E. Karona/ OHCHR*

together. We don't have a business like before the eviction. My new job has provided me with a very insecure income and I must stay with friends in town to make a living. So I have sent my wife and two children to live with my parents in South Vietnam until I can save enough to have them come back to live here".

### **Dependency on NGOs**

Resettled communities have been making every effort to make a living and survive, under difficult circumstances. It is questionable whether the situation is sustainable. For many people, it has been only with external help – typically from NGOs – that their situation has improved. In Andong and elsewhere, NGOs such as Mith Samlanh/Friends-International provide income for a number of people, who, for instance, make bags and other items to be sold to the tourist market. These projects do not however reach the majority of people at

resettlement sites.

The Tuol Sambo community has seen its situation improve as Caritas is supporting families to acquire new skills to make a living at the site. Immediately after relocation, families were facing an emergency situation in terms of food security and health; they had no hope and could not identify ways to make a living at the site. Yet six months later, when Caritas assisted families to assess appropriate livelihood options and skills needed, they were able to identify various jobs they could do that were indeed viable, including sewing and producing washing liquids. The MPP also set up a small livelihood project for the families. Overall, families today seem to have a positive outlook on their future livelihood in Tuol Sambo. It is important to note that these families have been receiving monthly food support from NGOs since their relocation, and that they have no costs related to their

## Chapter 5: Re-starting life at resettlement sites

housing, water and health care. These factors have certainly contributed to families' ability to plan and work towards more secure livelihoods.

The discussion above illustrates the need for sustainable livelihood options to be an integral part of relocation processes.

### 5.5 Food security

Safe and secure access to essential food must be guaranteed to resettled families as an immediate relief, especially to those who are unable to provide for themselves after an eviction.<sup>93</sup> In the short and longer term, it is important to assess the level of food insecurity in a community, as it is one of the underlying causes of malnutrition. At resettlement sites, it appears that the lack of essential food has resulted in a deterioration of the health of families, and this has been compounded by living in a generally unsanitary and unhealthy environment.

Immediately following the eviction, local or municipal authorities, or the company benefiting from the eviction, have in a number of cases provided one-off food support to the affected families. For instance, families relocated to Andong in June 2006 received from the MPP one tarpaulin, 10 kilos of rice, a few bottles of fish sauce and soy sauce, one Sarong,

and 10,000 Riels; families from Borei Keila relocated to Tuol Sambo in June 2009 received from the MPP a 50kg bag of rice, fish sauce, soya sauce, and two plastic buckets (in addition to US\$250 given by the Ministry of Tourism, as an exceptional measure). 7NG provided 20kg of rice, some bottles of soya and fish sauce and 770,000 Riels to cover electricity connection costs for Dey Krahorm families who received flats. Families relocated to other resettlement sites in Phnom Penh received similar items. However, the communities of Spean Ches and O'Kampuchea in Preah Sihanouk Province received nothing.

In all cases, NGOs and religious organizations provided food (generally rice, canned or packed food) to affected families as an immediate relief measure. A number of NGOs continue to provide food support to resettled families. They do so with limited resources however, and the support therefore is not adequate. In no case have the authorities provide long-term food relief.

The impact of evictions has caused serious concerns about food, not only immediately after eviction but months or years thereafter. One reason is the lack of income generating opportunities available at the resettlement sites to purchase food, whereas in town more jobs are available, including small jobs such as scavenging and selling scrap:

*"If we don't have anything to eat here we have no choice but to stay with an empty stomach. In town when I don't make any money from my small business, I or my children go to collect scrap on the streets, which I can sell for few hundred or thousand Riels and with the money I can go buy rice for the day."*

50-year old-Menea, a female head of household with seven children in Andong who sells edible snails in town.

Similar statements were made by people at other resettlement sites, in particular among the female heads of household who have to



Fish and shrimps caught in nearby pond at Andong. Credit: B. Keat/ OHCHR

<sup>93</sup> Special Rapporteur, *Basic Guidelines*, para 52.

make even more concerted efforts to secure food for their children.

People at resettlement sites who have low-income jobs or who cannot find any work have had to reduce the quality and quantity of food they eat every day. In general, Cambodians eat rice at every meal, with vegetables, fish, chicken, pork or beef and also dessert and fruits. However, many families stressed they could not afford such a diet anymore, and so they eat only rice, either plain or with salt, fish sauce or soya sauce. Some people try to find free food in the neighbourhood, such as morning glory, small fish and shrimp, snails, frogs or fresh river crabs, but such food is often only available in the rainy season. Some people who have no income at all try to sell whatever they scavenge to others.

Interviewees remarked that they cannot eat enough basic foodstuffs, let alone the nutritious meals or desserts they used to eat. This complaint was echoed by many:

*“I don’t know how fruit tastes anymore since I was relocated to Damnak Trayeung. I rather use money to buy essential food like rice.”*

Kompheak, a mother of 4 children, former Dey Krahorm home owner.

In Andong, scavenging food in the neighbourhood is becoming increasingly difficult as people have been depleting these free resources for years now. As Rachanna, a woman living with HIV, said: “I go once in a while with other people to collect food. I cannot go as often as others as we have to walk far to Kob Srov Dike [1-2 hours walk], and people have to go very early in the morning. There is hardly any food left around Andong.” 80 per cent of Andong interviewees believed that their children suffered from malnutrition, as they had not been able to provide sufficient food for them for a considerable time.

Spean Ches community depends almost entirely on fishing – only a few families get additional income through other jobs. In order to buy rice they must catch enough fish to sell some. There are days where people cannot find sufficient fish to feed their families. During OHCHR’s field visit, women were seen asking neighbours for rice for a meal. Interviewees – who overall enjoyed a comfortable situation prior to eviction – referred to the good and diverse diet they had in the past, with meat and fruits. San, an elderly woman, summed it up:

*“Since the eviction we cannot afford proper food. We used to eat ten or more times better and we had savings for our children to go to school and to private clinics when sick. We were never in debt like we are now- we even borrow rice, eggs or money from each other to fill our stomachs.”*

Families living with HIV in Tuol Sambo have ultimately found themselves in a better position than others, as they have been receiving rice and some supplementary food from NGOs on a regular basis.<sup>94</sup> NGOs and the National AIDS Authority have expressed their commitment to continue this support until the community has achieved self-sufficiency in terms of employment and livelihoods. This is to be commended. Food and livelihood support should be integrated as a matter of course into all resettlement processes.

### 5.6 Health

From a human rights perspective health does not mean only access to health care; it also includes a wide range of factors that can help people lead a healthy life, such as safe drinking water and adequate sanitation, adequate food, and healthy working and environmental conditions. Health services, goods and facilities must be provided without discrimination, and they must be available, accessible, acceptable and of good quality.<sup>95</sup> International guidelines

<sup>94</sup> Center of Hope provided monthly food support (a 14kg monthly rice ration for those with no children and 26kg for those with children together with iodized salt, oil and pulses) for four months since the re-location of the 42 families. WFP provided standard food packages (30kg rice, 1 liter of vegetable oil, and 1.5 kg iodized salt) to the community from October to December 2009. Since January 2010 the Women Organization for Modern Economy and Nursing (WOMEN) took over, and with the support of Caritas, gives monthly 14kg rice and an additional 12kg if there are any children.

<sup>95</sup> See World Health Organization (WHO) and OHCHR, *The Right to Health, Fact Sheet No. 31*.



## Chapter 5: Re-starting life at resettlement sites

further state that safe and secure access to essential medical services should be provided immediately after relocation.<sup>96</sup>

### *Immediate relief*

Following the eviction, the only immediate medical assistance provided to evicted families at resettlement sites has been from NGOs, such as Licadho or Center of Hope. Years after relocation, families remain very much dependent on medical services provided by these organizations. For instance immediately after the Sambok Chab residents relocated to Andong, from 6 to 28 June 2006, Licadho's medical team treated 1,716 patients. Each staff member had to deal with on average approximately 80 cases per day at the site, including weekends. The doctors reported that among the 1,716 registered patients there had been 663 children, over half of whom were under the age of five. (See 'Physical Health' below for examples of common illnesses).

### *Available health services*

In all sites studied, there are health posts either at the resettlement sites (Trapeang Anh-chanh,<sup>97</sup> Damnak Trayeung<sup>98</sup>) or in the vicinity (Andong,<sup>99</sup> Tuol Sambo<sup>100</sup>). Most people interviewed knew where the nearest health posts were, but very few - if any - used them. People have questioned the effectiveness of the health posts, saying that they often lack either equipment or staff, and are only able to distribute pills, and give vaccinations and treatment for other minor matters. Some interviewees also said that they had to pay a service charge of 1,000-1,500 Riels to get care at the health centres. Thus most of them preferred using the services of NGOs that come to them regularly and provide free services and

medication. For serious health problems, however, people must go to hospitals in the centre of Phnom Penh.

At the Andong health post, three nurses offer vaccinations and treatment for minor health matters.<sup>101</sup> This includes consultations on reproductive health and check-ups for pregnant women, which health posts at other resettlement sites (such as in Trapeang Anh-chanh) do not offer. According to one of the nurses, 80 to 100 persons from the vicinity, some of whom from Andong, come to receive services at the health post every month, and the support received from the operational district (financial and otherwise) is not sufficient to address the community's health needs.

NGOs thus provide the bulk of services used by resettled families. For instance, Licadho's medical team conducts medical check-ups four days a week at resettlement sites (Wednesday in Damnak Trayeung, Monday and Friday in Andong, and Thursday in Trapeang Anh-chanh), and also provides free medication. Licadho has also signed a Memorandum of Understanding with the health authorities of "Operational District West" to provide vaccinations for women and children at these three resettlement sites and to address the fact that health authorities do not yet include the relocated families in the standard vaccination programme.<sup>102</sup>

The NGO Chibodia, through its project 'Moto Medix Health Clinic', has offered weekly medical services for the children of Damnak Trayeung community since August 2009. Both Licadho and Chibodia provide financial support or other assistance to community members for

<sup>96</sup> Special Rapporteur, *Basic Guidelines*, paras 52, 54.

<sup>97</sup> In Trapeang Anh-chanh, the health post was built on site by the MPP in 2006.

<sup>98</sup> Two adjacent flats were set up as a health post in the vicinity of Borei Santepheap 2.

<sup>99</sup> In Andong, the health post is located about 1km from the resettlement site.

<sup>100</sup> In Tuol Sambo, the health centre is located about 1.5km from the resettlement site.

<sup>101</sup> At the health post at Trapeang Anh-chanh site, two male nurses work from Monday to Friday but some families complained that they often do not see the nurse when they come to the centre, and the service is limited to providing vaccinations and medication only for minor illnesses that are easily treatable. More complicated conditions need to be treated in a referral hospital or similar.

<sup>102</sup> According to Licadho the vaccination programme is planned for five years. Relocated families have to wait to be included in the new five-year programme to be approved by the Ministry of Health.





*Medical check-ups being performed by a Licadho doctor. Credit: B. Keat/ OHCHR*

emergency medical needs, including sending them to hospitals in Phnom Penh when necessary. In October 2009, Chibodia also started a birth control programme.

Since relocations, the NGO Center of Hope has been sending mobile clinics to conduct general medical check-ups every week in Andong, Damnak Trayeung<sup>103</sup> and Tuol Sambo.<sup>104</sup> The mobile clinic conducts check-ups with 30 to 50 people at each visit. The team also conducts information sessions on health and sanitation.

In Preah Sihanouk Province, Licadho sent a medical team immediately after the eviction of the Spean Ches community. The organization conducted check-ups once a month until mid-2009. M'lop Tapang, a local NGO, conducts medical check-ups for the Spean Ches community once a week and also offers transport for those needing emergency trips to the hospital. At all resettlement sites,

interviewees praised the work of the NGOs.

### **Physical Health**

Families at resettlement sites generally reported a deterioration of their health conditions following relocation. According to representatives and staff from the NGOs Center of Hope, Licadho and M'lop Tapang, the most common health problems at the sites are respiratory tract infections, gastro-intestinal illnesses, skin diseases, and illnesses related to malnutrition and vitamin deficiency among children. There are also cases of chronic diseases such as blood pressure, diabetes, and TB. In the rainy season common illnesses include fever, cold, diarrhoea and dengue.<sup>105</sup> It is mostly women and children who come to medical teams for treatment.

These problems are associated with a lack of basic infrastructure, potable water, sanitation and adequate housing, together with lack of essential food and nutrition. The situation is particularly striking in Andong, as families have not seen any improvement in their health conditions since their relocation in 2006. This is due to persistently unhygienic and unsanitary conditions, the absence of functioning drainage and sewage systems and a lack of adequate housing. For example on 2 October 2009, a Licadho medical doctor examined 51 people in Andong who suffered from diarrhoea, respiratory tract infections, malnutrition and vitamin deficiency, ailments people have been suffering since their relocation in 2006.<sup>106</sup>

An assessment carried out by Center of Hope and Licadho regarding the health situation of former Dey Krahorm residents in Damnak

<sup>103</sup> Licadho and Center of Hope have followed the families at the new resettlement site after their relocation to Srah Po village, Phnom Bath commune, Ponhealeu District, Kandal Province since December 2009.

<sup>104</sup> Center of Hope originally managed a mobile clinic and provided home based care to families with HIV in Tuol Sambo. After three months the NGO 'WOMEN' took over the home-based care.

<sup>105</sup> For instance on 18 November 2009, a Licadho medical doctor checked up 51 community members in Damnak Trayeung, mostly children, elderly women and pregnant women. Common ailments included fever, diarrhea, throat infections, plus one suspected case of dengue fever in a child: Internal medical files, Licadho. On 19 November 2009 Licadho received close to 60 community members from Trapeang Anh-chanh, mostly women and children who complained of coughing, throat infections, eye infections, fever, diarrhea and malnutrition, especially in the children.

<sup>106</sup> In OHCHR's water and sanitation assessment in Andong, almost 50 per cent of people interviewed said they had skin disease which may have been caused by the water they were using or lack of personal hygiene. More than 60 per cent reported having respiratory disease which may be caused by poor sanitation and inappropriate management of solid waste. Most of them said that they often suffer from diarrhea. More than 60 per cent of interviewees said that their children suffer from intestinal worm infestations.

### BOX 13: Health of persons living with or affected by HIV

The eviction and resettlement of people living with HIV (PLHIV) in effect means taking away their ability to receive immediate medical care in case of severe opportunistic infections. Relocation places excessive demands upon people's budgets for transport to town and necessary services, including anti-retroviral (ARV) treatment. The inadequate housing and living environment at resettlement sites also contributes to their ill-health and vulnerability to infections.

#### *Data*

In Andong, it is estimated that there are at least 50 PLHIV, with some estimates putting the number close to 100; there are 10 to 18 PLHIV in Trapeang Anh-chanh, and 56 persons (in 42 families) in Tuol Sambo. Among those who used to live on the roadside in Damnak Trayeung until December 2009, approximately 10 are PLHIV.

#### *Access to ARV treatment*

PLHIV in resettlement sites have to travel to town to collect their ARV medication or be treated for serious ailments. According to people interviewed and to service providers people from the resettlement sites use services at various hospitals and clinics in town such as Preah Kossamak Hospital, Khmer-Soviet Friendship hospital, Calmette hospital, the National Paediatric hospital (for children), Chhouk Sar clinic, Social Health clinic and Sihanouk Hospital (Center of Hope).<sup>107</sup>

The transportation cost for each trip is 15,000 Riels to 20,000 Riels by motor-taxi. Some families have more than one member in the family who is affected by HIV, so visits to the hospital are costly. At all resettlement sites

NGOs such as Maryknoll, Friends, Center of Hope and Vithey Chivit as well as generous individuals help provide transportation or cover transportation costs to the centre.

#### *Health care and treatment for opportunistic diseases*

Home-based care services by the NGOs are provided according to geographical areas. Once people move out of the covered area, they are no longer entitled to the service. Until now, such services are limited to urban areas, which means resettlement sites - often in semi-rural areas - are not covered by any organization. There has been no systematic coordination either under the auspices of the National Centre for HIV/AIDS, Dermatology and STD (NCHADS-MOH), the National AIDS Authority, or by service providers themselves to ensure care for people once they relocate, with the exception of PLHIV in Tuol Sambo.

As families relocated from Borei Keila to Tuol Sambo in June/July 2009, the UN Country Team cooperated with the National AIDS Authority, the MPP and NGOs in order to address risks caused by the relocation, ensure continuity of treatment, home-based care and food support, and address problems linked to housing. Center of Hope (which supported families in Borei Keila) continued to provide home-based care to families at Tuol Sambo for another three months until another organization - the Women's Organization for Modern Economy and Nursing (WOMEN) - could take over.

At other resettlement sites, NGOs are not able to cover all PLHIV, or offer comprehensive care. In Andong, three organizations (Vithey Chivit (VC), Center of Hope and Maryknoll) offer support to people with HIV, in the form of home

<sup>107</sup> For a full list of the opportunistic infection and antiretroviral therapy sites (OI & ART sites) in Phnom Penh, see <http://www.nchads.org/index.php?id=52>

-based care and financial aid. In Trapeang Anh-chanh, VC and Maryknoll provide home-based care to eleven persons. For treatment of opportunistic infections, people use the services of NGOs through the mobile clinics of Center of Hope or Licadho, or they go to referral hospitals where some of them receive free admission and services through their membership of the Health Equity Fund.<sup>108</sup>

### *Physical health and impact of environment*

Many people interviewed complained about their deteriorating health at resettlement sites. The lack of adequate shelter (no protection from heat or rain, and vulnerability to flooding), of safe drinking water, of proper sanitation, as well as over-crowding at most resettlement sites, all contribute to deteriorating health conditions and increased vulnerability to opportunistic diseases and the spread of infectious diseases throughout the community. Another likely cause is poor diet and malnutrition.

PLHIV and NGOs interviewed have raised concerns over the drop in CD4 count for many relocated PLHIV.<sup>109</sup> Though CD4 count drop is not the only factor to measure the state of health of a person living with HIV, when assessed along with other factors such as stress level, the lack of a safe and sanitary environment and inadequate food intake, it is a key indicator of vulnerability to diseases. A 48-year-old widow, Malis, with two children living in Andong, saw her CD4 count drop from 400 in January 2009 to 100 in October the same year.<sup>110</sup> She said: “The doctor advised me to sleep adequately and improve my diet, but it is hard for me to follow the doctor’s advice as I earn only a few hundred Riels a day from selling ice, plus I need to feed my two children”.

In Tuol Sambo, a project by Caritas, with funding from United Nations agencies, is addressing the inadequacy of the original sheds, which was a contributing factor to people’s ill-health. By July 2010 families will be given brick houses that protect them from the heat and rain, with adequate space and proper sanitation. The new houses are of the same quality and appearance as houses built by Caritas for families who lost their homes when the river bank collapsed, thereby addressing earlier perceptions that families with HIV could be satisfied with sub-standard sheds while sturdy housing were built for victims of a natural disaster. Today, families from the river bank already occupy a row of houses between rows that will be occupied by families living with HIV, thus reinforcing the feeling of integration of the two communities. This positive initiative, supported by the National AIDS Authority and district and municipal authorities, should be replicated elsewhere. In other resettlement sites, the situation is dire,



*New housing in Tuol Sambo.  
Credit: E. Karona/ OHCHR*

<sup>108</sup> The Health Equity Fund schemes are currently financed by development partners, UN agencies, and the RGC. The Fund covers poor patients’ treatment fee, meals, transport, and other costs. The World Bank Cambodia, *Newsletter*, Vol.8, 1/2, (Jan-Feb 2010).

<sup>109</sup> The CD4 count measures the number of CD4 cells in the blood and is used to assess the strength of the immune system. The number of CD4 cells in the blood gradually declines as HIV disease progresses, thus weakening the body’s ability to fight off illnesses. See also ([http://data.unaids.org/Topics/Partnership-Menus/tbca\\_booklet-3\\_en.pdf](http://data.unaids.org/Topics/Partnership-Menus/tbca_booklet-3_en.pdf)).

<sup>110</sup> Normal CD4 counts in adults range from 500 to 1,500 cells per micro liter of blood. In general doctors will prescribe AIDS-drugs when CD4 levels drop below the range from 200 to 350 (Ibid).

Trayeung in February 2009 stated that “when the sanitation and hygienic conditions fail to meet basic humanitarian standards, the primary dangers and risks always fall on the health of the people who are exposed to that environment. Communicable infectious disease outbreak is a frequent outcome in such situations.”<sup>111</sup>

### **Mental Health and Psycho-Social Issues**

It is difficult to assess the mental health of people who have been evicted and resettled. An assessment of mental health is never a priority for relief activities, and there has not been a comprehensive or continuous assessment made at any site, except a one-off assessment made soon after the eviction of Dey Krahorm residents in January 2009.

The mental health assessment of families evicted from Dey Krahorm - conducted by the Centre for Child and Adolescent Mental Health (Caritas-CCAMH) - suggested that the community suffered from significant levels of psychosomatic problems resulting from the eviction. Most people were suffering from mild to moderate forms of depression, and anxiety disorders as manifested by both somatic and psychological symptoms and sleep disturbance.<sup>112</sup> It was suggested that the community’s mental health problems could be directly attributed to basic needs not being met, such as the community’s need for food, shelter and water. Concerns about further displacement exacerbated physical and mental health problems.

It would appear that mental health would improve if, from the start, material needs with regard to housing, employment, food security and physical health were fulfilled. However, the mental health assessment also noted that given the conditions in which people were relocated to Damnak Traeung, i.e. through a violent eviction, they were likely to have long-term

psychological disturbances in addition to other physical health risks. Such problems may potentially affect many in the community and it seems likely that families at other resettlement sites are similarly affected.

From interviews conducted, there is strong evidence of major stress and psycho-social disorders amongst people at resettlement sites. Interviewees said that they felt stressed because of the difficulties in finding employment and securing a stable income, the lack of food for their children, insecure land tenure and fears of being evicted again, divided families, overcrowding, and increasing debts due to food insecurity or lack of income.

During site visits in Andong and Trapeang Anhchanh, OHCHR observed many women who were already drunk by lunch time. In these resettlement sites and in Damnak Traeung, many people were seen gambling or playing cards, the whole day long. Domestic violence is also said to be common in all resettlement sites although precise data is not available and cases are not reported. While village chiefs in Andong and Tuol Sambo said they were aware of domestic violence cases soon after relocation but thought they were now rare, a number of families interviewed reported that they either knew of cases or were victims of domestic violence themselves. They attributed this to, among other factors, lack of employment and food insecurity.

Women interviewed noted that with loss of income and the difficulties linked to relocation, men started drinking more. As a result “war of words” and tensions between husband and wife were more frequent. As Sivleng, a 54-year-old woman, said:

*“My husband always worked hard as a construction worker before the eviction and he rarely went drinking. Since we have moved to*

<sup>111</sup> Caritas, Center of Hope, CCAMH, Jesuit Refugee Service, Licadho, Samaritan’s Purse, Village Earth and World Vision, *Humanitarian Needs Assessment for Dey Krahorm Evictees: Health, Food, Sanitation, Education, Medical Needs and Mental Health* [hereafter: *Humanitarian Needs Assessment for Dey Krahorm Evictees*], (22 April 2009), p.12.

<sup>112</sup> *Humanitarian Needs Assessment for Dey Krahorm Evictees*.



*this new place, he can only find construction work once in a while. So he gets drunk almost every day without trying to find work. I am so angry with him as I have to find food on my own and make a living as best I can. When I shout at him, he beats me up. We often fight and we haven't spoken to each other in the past two weeks".*

Families who lived on the road side at Damnak Trayeung until December 2009 reported a constant feeling of insecurity because they were regularly told that they would be evicted again. The Spean Ches community displayed similar feelings, as they have not received any positive response to their continuous requests and petitions to receive land. Many people interviewed expressed despair, saying they felt lost and had given up hope.

There clearly needs to be more comprehensive studies made on the immediate impact of eviction on people's mental health, as well as on the long-term impacts linked to difficulties experienced at resettlement sites.

### 5.7 Education

Fulfilling the right to education means ensuring that elementary education is made compulsory, available and free to all. Secondary education in its different forms should be made generally available and accessible to all.<sup>113</sup> Yet upon relocation, children's education is often jeopardized in many ways as studies are interrupted, transport to school is interrupted and extra informal fees are charged at new schools. Some children drop out of school entirely post-eviction.

#### *Interruption of education and drop-outs*

A key issue faced by parents and their children is the interruption of education due to the eviction, especially when it takes place during school term time. Some children have had to drop out of school temporarily, while parents waited for the transfer of school records to the new school. Other children continued going to

their old school in town, staying in most cases with relatives or friends. This has put an extra burden on the children's relatives as they must pay the extra costs for children to continue schooling in the city; it also causes children to be separated from their families. Following the eviction of Dey Krahorm families in January 2009, which was during term time, the children missed classes for one to three weeks until a group of NGOs organized to transport students living at Damnak Trayeung to school in the city centre by van and tuk-tuks.<sup>114</sup> Some of the children were able to go back to school due to help from NGOs for transportation, meals, and even shelter in town. The support stopped by the end of the school cycle, when children got transferred to a school close to the resettlement sites ready for the next school year.

Although no data is available as to how many children have dropped out of school due to evictions, a number of families interviewed confirmed their children had dropped out of school to help their families earn extra income. OHCHR has documented cases of young girls who stopped school when they were relocated to Tuol Sambo, as families could not afford to give them money to go to school, and they had to help their family with generating income. They were reported to work 'at night', in karaoke bars. In Spean Ches, a mother reported how her two eldest daughters had to stop school to work as construction workers, as the family income was not enough to feed their family of eight.

According to the primary school principal near Andong resettlement site, approximately 80 per cent of the children identified by the school department as relocating from Sambok Chab to Andong attend school. He has observed that the children from Andong community often turn up late at school and miss classes a lot as they must help their parents at home. This is not the case for the children from the local community.

<sup>113</sup> ICESCR, art. 13.

<sup>114</sup> NGOs which provided support were: Bridges Across Borders South East Asia, Friends, and Village Earth.

## Chapter 5: Re-starting life at resettlement sites

In Preah Sihanouk Province, some children dropped school due to the isolation of the O’Kampuchea site and bad roads. The Navy promised to build a school close to the site but the community are still awaiting this.

### *School transfers: costs and difficulties*

Transferring children from one school to the other entails some costs, which not all families can afford. According to the deputy director of the MPP Department of Education Youth and Sport Services, the transfer to another school at either primary or secondary level is free of charge.<sup>115</sup> However many of the relocated families complained that they were asked to pay (informally) for the transfer of their children from their old school to the new school, either by staff at the school of origin or at the new school. The amounts asked for range from US\$2.5 or US\$5 to US\$20.

Amounts asked to transfer high school children are allegedly higher. Khmao, a former Group 78 resident who relocated to Rokakoh (or Prey Tituy) in Dangkor district, said that he was asked to pay US\$30 for the transfer of his child to a high school near the resettlement site, while the previous school in town asked him to pay US\$50 for processing the transfer.

Transferring children from one school to another is also particularly difficult for high school children, as high schools are not always found close to resettlement sites. For instance, in Damnak Trayeung the closest high school is the Hun Sen Chumpou-wan School on National Road 4, about 7km away.<sup>116</sup> Thus some families whose children are at secondary school have made every effort to keep their children at the same school in town, and have left them to live with relatives or friends in order to ensure continuity of study and social relationships. The same applies to those wishing to pursue studies

at universities, which are located in the centre of town.

### *Daily informal fees and financial burden on families*

Children of resettled families who are at public schools generally must pay their teachers daily ‘informal’ fees. Resettled families also faced this problem when they were in town, as it is a common practice. However they did not have much concern over it as they had a secure income; at resettlement sites, these fees add to their financial burden.

Parents have complained that their children who go to primary school have to pay 100 Riels or more and the children going to secondary school and to higher levels have to pay 1,000 Riels or more to their teachers per day for unspecified purposes. In addition children must pay if they want to have private classes after normal school hours.

Makara in Damnak Trayeung, who had her two children transferred to Chumpu-wan Secondary School on National Road 4, complained about having not enough money to give to her children for school and she is worried that they might drop out of school in the future. She has to give each of them 5,000 Riels at least per day to go to school. On days she does not have the money to give them they do not go to school.

Many evicted families are poor so they must make choices over spending priorities. Some families interviewed by OHCHR said that food superseded their children’s education. Families may also turn to NGOs for help. For instance, in Korkroka (or Wat Choum) Primary School near Andong, the number of children enrolled decreased from 870 in the year 2007-08 to 697 for 2009-2010.<sup>117</sup> The decrease of children at the public school may be due to families leaving

<sup>115</sup> Interview with Mr. Em Hamkhoun, Deputy Director of MPP Department of Education Youth and Sport Services, 29 April 2010 [hereafter: Interview with Mr. Em Hamkhoun].

<sup>116</sup> Another secondary school-Chrolung school- has recently been built and is operational. It is closer to Damnak Trayeung than other schools, but people from the resettlement site have not sent their children there partly due to concern over monkey attacks on the road to school. Interview with Mr. Em Hamkhoun.

<sup>117</sup> Interviews with school staff (names withheld upon request).



*Child walking on flooded road at end of rainy season, Andong. Credit: B. Keat/ OHCHR.*

the resettlement site for good, or deciding to bring their children to NGOs active in Andong such as Hope of Cambodia, Organization of the Development for the People of Cambodia (DPC), and the Korean Church. The DPC school, for instance, has 210 children for this school year (2009-10) and provides breakfast for the children so that they do not drop school because of hunger.<sup>118</sup>

### **Coordination among authorities**

Many difficulties faced by families in ensuring that their children can go to school could be addressed through better inter-departmental and intra-departmental coordination at all levels. Some coordination apparently already takes place at municipal level in Phnom Penh: Education Department representatives are called to a meeting by the MPP around the time of an eviction to discuss education-related

matters such as the transfer of children of families affected by the eviction, the availability of schools or the need to build new buildings at the resettlement area.<sup>119</sup> However no proper action-plan seems to be agreed upon at such meetings, and it is unclear what kind of follow up is required or carried out.

The process of transferring children is not automatic; rather, affected families have to make the request for transfer individually. A representative from the education department confirmed that parents are left to choose the school near their resettlement site where they want their children transferred, and thus have to process the transfer by themselves. In principle parents do not need to obtain any additional documents as they are considered to be in an emergency situation. All local schools near resettlement sites are informed, and the

<sup>118</sup> Interview with Mr. Hang Abrahamsimting, general director of DPC.

<sup>119</sup> Under the coordination of the education department at municipal level and MPP, a primary school was built on site in Trapeang Anh-chanh. A building with three classes (grade 7, 8 and 9) was constructed in the compound of Trapeang Sala primary school in 2010 to serve for secondary school children with funds from MPP and the 7NG company for families relocated to Damnak Trayeung. Interview with Mr. Em Hamkhuon.



education department should process the transfer of children without charge.<sup>120</sup>

In practice, it is unclear whether the education department informs local schools prior to eviction about the influx of children in their area or supports the schools or the parents in any way. Families interviewed often say they seek help from NGOs to process the transfer. Staff interviewed at one school as well as an NGO that has facilitated the transfer of children at a number of resettlement sites stated that neither the district education department nor the local school were informed or contacted by their line department or other authority to prepare for the transfer of a large number of children. The sudden transfer of children puts a burden on local school staff as schools receive no extra support to cope with a larger number of children.

Facilitated by one NGO, and months after the eviction had taken place, the principal of a local school at one resettlement site under study finally received a list from the municipal education department announcing that there were over hundred additional children that he was obliged to accommodate in his school. This influx of children increased the size of classes by 40 to 50 per cent.

### 5.8 Civil and administrative matters

Upon relocation, families have encountered difficulties in obtaining residency books and identity cards, updating family books, and transferring their names on voter lists. No assistance is provided and people are required to request documents on their own initiative, often having to approach authorities at both their place of origin and of resettlement.

Individuals interviewed have complained of the tedious nature of the process. They felt that authorities should assist them in processing the

numerous documents required, given that their relocation was not voluntary. For instance, the usual procedure for an individual to obtain a new residency book consists of submitting to the communal police at the new place of residence a letter from the communal police at the previous residence attesting that the individual has left the commune, as well as an excerpt of the 'family statistics record,' and the family book (if available). To update the family book upon relocation, a family or individual must have their original family book signed and sealed by the chief of the communal committee responsible for issuing family books at the original place of residence and submit it to the equivalent communal committee as well as to the communal police at the new locale for signature and approval.<sup>121</sup>

Others interviewed have complained that they are often asked to pay informal fees to obtain documents or have them officially approved. For instance to transfer their names to the voter list at the new commune of residence, individuals must go to their original commune office to process the deletion of their names from the voters' list, and then to the commune office at the resettlement site to register their names. People complained that they were asked to pay between US\$20 to US\$30 by authorities at both places. Those who cannot afford to pay are left with no other option and cannot transfer their name.

The same situation applies to obtaining identity cards. Individuals must ask the local police to process the necessary documents and issue identity cards. People interviewed reported they were asked to pay informal fees of up to US\$100 to obtain identity cards and under such circumstances, some people decided not to obtain them. Being in possession of an identity card is a requirement by law, from age 15 onwards. Authorities should ensure people can

<sup>120</sup> Interview with Mr. Em Hamkhuon.

<sup>121</sup> See e.g. National Police, Supplementary Instruction on "Registration and management of population statistics", 22 December 2004; and Ministry of Interior, Prakas No. 567 on "Residency Books", 22 November 1997.



obtain identity cards easily, and that official procedures and taxes are respected.<sup>122</sup>

Presenting a family book or an identity card is often a requirement to work at formal businesses, such as garment factories. It is also a requirement for eligible voters to register their name on the voters' list in their commune. Lack of documentation may thus limit people's access to employment or prevent them from exercising their right to vote. A recent survey conducted by the Committee for Free and Fair Elections in Cambodia (Comfrel) confirms this. Among those potential voters interviewed who did not attempt to register at their new voter office (27.87 per cent), 16.18 per cent did so because they lacked the required documentation, namely proof of identity and of residency.<sup>123</sup>

Against this backdrop, families who obtained a flat from 7NG at Damnak Trayeung are in a particularly difficult situation as they were obliged to give their family and residency books to the company in exchange for a certificate signed by 7NG acknowledging the transfer of flat (see Annex II). It seems the company has no intention of returning those documents to the families.

Finally, the recent survey conducted by Comfrel highlights other difficulties resettled people eligible to vote have encountered. The majority of resettled persons interviewed (72.13 per cent of all interviewees) attempted to register to vote in the commune of relocation.<sup>124</sup> Of those persons who formally registered their vote at the relocation site, 25 per cent did not see their data on the 2009 official voter list, which means

that they will not be able to vote at the next election.<sup>125</sup> In addition, among those potential voters who did not attempt to register at their new voter office, 51.47 per cent did not do so because of lack of information regarding registration at the resettlement area.

### 5.9 Community participation and social integration

The reconstruction of communities, as well as community participation and social integration at the resettlement sites, is essential for development. However these practices are seldom pursued upon relocation.<sup>126</sup>

#### *Community participation and cohesion*

Once communities are resettled they generally remain weak and disorganized, often as a result of divisive negotiation practices prior to eviction. Although community members help each other, share or borrow food from each other, and recognize they are all facing similar difficulties, there is no strong sense of community support and few mutual help networks unless NGOs organize community activities. Neither individuals nor the community as a whole tend to participate in demands or plans to improve their living conditions at resettlement sites.

Feeding this sense of disempowerment and disintegration, authorities have shown little initiative to consult with and include communities in planning housing projects or infrastructure improvements at the sites. Andong and its housing loan project is a case in point (see Box 9). The case of Akphiwat Meanchey is an exception as the community's

<sup>122</sup> Ministry of Interior's Prakas on "Procedure and condition for application, issuance, usage of Khmer identification card," of 12 July 2007, provides that any Khmer citizen from the age of 15 year-old can apply for an identity card at their commune office or at the mobile station in their commune (Prakas 1); the application requesting an identity card should include one supporting document such as birth certificate, residency record, family book or others (Prakas 2); the applicant has to pay a tax according to the inter-ministerial Prakas of the Ministry of Economy and Finance and the Ministry of Interior.

<sup>123</sup> Comfrel, *Evictee voter registration in 2009, including those with HIV/AIDS, and a re-audit of voters not registered on the 2008 voters list*, (May 2010) [hereafter: Comfrel], p.9.

<sup>124</sup> Among the 72.13 per cent of evictees who went to register, 1.14 per cent were refused registration because of lack of documentation. Comfrel.

<sup>125</sup> Of the resettled voters, 58.2 per cent had their data recorded on the 2009 voter list; 16.8 per cent had their data recorded on list but the address was different from their current address; and 25 per cent did not see their names on the official list. Comfrel, p.1.

<sup>126</sup> See Michael M. Cernea, 'Risks, Safeguards, and Reconstruction: A Model for Population Displacement and Resettlement,' in: Michael M. Cernea and Christopher McDowell (eds.), *Risks and Reconstruction: Experiences of Resettlers and Refugees*, (The World Bank: Washington DC, 2000).

## Chapter 5: Re-starting life at resettlement sites

efforts to organize and participate in their resettlement were encouraged by all stakeholders (see Box 8).

While in principle communities are socially organized through representatives, in practice those representatives often do not serve the objectives of the community as a whole. Community representatives are often seen to be connected to authorities or the company and to manipulate affairs at the site. People interviewed at resettlement sites, except in Akphiwat Meanchey, Spean Ches and O'Kampuchea, said that community representatives were a threat rather than a help. Community representatives do not organize meetings with community members to discuss issues of concern affecting them. What is more, they allegedly ask for bribes and are favoured by authorities. For instance in Andong, community representatives who decide on affairs at the site are said to give formal plots to those who have not been formally recognized or even to outsiders in exchange for bribes. These actions have created distrust among community members.

### *Integration with the local community*

In some cases, soon after the relocation of families in one site, local people who were already living in the surroundings allegedly felt uncomfortable and concerned about safety and security in their village, and tended to have prejudices towards the relocated families.

For instance according to the Andong village chief, the local community viewed the relocated families as thieves at first. Prejudices and fears have however diminished over the years, and families have reported inter-community marriages and activities.

There were also prejudices against families living with HIV who relocated to Tuol Sambo. Immediately after relocation, families complained about feeling stigmatized and discriminated against because of their HIV status. Local people and some local officials were calling the settlement an 'HIV colony', and there were reported cases of insults and ostracism.<sup>127</sup> However over time families with HIV have become more integrated in the broader community, thanks notably to efforts by the Center of Hope and Caritas. Experience has shown that it is wise to allow host or neighbouring communities, whenever possible, to share opportunities that may be offered to the relocated population and purposely integrate various communities. Caritas' projects in Tuol Sambo exemplify this approach (see Box 14).

<sup>127</sup> People interviewed said that when they went to the small market or the main road in Tuol Sambo, they saw people looking at them with hostility, whispering, making hand gestures etc in order, they felt, to insult them because they have HIV. The daughters of two families went to the centre to buy sweets. Some people told others as they pass by that they should not go too close to (or get into trouble with) these girls as they would become infected. The girls were quite shocked and two of them decided to go back to Phnom Penh as a result.

### BOX 14: Caritas' support to the Tuol Sambo community: towards community integration and self-reliance<sup>128</sup>

Tuol Sambo Village today is composed of three communities: the local community (resettled there in 1999-2000), families with HIV from Borei Keila, and 39 families whose houses were destroyed when a river bank collapsed in April 2008. Caritas first started work in Tuol Sambo to relocate these 39 families (who ultimately relocated to Tuol Sambo in early 2010). Caritas worked with the community to assess their needs, and families identified secure housing as a priority. Caritas then signed a 'partnership agreement' with the MPP to build houses in Tuol Sambo, the MPP having given the land, contributed to land filling and committed that families be given land titles after five years of occupation. Families had seen the site in advance and agreed to the location; they worked with Caritas to select the design for their homes; they also discussed and agreed on a contribution to the costs of their houses, which amounts to approximately US\$1 per day over 18 months.

As brick houses were being built for those families, Caritas learned that approximately 45 families living with HIV were to be relocated from Borei Keila right next to the new housing site, in sheds of much lower quality and much smaller than the standard Caritas houses. Caritas, with other NGOs and the UN, expressed concern over the risks the families with HIV would face, including discrimination and tensions with the river bank families and the local community. As authorities, UN agencies and NGOs agreed to address the situation in a comprehensive manner, Caritas thus decided to prioritize Tuol Sambo site as an 'emergency case', including both families from the river bank and Borei Keila. Upon request from Caritas and UN agencies the MPP agreed to give extra land to build new housing and expand the communal ground (such as for a children's playground). In addition, Caritas started a livelihood project for both communities, based on families' assessment of their own needs and skills. Joint activities at the site are also organized, which also offer an opportunity to raise awareness about HIV/AIDS issues.<sup>129</sup>

Later in 2010 Caritas will start the implementation of a three-year project called 'Tuol Sambo Inclusive Development', for the benefit of everyone in Tuol Sambo. Caritas will also support the election of one community representative – instead of three- for the entire village. Building on its experience with rural communities in nine provinces, Caritas also plans to support the creation of 'village development associations,' a type of voluntary, autonomous and self-reliant associations of villagers that serves as a space and mechanism for villagers to voice concerns and address issues relevant to the entire community.

Caritas representatives noted how important it is to have a long-term plan for resettlement, which is developed and implemented in full transparency and with the full involvement of the affected community, as was the case for the families from the river bank, who expressed satisfaction at being relocated to Tuol Sambo.



*Children's playground, Tuol Sambo. Credit: E. Karona/ OHCHR.*

<sup>128</sup> Information in this Box is based on interview with Mr. Kim Rattana, Caritas Executive Director, 19 May 2010.

<sup>129</sup> For Khmer New Year last April Caritas organized a celebration which was attended by 500 people from the entire Tuol Sambo village. Caritas explained the importance for community members to work together. The National AIDS Authority, Deputy Governor H.E. Mann Chhoeun, and local authorities also expressed their support to the entire community.

### BOX 15: Story of Makara living in Borei Santepheap 2 in Damnak Trayeung

In 1992, Makara bought a plot of 8m by 22m (176m<sup>2</sup>) at Dey Krahorm from a soldier. The village chief and commune chief witnessed and certified the land sale agreement. Her husband, who was an A3 policeman, died in 1992 in a mine accident. Makara has been taking care of their two children alone, earning her living as a fortune-teller and selling Khmer traditional medicine from her home. She earned up to approximately 100,000 Riels (approximately US\$25) per day. With this income she had enough food for her children and could send them to school. “I am not rich, but I had never been in debt and I never had fears about what food I will have for my children to eat tomorrow.”

On 24 January 2009, the Dey Krahorm community, herself included, was evicted. “The company guards and armed forces forced us out of our homes, using tear gas to make us feel weak and the bulldozers destroyed our houses and all property inside. I was so panicked that I was not able to take any of my belongings. My property and savings of many years of hard work were destroyed. I had nothing left”.

In Damnak Trayeung, Makara received a flat of 40m<sup>2</sup>, with a toilet attached to the flat from outside. “I had to force myself to take the flat as I knew I would not get anything otherwise. The flat is not satisfactory, it seems poorly constructed. The water leaks through the roof when it rains and the door can be easily broken through. I took a loan to improve the house, connect the toilet to the main house and make a front roof to make the flat less hot”, she said. She also complained about the price of the water which is higher than the price set by the Water Supply Authority.

The eviction happened in the middle of the school cycle and the year of the official exam for grade nine students, which takes place in July. So Makara had to keep her children at their school so that they could complete their studies until the exam, by having them live with her close friend in town. It was only after her children passed the exam that she organized their transfer to Chompu-won Secondary School about 7km from Damnak Trayeung.

Makara has continued the same work as before, telling fortunes and selling Khmer traditional medicine from her flat at Damnak Trayeung. There are much fewer clients coming to her now. Some days she earns only 2,000 Riels and some days she does not earn anything. “Some days, my regular clients contact me to go to Phnom Penh as they don’t like to come to Damnak Trayeung which they consider too far. When I am well I take the motor-taxi to meet my clients, but I am often sick since the eviction so I cannot make the trip often. Life is hard as the income I earn is too little to support my two children for their food and education. The food from the market here is also more expensive than in the centre. I earn less and spend more.”

“We eat much less compared to our time in Dey Krahorm. We often eat only rice with soya sauce. I am constantly worried as I have to think about what food I will have for my children. I was never in debt when living at Dey Krahorm but here I worry about the future of my children because I have no secure income.”

Makara feels despair as many other evicted families do. “I am in constant pain and stress since the eviction. I had to start my life from zero again. The experience from Dey Krahorm hurt me so much and I often feel sick because of those memories.”



*Makara telling a client's fortune. Credit: R. McCormack/ OHCHR*



# 6

---

## CONCLUSION AND RECOMMENDATIONS

This last chapter concludes the present Study, highlighting how different the experiences of resettled families have been, depending on the quality and adequacy of planning, community participation and respect for procedural safeguards. The importance of investing necessary resources to both address the negative impacts of resettlement and anchor resettlement processes within Cambodia's development and poverty reduction agenda is emphasized. More equitable and effective models of resettlement are encouraged, building on local and international good practices and standards.

The Chapter then goes on to make recommendations to address the problems assessed in this study, and to improve eviction and resettlement processes in Cambodia. Recommendations are made primarily to the Royal Government of Cambodia, but many of these recommendations are also relevant to development partners.

Recommendations made pertain to pre-eviction/resettlement processes, conduct during evictions and access to remedies, conditions and standards at resettlement sites, tenure security and land registration, legal and policy framework, research, addressing conditions at existing resettlement sites, and devising a model for resettlement.



## CHAPTER 6: CONCLUSION AND RECOMMENDATIONS

### CONCLUSION

Eviction and resettlement processes everywhere in the world entail inherent risks of impoverishment and hardship. The experience in Cambodia is no different. When there is little preparation for an eviction and resettlement, when the community is not consulted and does not have opportunities to participate in decision-making, when legal procedural safeguards are not respected and evictions are forced and violent, and when services, infrastructure and livelihood options at resettlement sites are insufficient, it is more difficult for families to cope with their situation and extract themselves from poverty. Evictions and resettlements then result in the further impoverishment of already poor and marginalized communities.

Years after relocation, families in Andong, Trapeang Anh-chanh and Spean Ches, still live in extremely difficult living conditions, worse than prior to eviction. In the case of Spean Ches, the community continues to live on the roadside adjacent to the still-undeveloped eviction site. These communities offer a picture of survival rather than development; of stagnation and dependency, rather than autonomy and empowerment. There has been little initiative

to significantly improve the sites' infrastructure and living conditions over the years, and NGOs have expressed concerns and fatigue at the thought of continuing to be the main (or sole) providers of assistance.<sup>130</sup> The impacts of eviction have been so profoundly devastating that these communities are taking years to recover; in fact it is questionable whether their situation is economically and humanly sustainable at all.

Conversely, when authorities, the community, NGOs and development partners work together to plan a resettlement, with community participation and needs given full consideration, the negative impacts of resettlement are not only mitigated, but the process can lead to improved and sustainable living conditions, as shown in the case of the Akphiwat Meanchey community. The situation of families living with HIV in Tuol Sambo is another positive example; cooperation among national and municipal authorities, NGOs and UN agencies has allowed a comprehensive response to the negative impacts the relocation had initially had on families.

In adopting the 2009-2013 National Strategic

<sup>130</sup> For instance, despite calls to coordinate action with the company and authorities, NGOs were the sole providers of humanitarian assistance to over 300 families of renters and market vendors left on the road side in Damnak Trayeung. From February to December 2009 alone, BABSEA, Caritas, Center of Hope, Jesuit Refugee Service, Licadho, Samaritan's Purse, Village Earth and World Vision together spent at least US\$70,000 in basic support (such as food, housing and cooking materials, children's education, water and sanitation, health care). NGOs continue to be a significant source of support at the Andong site as well, including Hope of Cambodia, Organization of the Development for the People of Cambodia, and the Korean church.

Development Plan, the Prime Minister highlighted the need for ensuring “social equity” as a vital contribution to “sustainable development and poverty reduction.”<sup>131</sup> This vision is crucial to evictions and resettlement processes, and it is hoped that authorities at all levels will remember the Prime Minister’s call and translate it into effective action.

Municipal and national authorities are faced with contradicting demands from many sides and with the difficult task of balancing economic and social development agendas. Mindful of these tensions, the Phnom Penh Municipality in particular has made efforts in recent years to mitigate the costs of particular evictions. However, today there remain too few resources and legal remedies, and too little time allocated to eviction and resettlement processes. While resettlement projects ostensibly aim to improve the urban environment and reduce poverty, in many cases under study they have in fact dramatically impinged on people’s livelihoods.

For a resettlement to be sustainable one must allocate sufficient resources to guarantee minimum standards. It must be clear that resettlements cannot be done cheaply without paying a price later on. Significant resources were invested in supporting Akphiwat Meanchey and Tuol Sambo communities (and these were small communities compared to others). Yet the long-term human and socio-economic costs of other resettlements – for which little money was at first allocated – cannot be dismissed lightly. The majority of families in Andong now live in dire poverty and will require financial support from NGOs or the

government for years to come. Social problems at the site are an issue, while many Andong families have gone back to live in the town centre, often as renters in informal settlements, in more difficult and vulnerable socio-economic conditions than prior to relocation. All of this has long-term costs and exacerbates rather than addresses the problem of urban poverty.

So while evictions are sometimes justified - implicitly if not explicitly - by the demand for economic growth, paradoxically such practices may not only violate national law and human rights treaty commitments of the Royal Government of Cambodia, but may also frustrate the country’s longer-term economic growth and poverty reduction objectives.

At the same time, there is an increasing body of empirical evidence which shows the social and economic benefits of ensuring secure tenure and human rights relating to water, sanitation, livelihood, and health.<sup>132</sup>

Against this backdrop, it is essential to invest the necessary resources to address the negative impacts of resettlement and firmly anchor resettlement processes into Cambodia’s development and poverty reduction agenda. As urbanization accelerates, the need for effective and equitable models of resettlement becomes more urgent. It is hoped that the RGC, together with partners, will build on local and international good practices to advance a model of resettlement which is predicated not just on narrow calculations of compensation and cost mitigation, but on a comprehensive vision of recovery and development, indeed, a “win-win” policy for both authorities and communities.<sup>133</sup>

<sup>131</sup> Foreword by the Prime Minister, National Strategic Development Plan, 2009-2013.

<sup>132</sup> See: *World Bank Sanitation Study*; and *World Development Report 2003 - Sustainable Development in a Dynamic World: Transforming Institutions, Growth, and Quality of Life*, ‘Chapter 6. Getting the Best from Cities,’ co-publication World Bank and Oxford University Press.

<sup>133</sup> See Michael M. Cernea (ed.) *The Economics of Involuntary Resettlement: Questions and Challenges*, (Washington, DC: The World Bank, 1999).

### RECOMMENDATIONS

This report proposes a number of recommendations for solutions. They are primarily addressed to the Royal Government, in particular the Ministry of Interior, the Ministry of Land Management, Urban Planning and Construction, the Ministry of Economy and Finance, and the Ministry of Health (especially the HIV/AIDS authorities), as well as municipal and local authorities. OHCHR hopes that these recommendations can stimulate and nurture the necessary dialogue that is required to develop a resettlement policy, which was envisioned in the 2002 Interim Paper on Strategy of Land Policy Framework. Many of these recommendations will hopefully be of interest and relevance to donors, development actors and other stakeholders involved in supporting some of the processes and programmes outlined below.

#### 1. Processes prior to eviction and during resettlement:

- **Evictions should only be carried out as a last resort. All other alternatives such as on-site development and upgrading (including under Circular No.3 on temporary settlements on illegally occupied land) should be explored first.**
- In cooperation with the affected community, **adopt a comprehensive and transparent plan for resettlement prior to any eviction or relocation.**
- **Ensure the participation of affected communities to the planning process** both prior to and after relocation. Consultations with the affected community should be transparent and shall not be conducted under pressure or intimidation. Community participation should be ensured for all key aspects of the eviction or resettlement plan, including :
  - alternatives to eviction
  - location of resettlement site
  - housing and infrastructure at site
  - timing of eviction/relocation.

- **Recognize people's right to information and set up mechanisms to adequately disseminate information to affected families.**

- When planning resettlement, **take into account specific needs and vulnerabilities of particular individuals or groups**, such as persons with disabilities, persons living with HIV/AIDS, women or children. Appropriate and targeted solutions should be found. Under no circumstances should persons living with HIV be stigmatized and discriminated against in relocation processes.

#### 2. Conduct during eviction and access to remedy:

- **Conduct evictions with full respect for the due procedural requirements set by international human rights standards**, in accordance with general principles of necessity and proportionality. In particular, authorities must give affected families an opportunity for genuine consultation, avoid disproportionate use of force, give adequate and reasonable notice, refrain from conducting evictions in particularly bad weather or at night, ensure availability and enforcement of legal remedies, and provide legal aid to persons who are in need of it to seek redress from the courts where possible.<sup>134</sup>
- **Ensure strict compliance with relevant judicial and criminal procedures** in cases of violence between authorities and the community or prosecution of community members and representatives.
- **Offer compensation** not only for loss of

<sup>134</sup> CESCR, *General Comment 7*.



land and buildings but also for losses to livelihoods as well as non-economic costs or disturbances (e.g. removal of building, personal properties, business expenses, lost or decreased wages and income).

- **Ensure that communities are adequately informed and consulted in the development of projects aimed at improving conditions at resettlement sites**, such as the use and beneficiaries of housing loans, or the types of housing being built.
- **Ensure that resettled communities enjoy at least the same standards of living after eviction as prior to eviction, irrespective of the living standards of families prior to eviction, and ensure minimum standards at all sites.**
- **Prior to relocation, assess livelihood opportunities at resettlement locations.** When such opportunities are assessed as inadequate or presenting risks, either reconsider the timing or location of the resettlement, or take emergency measures to **remedy reduction of income or loss of employment in the short-term and devise programmes to support people's livelihoods in the mid-term.**
- **Ensure that land plots and housing offered are of adequate size and quality.** Ensure minimum standards of adequacy and size for all families, irrespective of the type of housing they enjoyed previously. The size of the housing should allow for sufficient living space and privacy for each household member, and accommodate for family growth. In case households enjoyed conditions above the set minimum standards prior to relocation, ensure these standards are maintained.
- **Ensure that minimum services and infrastructure** are set up *prior* to relocation, including access to affordable potable water, adequate sanitation and sewage system, basic infrastructure and housing, and access to health care and education. Efforts should be made to ensure children's schooling is not interrupted due to relocation.
- **Commune authorities at resettlement sites shall facilitate the provision of the necessary documents to resettled voters at the resettlement sites** that will be used to register their names on the voter list.
- **Strengthen coordination between and within government institutions, including between local and national level authorities.** This is especially important with respect to: access to public services such as education and health care (including continuity of care for persons living with HIV); the transfer or issuance of administrative documents such as family, residency books and voting documents; and timely land registration.
- **Prior to any eviction, demarcate and register the land on which communities under threat of eviction reside, and determine the legal status of households in accordance with the law.**
- **Protect householders who claim that they have legal possession rights under the 2001 Land Law from eviction, pending a final determination of their claims.**
- **If expropriation is unavoidable and legally justified for public interest purposes, offer fair and just compensation in advance to possessors and owners, as per the Law on Expropriation.** Those who choose to

### RECOMMENDATIONS (Continued)

relocate should be granted proper land titles immediately after relocation, and receive land fulfilling minimum standards of adequacy, or - if their land prior to expropriation was of higher standard - of the same value, size, and quality.

- **Streamline the process guaranteeing tenure security at resettlement sites** and in particular:
  - formally secure tenure for the overall resettlement area and resettled community, for instance by **registering resettlement sites as social land concessions** according to Sub-Decree 19 on Social Land Concessions
  - immediately after relocation, **issue to each household one document guaranteeing tenure**. This common document could be adapted from documents issued so far to resettled families (see Annex II) or from the contract given to land recipients under the Land Allocation for Social and Economic Development Project (LASED)
- Relevant authorities should devise **procedures for the systematic registration and titling of the land of resettled families**:
  - land registration and titling should either take place immediately after relocation in the case of possessors and owners of immovable property, or, in the case of all other households, after an appropriate and consistent time frame, for instance five years (as per Sub-Decree 19) or ten years (as per Circular No.3 on temporary settlements on illegally occupied land) from the day of relocation
  - the time frame for land titling should be

further discussed among relevant authorities and stakeholders to ensure coherence with the legal framework and adequate tenure security for resettled families.

#### 5. Legal and policy framework:

- Further develop comprehensive guidelines to guide eviction and resettlement processes, such as a Resettlement Policy or regulation to that effect.
- The Policy should incorporate international standards and best practices and include, among others, the following elements:
  - guiding principles, e.g. that eviction should be a last resort and alternatives to eviction will be sought; that resettled households will not be made worse-off; that community participation is essential
  - procedural safeguards for the planning process prior to eviction, including exhaustion of alternatives to eviction, adequate consultation and information
  - procedural safeguards during eviction
  - protection of owners and possessors against illegal expropriation/eviction
  - definition of minimum standards at resettlement sites
  - mechanisms for coordination between national and local authorities.

#### 6. Gaps in research and evidence:

- Conduct further research on the **impacts of eviction or relocation on the mental health** of families, and on the incidence and prevalence of **domestic violence** among resettled communities.

- Assess the socio-economic situation of those families who opted for financial compensation over resettlement, in order to identify risks of vulnerability and impoverishment.
- Assess levels of debt and repayment among resettled communities.

- Ensure or improve housing, access to potable and affordable water, and sanitation for all families in Andong, Srah Po village (Kandal province) and O'Kampuchea (Preah Sihanouk province), and in other sites in dire need, in cooperation with affected communities.

- Conduct a population survey in Andong to establish the exact number of residents before further implementing housing projects; adequate notice must be given to families to ensure all are on site at the time of the survey.

- Authorities at national level and in Preah Sihanouk Province should provide adequate land (agricultural and residential) and housing to the Spean Ches community that has been landless since 2007.

- Assess the extent of food security and malnutrition of families at all resettlement sites. Explore to what extent families are in need of food support and livelihood assistance.

- Address livelihood gaps by providing income generation assistance.

- Relevant authorities in cooperation with key service providers and municipal authorities should assess the needs and vulnerabilities of HIV-affected families currently living at various resettlement sites in Phnom Penh in order to ensure treatment, care and

appropriate impact mitigation measures.

### 8. Piloting a Cambodian model of resettlement:

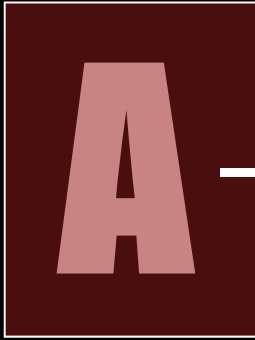
- A pilot project could be developed and implemented jointly by the RGC and development partners, using the Study's recommendations, international guidelines and best practices, and lessons from the Akphiwat Meanchey and Tuol Sambo experiences. The pilot could focus on the resettlement of one community due to public interest.





Inside a kitchen at Damnak Trayeung resettlement site. Credit: R. McCormack/ OHCHR





# ANNEXES

This section contains three Annexes related to the Study:

- ANNEX I: Overview of Cases under study
- ANNEX II: Documents issued to resettled households to recognize ownership
- ANNEX III: Bibliography

## ANNEX I : OVERVIEW OF CASES UNDER STUDY \*

Resettlement site/ location	Number of families at site	Location prior to resettlement and number of families	Date of eviction or resettlement	Eviction/resettlement process, and site conditions
<b>PHNOM PENH</b>				
<b>Akphiwat Meanchey (also called 'Veng Sreng')</b>  near Veng Sreng road in Stung Meanchey Commune, Mean Chey District	129	129 families on the <b>road side near Chinese Embassy</b> in Toul Svay Prey Commune, Chamkamon District	Official resettlement on 20 January 1999  Official inauguration of the site in April 2000	<ul style="list-style-type: none"> <li>• <b>Background:</b> Following an unannounced attempt at eviction in 1996, negotiations took place between local and municipal authorities and the community to explore alternatives to eviction. A resettlement plan was agreed upon.</li> <li>• <b>Resettlement:</b> The resettlement site was chosen by the community, close to their previous location. The resettlement was participatory, in cooperation with the community, NGOs and the UN Centre for Housing, and within a reasonable time frame. An agreement was drawn between various stakeholders: the MPP pledged to buy the land; UNCHS paid for the land filling and infrastructure; SUPF assisted with community coordination; UPDF provided housing loans; other NGOs provided technical assistance for housing design and construction.</li> <li>• <b>Site:</b> Families relocated to Akphiwat Meanchey site, once work on basic infrastructure (road, drainage, water, sanitation) was completed. Adequate land and housing were provided to families. In 2005, the community was connected to the state water supply and in 2007 to electricity. Families enjoy good livelihood opportunities, adequate access to infrastructure and public services.</li> </ul> <p>[See also Box 7 on Akphiwat Meanchey]</p>

*Table continues next page*

\* By province and alphabetical order

Resettlement site/ location	Number of families at site	Location prior to resettlement and number of families	Date of eviction or resettlement	Eviction/resettlement process, and site conditions
<b>Andong</b>  Andong Village, Korkroka Commune, Dangkor District	Estimates of families currently living in Andong vary and range from 800 to 1,800	Approximately 600 families, many of whom were <b>renters in Sambok Chab area in Village 14</b> , along Tonle Bassac river in Tonle Bassac Commune, Chamkamon District	6 June 2006	<ul style="list-style-type: none"> <li> <b>Background:</b> In 2000 and 2001, as fires burnt down parts of the settlements in the Bassac area known as Sambok Chab in Village 14, around 3,500-4,000 families were relocated to Dangkor and Russey Keo districts. But a large number of families came back to Sambok Chab to stay in informal settlements. In May 2006 there were around 1,500 families (owners and renters) living in Sambok Chab. </li> </ul> <p>Following the eviction early May 2006 of the Sambok Chab owners and the destruction of all houses, the renters remained at Sambok Chab without shelter. NGOs were prevented from distributing humanitarian assistance.</p> <ul style="list-style-type: none"> <li> <b>Eviction:</b> On 6 June at dawn, workers from the Suor Srun company, in the presence of approximately one thousand municipal and military police forces heavily armed with guns, rifles, electric batons, gas masks and riot gear, conducted the eviction. People were not given adequate time to pack their belongings. </li> </ul> <p>Some 600 families were taken to bare ground in Andong (owned by the MPP), while some families were settled on adjacent, privately-owned land.</p> <ul style="list-style-type: none"> <li> <b>Numbers:</b> During the days preceding the eviction, additional people from elsewhere in Phnom Penh or farther away settled in Sambok Chab, in the hope of receiving a plot of land. After the relocation to Andong, many people continued to come there </li> <li> <b>Site:</b> Upon relocation the site lacked any form of shelter, basic infrastructure, facilities for water or sanitation and basic services. Appropriate sanitation, draining system and access to water are still lacking today. </li> </ul> <p>Families are under difficult living conditions, and enjoy few livelihood opportunities. Housing remains inadequate for most. <b>[See Box 9: Housing projects issues in Andong]</b></p> <p>There is a strong dependency on NGOs for livelihood, health care, food and to some extent education.</p>

## Annexes

### ANNEX I : OVERVIEW OF CASES UNDER STUDY (continued)

Resettlement site	Number of families at site	Location prior to resettlement and number of families	Date of eviction or resettlement	Brief description of eviction and resettlement processes
<b>PHNOM PENH (continued)</b>				
<b>Damnak Trayeung</b> <b>(also called 'Borei Santepheap 2')</b> in Damnak Trayeung Village, Choam Chao Commune, Dangkor District	91 house owners received a flat from the 7NG company and all others (over 330) were left on the road side.	More than 400 families ( <b>150 house owners, approximately 200 market stall holders or market vendors, and an unknown number of renters</b> ), <b>Dey Krahorm</b> in Tonle Bassac Commune, Chamkamon District		<ul style="list-style-type: none"> <li>• <b>Background:</b> Dey Krahorm residents lived in Tonle Bassac commune since the early 1990s. A number of households had applied for land titles through the sporadic system, yet their claims were never adequately determined. In 2003 the Council of Ministers announced that the Dey Krahorm site was a social land concession. In exchange for on-site upgrading authorities sought a land-sharing arrangement with the company, 7NG. In 2005 the company signed a contract with a number of community representatives and village chiefs, providing that 7NG would build flats for the community in Damnak Trayeung, in exchange for the land in Dey Krahorm. This contract was rejected by most Dey Krahorm families. Nonetheless municipal authorities and the company claimed people had to be evicted.</li> <li>• <b>Eviction:</b> In 2008 MPP promoted negotiations over compensation prices between 7NG and the residents. In early January 2009 these negotiations were abruptly stopped without explanation.</li> </ul> <p>Procedural safeguards were not respected. On the night and early morning of 23-24 January 2009, police, gendarmeries and company workers conducted the eviction. They used force to evict people, and heavy machinery to demolish houses. Police and community members clashed, leaving at least 18 people injured.</p> <ul style="list-style-type: none"> <li>• <b>Site:</b> At Damnak Trayeung only 91 house owners recognized by the 7NG company and the MPP received flats. Families complain about the inadequacy of the flats and the lack of income and livelihood opportunities.</li> </ul> <p>Other home owners, as well as market vendors and renters, were left on the roadside. They lived in makeshift shelters, with no access to water and sanitation or basic services, until their relocation to Kandal Province. [See below <b>Srah Po Village, Kandal</b>]</p>

*Table continues next page*



## ANNEX I : OVERVIEW OF CASES UNDER STUDY (continued)

Resettle ment site	Number of families at site	Location prior to resettleme nt and number of families	Date of eviction or resettlement	Brief description of eviction and resettlement processes
<b>Tuol Sambo</b>  Tuol Sambo Village, Prey Veng Commune, Dangkor District	280-290 families total	45 families, among which <b>42 with members living with HIV, in Borei Keila</b> in Veal Vong Commune, Prampi Makara District  200 families resettled in 1999/2000 (not the subject of this study)  39 families resettled in 2010 (not the subject of this study)*	18 June 2009 (21 families)  July 2009 (24 families)	<ul style="list-style-type: none"> <li>• <b>Background:</b> The Borei Keila settlement was the subject of a land-sharing arrangement between the MPP, the company Phanimex, and the community, whereby all flat owners and long term renters would receive a flat in the new buildings the company pledged to build. In 2007 21 families living with HIV were evicted from their flats and relocated to a temporary construction called 'the green shed'; they were not offered the possibility of being screened for eligibility for flats. In 2008, over 40 families living with HIV in Borei Keila, including the 21 families in the 'green shed', pleaded with the municipality and the Prime Minister for land, assuming that none of them would receive flats in Borei Keila. The MPP offered land in Tuol Sambo, and later on agreed to build shelters at the site.</li> <li>• <b>Resettlement:</b> On 18 June 2009, the families living in the 'green shed' were moved to Tuol Sambo, with the support of local authorities. In July the remaining 20 or so families who had requested land to the Prime Minister also relocated to Tuol Sambo.</li> <li>• <b>Site:</b> Each family was assigned a very small flat in the corrugated-iron sheds that the MPP had built. It became quickly apparent that the sheds were inadequate and posed a threat to health and security. There were issues with food security and access to health care, as well as stigmatisation.</li> </ul> <p>Cooperation among municipal and national authorities, UN agencies and NGOs has resulted in improved living and housing conditions of families.</p>

\* Around 200 families were peacefully resettled to Tuol Sambo in 1999-2000. They came overwhelmingly from Boeng Salang, Tuol Kork District and Pouk Russei, Meanchey District. In early 2010, 39 families voluntarily relocated to Tuol Sambo from the river bank in Russei Keo District.

## ANNEX I : OVERVIEW OF CASES UNDER STUDY (continued)

Resettle ment site	Number of families at site	Location prior to resettleme nt and number of families	Date of eviction or resettlement	Brief description of eviction and resettlement processes
--------------------------	-------------------------------------	---	-------------------------------------	---

## PHNOM PENH (continued)

<b>Trapeang Anh-chanh</b>  in Trapeang Anh-chanh Village, Trapeang Krasing Commune, Dangkor District	1,437 families according to official records*  It is estimated that 700-800 families now live permanently on site	Over 1,000 families who were <b>house owners in Sambok Chab area</b> in Village 14 of Tonle Bassac Commune, Chamkamon District  Fewer than 200 families from other locations (not the subject of this study)	1-5 May 2006	<ul style="list-style-type: none"> <li>• <b>Background:</b> There were over 1,000 families who were house-owners in Sambok Chab. [See Andong description above for more background on Sambok Chab]</li> <li>• <b>Eviction:</b> On 3 May, in the early morning, police and municipal and district authorities, with the aid of security forces armed with guns and electric batons, conducted the eviction of those families who had been given a land receipt for plots at the relocation site in Trapeang Anh-chanh.</li> <li>• <b>Site:</b> Upon arrival at the resettlement site each family was allocated a plot of 5m by 12m. No housing was available. On the day of relocation, the construction of a market and a primary school was still at a very early stage and the health post was not built; it took another few months for these buildings to be ready.</li> </ul> <p>The site is prone to flooding, and there is no adequate draining system in place. No shelter or basic infrastructure was built prior to relocation. Sanitation is inadequate, and water is expensive.</p>
--	---	--	--------------	---

Table continues next page

\* According to a community representative, as of November 2009 there were 1,216 families from Sambok Chab, 42 from Borei Keila, 36 from Chba Ampov in Mean Chey District, 132 families from Chroy Changva in Russei Keo District, and 11 from Group 78, Chamkamon District.

## ANNEX I : OVERVIEW OF CASES UNDER STUDY (continued)

Resettlement site	Number of families at site	Location prior to resettlement and number of families	Date of eviction or resettlement	Brief description of eviction and resettlement processes
-------------------	----------------------------	---	----------------------------------	--

## KANDAL Province

<b>Srah Po Village,</b> Phnom Bath Commune, Ponhealeu District	510 families	<b>Damnak Trayeung,</b> Damnak Trayeung Village, Choam Chao Commune, Dangkor District, Phnom Penh  465 families in November 2009	December 2009	<ul style="list-style-type: none"> <li>• <u>Background</u>: Market vendors and renters who were evicted from Dey Krahorm in January 2009 lived on the roadside in Damnak Trayeung, in very difficult conditions, until December 2009.</li> <li>• <u>Figures</u>: NGOs estimated they were 335 families right after the eviction; an official document from a community representative refers to 465 families in November 2009. According to the new community representative at Srah Po, the number of families is now 510.</li> <li>• <u>Eviction and site</u>: The company, 7NG, offered families land plots of 4m by 6m in Srah Po Village. For lack of other option families accepted to relocate there. They have started their lives once again on bare ground, in a site exposed to flooding, with no infrastructure and services available.</li> </ul>
--	--------------	--	---------------	--

## ANNEX I : OVERVIEW OF CASES UNDER STUDY (continued)

Resettlement site	Number of families at site	Location prior to resettlement and number of families	Date of eviction or resettlement	Brief description of eviction and resettlement processes
-------------------	----------------------------	---	----------------------------------	--

### PREAH SIHANOUK PROVINCE

<b>O'Kampuchea</b>  in Ream Commune, Prey Nob District	46	46 families in <b>Kbal Hong area</b> in Ong Village, Ream Commune, Prey Nob District	1 April 2009	<ul style="list-style-type: none"> <li>• <b>Background:</b> Families in Kbal Hong area, some of whom had been farming and living on the land since 1997, were under threat of eviction from the navy since 2004. In 2006, the Navy confiscated families' farmland. Since 2007, the Navy prevented people from repairing their homes, and sometimes used force to do so. Fearing they would lose their residential land, families turned to commune authorities for help, who convinced the Navy to offer land elsewhere.</li> <li>• <b>Eviction:</b> On 1 April 2009, at a meeting organized by the Navy commander, in the presence of commune and village officials, the relocation of families to O'Kampuchea was announced, and plots of 20m by 30m allocated to the 45 families through a lottery. People moved on the same day, and had to transport their belongings and build homes at the new site by themselves.</li> <li>• <b>Site:</b> The site lacks basic infrastructure and services, and the access road to it remains unpaved. It is far away from schools and livelihood opportunities.</li> </ul>



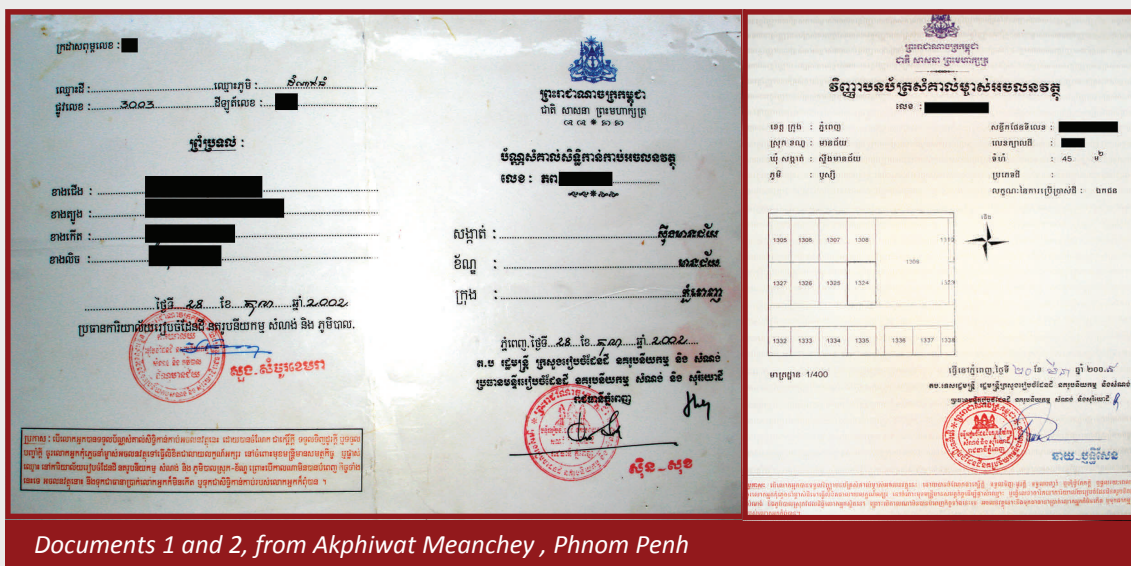
## ANNEX I : OVERVIEW OF CASES UNDER STUDY (continued)

Resettlement site	Number of families at site	Location prior to resettlement and number of families	Date of eviction or resettlement	Brief description of eviction and resettlement processes
<b>Spean Ches</b> on the roadside close to O'Tres Beach in Commune 4, Mittapheap District	71 families (other families went to live elsewhere, with relatives)	107 families, <b>Spean Ches</b> in Commune 4, Mittapheap District	Eviction attempt on 25 September 2006 Eviction on 20 April 2007	<ul style="list-style-type: none"> <li><b>Background:</b> Over 80 police and gendarmes attempted to evict the families in 2006, without prior notice. Police forces claimed that the land belonged to a private person. Community members resisted the eviction. The Municipality of Preah Sihanouk then issued a first eviction notice in October 2006 and a second one in January 2007. The residents refused to comply.</li> <li><b>Eviction:</b> On 20 April 2007 some 150 heavily armed forces, the military police, police and Royal Cambodian Armed Forces personnel armed with guns, electric batons and tear gas evicted people from their homes. The eviction was violent. 13 men and five women were injured. All houses were either burnt down or demolished during the eviction and thirteen community members were arrested and later detained.</li> <li><b>Site:</b> Families were not provided with any land or compensation, so they settled temporarily on the road side near their place of origin, where they have remained until the present day.</li> </ul>

## ANNEX II : DOCUMENTS ISSUED TO RESETTLED HOUSEHOLDS TO RECOGNIZE OWNERSHIP \*

### In Phnom Penh

**Akphiwat Meanchey** community is the only community who has received documents from the Land Management Department. In 2002, the families received a “certificate of possession rights over immovable property” [Document 1] issued by the district and municipal Land Department. In March 2009, families received land titles [Document 2] through the systematic land registration. It needs to be noted however that they received land titles ten years after their relocation in 1999, rather than five years, and it seems that it is only a coincidence that the Land Management Department was adjudicating their area for titling.



Documents 1 and 2, from Akphiwat Meanchey, Phnom Penh

In **Andong**, people who received “formal plots” in 2006 received a “yellow card” [Document 3] and a “contract on the receipt of land concession policy” [Document 4]. The yellow card mentions a plot number, signed and sealed by Deputy Governor of the district, and names the plot recipient. According to the contract agreement, dated 10 July 2006, the plot recipient has to promise to:

1. construct a shelter within 30 days from the date of receiving the plot;
2. live permanently in the constructed shelter until receiving full rights [to the land];
3. not sell the plot without permission from Phnom Penh Municipality. In the case of sale, exchange or transfer, or rent to others, the recipient can have no objection if the authorities take back the plot;
4. contribute to and participate in the protection of security and public order, develop and preserve and protect public property available in the area, as well as protect the environment;
5. agree to participate, manage and occupy the land as part of community assets, and to have a community set up to lead [the land recipients].

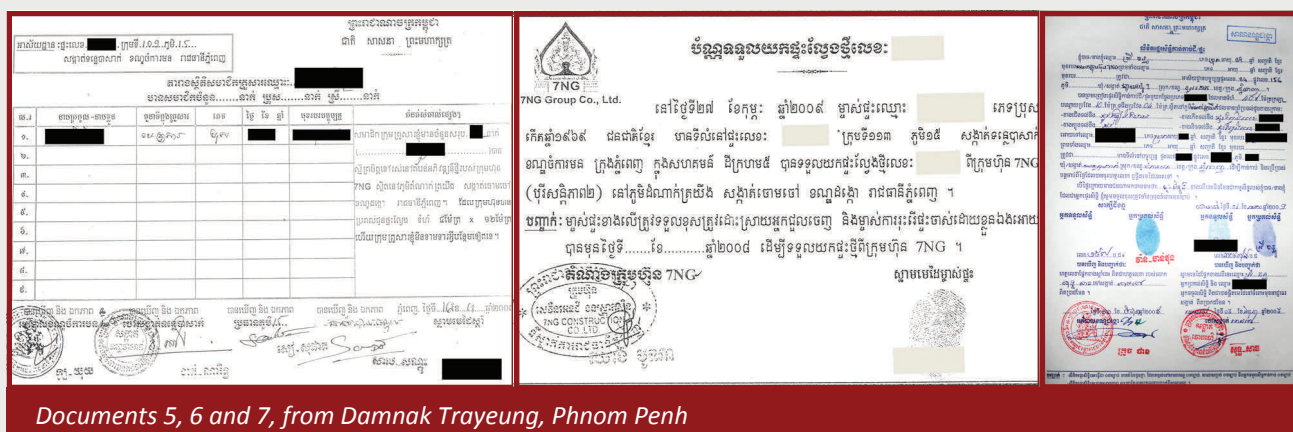
Families who received a flat built by UPDF/MPP in Andong were told that once they finish repaying their housing loan, they will be issued the same type of certificate as was issued to families in Trapeang Anh-chanh.

\* The documents are by province and alphabetical order. These documents were all obtained from resettled families.

## ANNEX II : DOCUMENTS ISSUED TO RESETTLED HOUSEHOLDS (continued)



Former **Dey Krahorm** residents at **Damnak Trayeung** site received three different documents. The first document was a “table on statistics of family members” [Document 5] issued by the company 7NG and approved by authorities (village chief, commune chief and district chief) at the old site in Chamkamon District. The table stated: “The family volunteers to move to live at a new development site of 7NG company in Damnak Trayeung village where the company offers a flat of 4m by 12m, and the family will have no additional demand.” The second document was a “card to receive a new flat” [Document 6] issued by 7NG company. The last document was a “letter to transfer possession rights of land/ house” [Document 7] signed between 7NG company and the flat recipient, with the commune and district chiefs as witnesses.



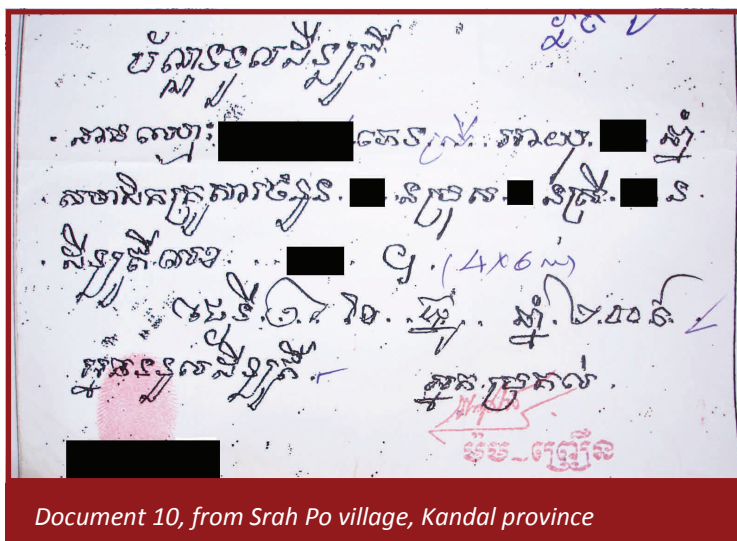
**Tuol Sambo** families have not received any individual documents, but their names and the transfer of plots to them are included on an official list [no documents shown here].



## 88



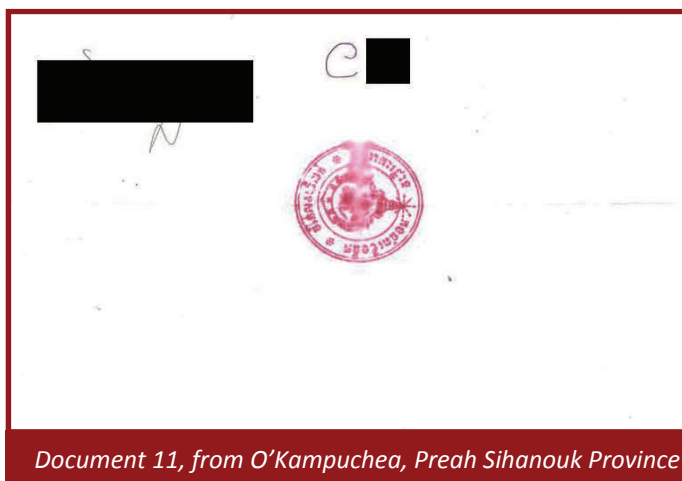
## ANNEX II : DOCUMENTS ISSUED TO RESETTLED HOUSEHOLDS TO (continued)



Document 10, from Srah Po village, Kandal province

### In Preah Sihanouk Province

In **O'Kampuchea**, the Navy issued families an individual receipt [Document 11] that included the name of the recipient, plot number and stamp of the Navy. The Navy verbally promised families that they would receive land titles after five years, with the condition that they stay continuously on the land and do not sell it.



Document 11, from O'Kampuchea, Preah Sihanouk Province

The **Spean Ches** community did not receive any documentation.

# ANNEX III: BIBLIOGRAPHY

## International Instruments

Universal Declaration of Human Rights (1948)

International Covenant on Civil and Political Rights (1966)

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

## International Guidelines

Committee on Economic, Social and Cultural Rights, General Comment No.4 on the right to adequate housing (E/1992/23)

Committee on Economic, Social and Cultural Rights, General Comment No.7 on the right to adequate housing: forced evictions (E/1998/22, annex IV)

OHCHR Cambodia, *United Nations Commentary and Guidelines on Eviction and Resettlement*, Khmer-English pocketbook, (December 2009)

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, *Basic Principles and Guidelines on Development-based Evictions and Displacement*, (A/HRC/4/18, Annex I)

Sphere Project - Humanitarian Charter and Minimum Standards in Disaster Response, at: <http://www.sphereproject.org/>

UNHCR, *Handbook for Emergencies*, second edition

World Health Organization (WHO) and OHCHR, *The Right to Health*, Factsheet No. 31, (2009)

## Cambodian Laws, regulations, policies

Constitution of the Kingdom of Cambodia, 1993 (as amended 1999)

Land Law, 2001

Law on Expropriation, 2010

National Strategic Development Plan, 2006-2010, Royal Government of Cambodia

Sub-Decree no 19 on Social Land Concessions, 2003

Circular No. 3 on Resolution of temporary settlements on illegally encroached land in the capital, municipal and urban areas, May 2010

## ANNEX III: BIBLIOGRAPHY (continued)

Prakas No. 567 on residency books, Ministry of Interior, November 1997

Prakas No. 2473 on procedure and condition for application, issuance, usage of Khmer identification card, Ministry of Interior, July 2007

Policy Paper on Social Concessions in the Kingdom of Cambodia, Council for Land Policy, March 2002

Supplementary instruction on registration and management of population statistics, National Police, December 2004

### Reports, books and articles

Amnesty International, *Rights Razed – Forced evictions in Cambodia*, (February 2008)

Bridges Across Borders South East Asia (BABSEA), Centre on Housing Rights and Eviction (COHRE), Jesuit Refugee Service (JRS), *Untitled: Tenure Insecurity and Inequality in the Cambodian Land Sector*, (2009)

Cambodian Human Rights Action Committee, *Losing Ground: Forced Eviction and Intimidation in Cambodia*, (September 2009)

Caritas, Center of Hope, Centre for Child and Adolescent Mental Health, Jesuit Refugee Service, Licadho, Samaritan's Purse, Village Earth and World Vision, *Humanitarian Needs Assessment for Dey Krahorm Evictees: Health, Food, Sanitation, Education, Medical Needs and Mental Health*, (2009)

Cernea, Michael M and McDowell, C (ed.), *Risks and Reconstruction: Experiences of Resettlers and Refugees*, Washington, DC: The World Bank, (2000)

Cernea, Michael M. (ed.) *The Economics of Involuntary Resettlement: Questions and Challenges*, Washington, DC: The World Bank, (1999)

Centre on Housing Rights and Eviction (COHRE), *Successes and strategies: responses to forced evictions*, (2008)

COMFREL survey report, *Evictee voter registration in 2009, including those with HIV/AIDS, and a re-audit of voters not registered on the 2008 voter list*, (May 2010)

Din S, *A recent changes in context and basic policy affecting urban slum dwellers communities in Phnom Penh, Cambodia, and implication on participatory approach in ongoing and future relocation programs*, Master of Sciences, Bangkok, Asian Institute of Technology (AIT), (August 2002).

Fallavier P, *A comparative analysis of recent resettlement projects in Phnom Penh*, UN Habitat, Cambodian Volunteers for Community Development (CVCD), Urban Resource Centre Cambodia (URC), (December 2001)

Fallavier P, *Analysis of the survey on impacts of relocation projects upon livelihoods conducted from January to March 2002 in five resettlements sites in Phnom Penh*, Phnom Penh Urban Poverty Reduction Project, UN Habitat, CVCD, URC, (December 2002)

### ANNEX III: BIBLIOGRAPHY (continued)

Fallavier P, *Community Profile, Fire in the Tonle Bassac, 26 November 2001*, UN Habitat, CVCD, URC, (November 2002)

Fallavier P, *Lessons from experience and policy directions for resettlement programs in Phnom Penh. Interim findings, based on seventeen months of field observation*, UN Habitat, CVCD, URC, (January 2003)

Food and Agriculture Organization of the United Nations (FAO), *Compulsory acquisition of land and compensation*, Land Tenure Studies 10, (2008)

Habitat International, Beng Hong S.K and Payne G, *Improving Tenure Security for the Urban Poor in Phnom Penh, Cambodia: an Analytical Case Study*, (2004)

Land and Housing Working Group, *Land and Housing Rights in Cambodia – Parallel Report to UN Committee on Economic, Social and Cultural Rights*, (April 2009)

Licadho, *Land Grabbing and Poverty in Cambodia: The Myth of Development*, (May 2009)

Licadho, *Dey Krahorm Community Land Case Explained*, (January 2008)

Licadho, *Rapid Assessment Report: Humanitarian Conditions in Andong Village Relocation Camp*, (August 2006)

OHCHR Cambodia Country Office, *Annual Report 2008-2009, with comments by the Royal Government of Cambodia*, (2009)

Payne G. *et al*, *Increasing tenure security and options for new housing in Phnom Penh, Cambodia, Progress report* (2003), and *Final Report* (November 2004), submitted to Ministry of Land Management, MPP, Cities Alliance, UN Habitat, and Gtz

Sahmakum Teang Tnaut (STT), *The 8 Khan Survey: Urban poor settlements in Phnom Penh*, (December 2009)

STT, *Facts and Figures, Displaced families: Phnom Penh*, (April 2009)

STT, *Relocation Sites in Phnom Penh: an updated documentation of relocation sites in and around Phnom Penh*, (August 2007)

Urban Poor Development Fund (UPDF), *News about some of the recent activities of the Urban Poor Development Fund in Cambodia*, (May 2003 & May 2008)

UPDF, *Community News*, Issue 2, (June 2003); Issue 4, (October 2006)

Urban Resource Centre Cambodia, *Study on the 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, (April 2002).

World Bank, Water and Sanitation Programme –East Asia and the Pacific, *Economic Impacts of Sanitation in Cambodia. A five-country study conducted in Cambodia, Indonesia, Lao PDR, The Philippines and Vietnam, under the Economics of Sanitation Initiative*, (2008)



## ANNEX III: BIBLIOGRAPHY (continued)

World Bank Cambodia, *Newsletter*, Vol.8, 1/2, (January-February 2010)

*World Development Report 2003, Sustainable Development in a Dynamic World: Transforming Institutions, Growth, and Quality of Life*, co-publication World Bank and Oxford University Press, (2003)

### Press releases & media articles

Group 78, Press release, (25 June 2009)

'City, developer, demolish Dey Krahorm homes', *Phnom Penh Post*, (24 January 2009)

'Project approvals down 83 per cent', *Phnom Penh Post*, (30 April 2010)

### Speeches

H.E. Im Chhun Lim, Senior Minister, Minister of Land Management, Urban Planning and Construction, speech at 15<sup>th</sup> meeting of Government-Development Partners Coordination Committee, 29 September 2009

Copyright 2012

Cambodia Country Office

Office of the United Nations High  
Commissioner for Human Rights



United Nations  
**Human Rights**

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
Cambodia Country Office - Phnom Penh - Cambodia