

STUDY ON THE HUMAN RIGHTS SITUATION OF COMMUNITIES LIVING IN RESETTLEMENT SITES IN CAMBODIA AND DRAFT RESETTLEMENT GUIDELINES

Office of the United Nations High Commissioner of Human Rights in Cambodia



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Office of the United Nations High Commissioner for Human Rights in Cambodia

Phnom Penh

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CONTENTS

EXECUTIVE SUMMARY	2
RESEARCH BRIEF	3
1. Objectives	3
2. Resettlement Sites.....	3
3. Methodology	6
4. Survey Sample Size	6
5. Gaps in Research and Evidence	8
CHAPTER 1 Introduction	9
1.1 The Respondents	10
Phnom Penh/Provinces, Gender, Age	10
Indigenous Households	11
Eviction Sites	11
Household Size and Positions in Households	12
Marital Status	12
Migration	13
1.2. Legal and Policy Framework	14
International Legal Standards.....	14
Business and human rights	15
Evictions and Resettlement under Cambodian National Law	15
CHAPTER 2 Life at Resettlement Sites	17
2.1. Prior to Eviction	18
2.1.1 Decision Making Process	18
2.1.2 Notice of Eviction	20
2.2. Requirements for Resettlement Sites	20
2.3. After Eviction.....	21
2.3.1. Compensation	21
2.3.2. Overview: Positive and Negative Aspects of Resettlement	22

Positive aspects	22
Negative Aspects	23
Indigenous Households	23
2.3.3 Security of Tenure	25
2.3.4. Availability of Basic Services	27
2.3.4.1. House, Road and Drainage Infrastructure	27
2.3.4.2. Food Accessibility and Availability	28
2.3.4.3. Utilities (Water, Power for Lighting, Electricity, Cooking Fuel, Sanitation)	28
2.3.4.4. Education and Health Services	31
2.3.5. Livelihood	32
2.3.6. Social and Environmental Impacts	35

CHAPTER 3 Conclusions and Recommendations..... **37**

Prevalence of Forced Evictions.....	38
Legal Framework.....	38
Prohibition of Forced Evictions	38
Prior to Eviction	38
Decision Making Process	38
Notice of Eviction	39
Requirements for Resettlement Sites	39
After Eviction.....	40
Compensation	40
Security of Tenure	41
Availability of Basic Services	42
House, Road and Drainage Infrastructure	42
The Right to Food	42
Utilities (Water, Power for Lighting/Electricity, Sanitation)	42
The Right to Education and the Right to Health	42
Livelihood and Economic Opportunities	44
Social and Environmental Impacts	44

Annexes **46**

Annex 1: Full Address of Eviction Sites and Reference Names.....	46
Annex 2: Resettlement and Eviction sites by Province.....	48
Annex 3: Consultations	49
Annex 4: Draft Resettlement Guidelines	50

ABBREVIATIONS

CEDAW	Convention on the Elimination of Discrimination Against Women
CERD	Convention on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
Cufa	Credit Union Foundation Australia
HIV/AIDS	Human immunodeficiency virus infection and acquired immunodeficiency syndrome
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
NGOs	Non-Governmental Organizations
RGC	Royal Government of Cambodia
SDG	Sustainable Development Goal
OHCHR	Office of the United Nations High Commissioner of Human Rights
UNICEF	United Nations International Children's Emergency Fund
WHO	World Health Organization

EXECUTIVE SUMMARY

This study on the human rights situation of communities living in resettlement sites in Cambodia is a follow-up to the “Eviction and Resettlement in Cambodia – Human Costs, Impacts and Solutions” report released by OHCHR in 2012. The study is based on research surveys conducted in 17 resettlement sites across Cambodia from 2019 to early 2020.

The study is divided into three chapters. The first chapter introduces the households in the resettlement sites and the legal framework concerning resettlement. The second chapter details the process of eviction, including information to households of the eviction, the conditions upon arrival at the resettlement site and compensation, current conditions at the site, focusing on basic services available to resettled households. The services covered by the report include housing, roads, food security, water, power sources, sanitation, health and education services, as well as livelihood. It further covers areas such as social and environmental impacts. The third chapter contains conclusions and recommendations on actions that the Royal Government of Cambodia (RGC), civil society, and the international community should take to ensure that the rights of resettled households are respected, protected and fulfilled, and to halt the conduct of forced evictions.

The study has found that in general, the right to adequate housing, as part of the right to an adequate standard of living, has not been respected, protected and fulfilled in the context of relocation and resettlement. Most relocations identified in this study were carried out without proper consultations with affected communities prior to the eviction, and as noted in the 2012 study, intimidation and coercion of households were used to force them to relocate, and improper use of force during the process of eviction.¹ Therefore, the relocations covered in the report are considered as forced evictions. The majority of resettlement sites were not prepared in advance of the eviction, and basic services were not available upon the affected households’ arrival at the sites.

Compensation was provided to certain families; however, not all households were satisfied with compensation received. There are resettled households that currently face difficulties with security of tenure, as they do not have hard land titles, despite residing in the resettlement site for more than five years. Resettled households reported that their rights to an adequate standard of living, including the rights to food, clean water and sanitation have been compromised, as well as their rights to a healthy environment, education and health. In addition, resettlements left households economically worse off, with households reporting increased debt, irregular incomes, a decrease in sufficiency of income as compared to their previous locations, and with nearly a third of indigenous households reporting a decrease in employment opportunities.

These practices appear to be in contravention of Cambodia’s national laws and policies. The RGC should strictly enforce and implement national laws and policies in conjunction with its international human rights obligations. It should adopt comprehensive Guidelines on Resettlement, to ensure that no forced evictions take place, and that any justified evictions are conducted in accordance with international human rights norms and standards, including those on the right to adequate housing and an adequate standard of living. The RGC and other stakeholders, including civil society and the international community, should re-evaluate their current and planned interventions to ensure that the rights of resettled communities are respected, protected and fulfilled.

1 OHCHR Cambodia, “Eviction and Resettlement in Cambodia – Human Costs, Impacts and Solutions”, 2012, Chapter 4: Pre-eviction Processes and Conduct during Evictions, https://cambodia.ohchr.org/sites/default/files/Thematic-reports/Resettlement_Study-28_Feb_2012_Eng.pdf.

RESEARCH BRIEF

1 Objectives

This study was commissioned by OHCHR Cambodia, with financial support from the European Union and Sweden, with the purpose of looking into the human rights situation of communities living in resettlement sites in Cambodia. It is a follow-up to the “Eviction and Resettlement in Cambodia – Human Costs, Impacts and Solutions” report released by OHCHR Cambodia in 2012. As part of its technical cooperation with the RGC, OHCHR continues to monitor instances of evictions and resettlements in Cambodia, to identify good practices and report problematic areas to the RGC and other relevant actors for corrective action, thus supporting state institutions responsible for respecting and upholding human rights.

This study has a wider coverage than the 2012 study, which looked into eight resettlement areas in Phnom Penh, Kandal and Preah Sihanouk, and were related to evictions in urban areas. This study covered 17 resettlement areas, in both urban and rural settings.

The 2012 study concluded that eviction and resettlement in Cambodia contained inherent risks of impoverishment and hardship for affected communities. It noted among other issues that “... 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”. It also pointed out that when the above-mentioned conditions are not met, the conditions of resettled communities often became worse.

The objectives of this study were similar to the 2012 study. It included measuring the human and social costs of eviction and resettlement in Cambodia and exploring solutions to address the problems identified. As in the previous study, it is hoped that the RGC, and other relevant stakeholders, including organizations with technical expertise and assistance programmes will take the study forward to assess some aspects of resettlement highlighted in this study in depth and devise programmes accordingly, through cooperative discussions towards finding solutions to the resettlement problem in Cambodia. Furthermore, it is also hoped that the RGC, through a collaborative consultative process, will create clear guidelines that will govern the conduct of all future evictions and relocations. These should lead to resettled families being 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.

2 Resettlement Sites

For this study, households affected by evictions were surveyed in 17 different resettlement sites. They were located in **Phnom Penh and eight provinces** (Battambang, Kandal, Koh Kong, Kampong Speu, Oddar Meanchey, Siem Reap, Preah Sihanouk and Stung Treng). As shown in **Map 1** below, there were six sites in Phnom Penh, and the 11 provincial sites included one site in each of the six provinces (Battambang, Kandal, Koh Kong, Kampong Speu, Oddar Meanchey and Siem Reap), three sites in Preah Sihanouk, and two sites in Stung Treng. **Table 1** below lists in alphabetical order the locations and full address of each resettlement site by province and shortened names for each site used as reference in this report.

There are nine resettlement sites in areas that are still considered part of a major town or city. These sites are Andoung Chas, Andoung Thmey, Damnak Troyeung, Sre Ampel, Trapaing Anchanh and Toul Sambo in Phnom Penh; and Prek Kon Sek in Battambang, Aphiwat Deythmey in Preah Sihanouk, and Veal in Siem Reap. Only one of these sites is close to the town, Prek Kon Sek, which is seven km away from Battambang town. The other eight sites are on the outskirts of the cities or towns, some distance away from the city or town centers. These nine resettlement sites are marked with asterisks in tables and figures included in this report. Sixty-eight percent of the households were in resettlement sites located outside of the major cities, and 32 percent were living in the nine major cities.

Map 1: 17 Resettlement Sites

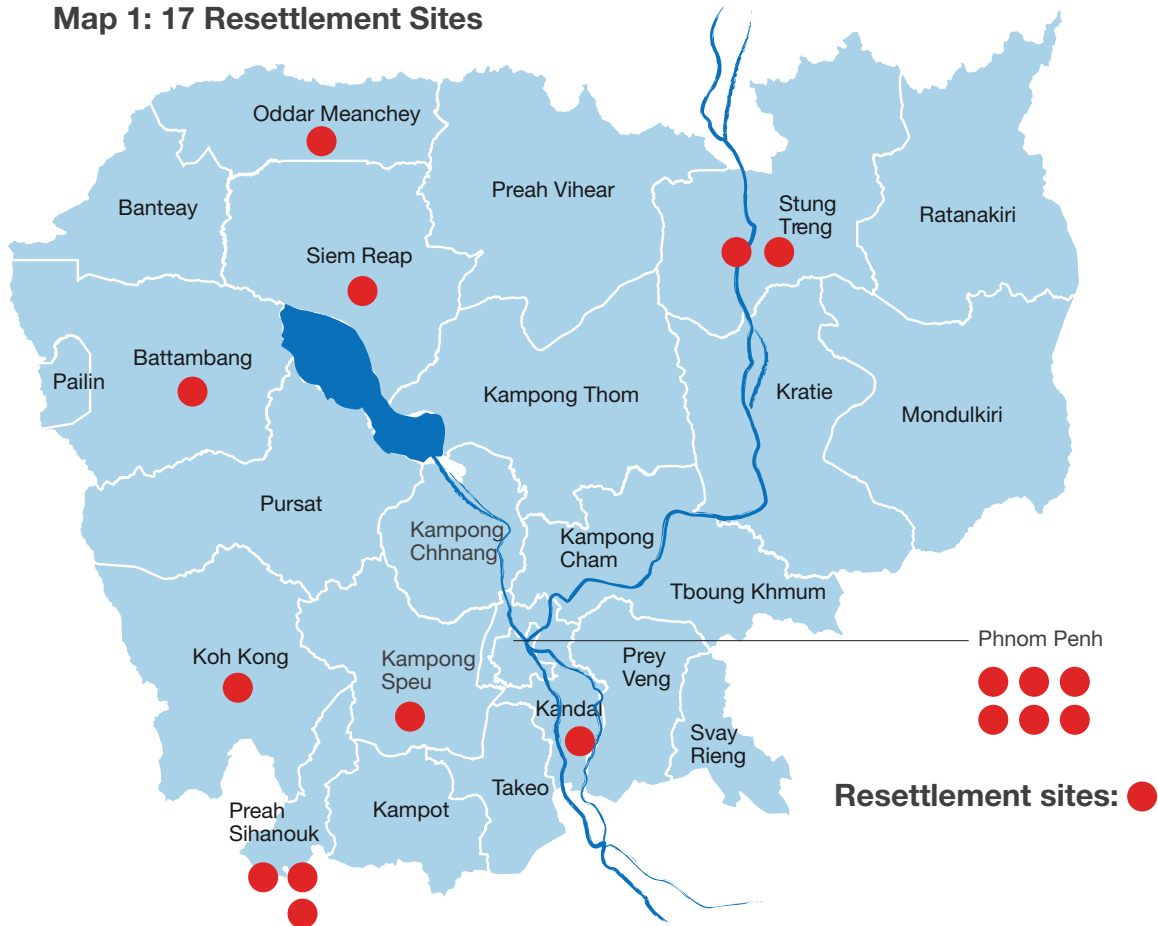









Table 1: Full address and reference names for resettlement sites by province (in alphabetical order)

	Full address	Reference names
Battambang	Prek Kon Sek Village, Sangkat Ou Char, Battambang City*	Prek Kon Sek*
Kampong Speu	Pis Village, Amleang Commune, Thpong District	Pis

 <p>Kandal</p>	<p>Full address</p> <p>Srah Por Village, Phnom Bat Commune, Ponhea Lueu District</p>	<p>Reference names</p> <p>Srah Por</p>
 <p>Koh Kong</p>	<p>Full address</p> <p>Prek Smach Village, Kaoh Sdach Commune, Kiri Sakor District</p>	<p>Reference names</p> <p>Prek Smach</p>
 <p>Oddar Meanchey</p>	<p>Full address</p> <p>Au Butt Moin Village, Sangkat Koun Kriel, Krong Samraong</p>	<p>Reference names</p> <p>Au Butt Moin</p>
 <p>Phnom Penh</p>	<p>Full address</p> <p>Andoung Thmey, Andoung Village, Sangkat Kouk Roka, Khan Prek Pnov* Andoung Chas, Andoung Village, Sangkat Kouk Roka, Khan Prek Pnov* Trapaing Anchach Village, Sangkat Trapeang Krasang, Khan Pou Senchey* Tuol Sambo Village, Sangkat Prey Veaeng, Khan Dangkao* Damnak Troyeung Village, Sangkat Chaom Chau, Khan Pou Senchey* Sre Ampel Village, Sangkat Snaor, Khan Pou Senchey*</p>	<p>Reference names</p> <p>Andoung Thmey* Andoung Chas* Trapaing Anchach* Tuol Sambo* Damnak Troyeung* Sre Ampel*</p>
 <p>Preah Sihanouk</p>	<p>Full address</p> <p>Ong Village, Ream Commune, Prey Nob District O'Trachak Chet, (Village Name Unidentified), Sangkat Tumnob Rolok, Stueng Hav District Muoy Village, Sangkat Muoy, Preah Sihanouk City*</p>	<p>Reference names</p> <p>O'Kampuchea+ O'Trachak Chet Aphiwat Deythmey*+</p>
 <p>Siem Reap</p>	<p>Full address</p> <p>Veal Village, Sangkat Sambuor, Siem Reap City*</p>	<p>Reference names</p> <p>Veal*</p>
 <p>Stung Treng</p>	<p>Full address</p> <p>New Sre Sronok Village, Kbal Romeas Commune, Sesan District New Kbal Romeas Village, Kbal Romeas Commune, Sesan District</p>	<p>Reference names</p> <p>New Sre Sronok New Kbal Romeas</p>

*Located in major cities. Applicable throughout the document.

+The names the villagers usually use as reference

3 Methodology

In 2019, Credit Union Foundation Australia (Cufa) was contracted by OHCHR to conduct the research and data collection. After CUFA submitted the data in early 2020, OHCHR hired consultants to analyze the data and prepare a final report on the human rights situation of communities in 17 resettlement sites including recommendations on how resettlement should be carried out in Cambodian context and in accordance with international human rights norms and standards. To complete the assignment, the consultant carried out dataset analysis, literature review and consultations with relevant stakeholders, using a human rights based approach so that human rights perspectives were the fundamental element in the entire research and analysis. Due to time and page limitations, other interviews with civil society organizations and results of focus group discussions were not included in this report. The research took place prior to the COVID-19 pandemic.

4 Survey Sample Size

In 2017, prior to the conduct of Cufa's household surveys, based on its monitoring and in consultation with NGO partners OHCHR identified that 3,914 households had been evicted to the 17 identified resettlement sites. The study confirmed that there were 2,341 households at these resettlement sites. Across all resettlement sites, 510 households were living in Phnom Penh and 1,831 respondents were living in the eight provinces. Between November 2019 and January 2020, the study verified the total number of households by physically counting households at each site and by crosschecking the numbers with respective local authorities, leaders and members of the villages and the communities. **Table 2** provides the breakdown by site location as well as the sample sizes that the report used for each site.

As the table shows, in 15 out of the 17 sites, the number of households living at each site declined. The declines were because the households:

- Were provided land plots only with no housing to live in;
- Decided not to move and live in the resettlement sites as they needed to work or operate their business within the areas of their initial residence;
- Migrated outside the country or moved to a different location for work; or
- Were renting or had sold their housing in the resettlement to persons who had not been evicted.

The study revealed that the increased number of households in the remaining sites (New Kbal Romeas and New Sre Sronok in Stung Treng) was because more households moved into the resettlement sites since 2017 when OHCHR first counted the number of households living at those sites. At the time of their visit, OHCHR was informed that more families were arriving, but OHCHR had not been provided information on the exact number expected.

In terms of sample sizes, this report used 25 percent for the three largest sites (New Kbal Romeas and New Sre Sronok in Stung Treng and Prek Smach in Koh Kong) and 32 percent for the remaining 14 resettlement sites. These reliable sample sizes were computed based on the numbers of survey interviews conducted at the different resettlement sites.²

² A good maximum sample size is usually around 10 percent of the population. For this report, the sample size varied between 25 percent and 90 percent between the different resettlement sites.

Table 2: Number of households identified and of sample sizes by sites (alphabetical order)

Resettlement Sites	Number of households identified			
	Location	OHCHR (2016-2017)	Cufa (2019-2020)	Difference
Andoung Chas (Phnom Penh)*	600	130	-470	42
Andoung Thmey (Phnom Penh)*	384	220	-164	70
Aphiwat Deythmey (Preah Sihanouk)*	55	8	-47	3
Au Butt Moin (Oddar Meanchey)	214	74	-140	24
Damnak Troyeung (Phnom Penh)*	91	56	-35	18
New Kbal Romeas (Stung Treng)	200	400	200	98
New Sre Sronok (Stung Treng)	180	600	420	147
O'Kampuchea (Preah Sihanouk)	46	11	-35	4
O'Trachak Chet (Preah Sihanouk)	19	19	0	6
Pis (Kampong Speu)	100	74	-26	24
Prek kon Sek (Battambang)*	55	15	-40	5
Prek Smach (Koh Kong)	800	400	-400	98
Srah Por (Kandal)	140	120	-20	38
Sre Ampel (Phnom Penh)*	168	16	-152	5
Trapaing Anchach (Phnom Penh)*	148	48	-100	15
Tuol Sambo (Phnom Penh)*	40	40	0	13
Veal (Siem Reap)*	674	110	-564	35
Total	3,914	2,341	-1,573	645

5 Gaps in Research and Evidence

This report covers a basic data analysis. This is due to the extensive amount of raw data and the limited amount of time to undertake a comprehensive analysis, particularly drawing correlations between different issues (e.g. livelihood and food security). It is suggested that additional data analysis is conducted into particular areas of research including but not limited to food security, livelihood, debt and other human rights issues.

Statistically, 58 percent women and 42 percent men were interviewed. The analysis in this research incorporates gender and ensures that women's voices were reflected in the survey. Specific sections of the questionnaires were designed to elicit responses on how women were affected differently than men, and when trends were found to exist in data, these are pointed out in the report. However, there were some difficulties in disaggregating data by gender, as respondents represented entire households, and were not necessarily speaking on their individual behalf. The households could not be gendered, as they were composed of both men and women.

There were initial difficulties in conducting surveys in Phnom Penh and Koh Kong due to obstacles raised by local authorities, who did not support the survey in the resettlement sites and did not want to meet with the research teams to discuss the survey. These difficulties were eventually overcome with Cufa obtaining permission to conduct the survey, but they caused delays in the undertaking of surveys.

Forty households³ decided against participating in the survey for one of two reasons: either they did not have enough time or they requested incentives before they would be willing to participate. Eleven local authorities in Phnom Penh and Preah Sihanouk provinces declined to be interviewed. The authorities said that they had no time to meet, and some did not seem willing to share information on the resettlement sites. In some cases, the authorities did not have information about the sites, as they had not been in their positions at the time the resettlement sites were established.



House provided as compensation in Andoung Thmey, located in Andoung village, Kork Roka Commune, Khan Prek Pnov, Phnom Penh. Photo: Cufa



Clothes hanging to be dried in front of a house of Monivong AB community that were resettled to Sre Ample village, Snor Commune, Khan Dangkor, Phnom Penh. Photo: Cufa

³ These households were from Prek Smach, Koh Kong (four households), Phnom Penh (30 households from all six sites), Veal, Siem Reap (four households) and New Sre Sronok, Stung Treng (two households).

1

CHAPTER

INTRODUCTION

Chapter 1: Introduction

1.1 The Respondents

Phnom Penh/Provinces, Gender, Age

- This report studied 645 respondents who represented one household each.
- The respondents were living in 17 resettlement sites in Phnom Penh and eight provinces.
- 58 percent of the respondents were women and the remaining 42 percent were men.
- 75 percent of the respondents were living in provinces, and 58 percent of them were women.
- 25 percent of the respondents were living in Phnom Penh, and 58 percent of them were women.

Table 3 provides a gender breakdown of respondents in each resettlement site.

Table 4 shows the age groups of the respondents.

Table 3: Gender Breakdown of the Respondents









			
	Province and Resettlement Sites	Female	Male
Battambang	Prek kon Sek*	40%	60%
Kampong Speu	Pis	54%	46%
Kandal	Srah Por	82%	18%
Koh Kong	Prek Smach	54%	46%
Oddar Meanchey	Au Butt Moin	50%	50%
Phnom Penh		58%	42%
	Andoung Chas*	52%	48%
	Andoung Thmey*	60%	40%
	Damnak Troyeung*	61%	39%
	Sre Ampel*	40%	60%
	Trapaing Anchanh*	67%	33%
	Tuol Sambo*	62%	38%
Preah Sihanouk		54%	46%
	Aphiwat Deythmey*	67%	33%
	O'Kampuchea	50%	50%
	O'Trachak Chet	50%	50%
Siem Reap	Veal*	63%	37%
Stung Treng		58%	42%
	New Kbal Romeas	55%	45%
	New Sre Sronok	59%	41%
Grand Total		58%	42%

Table 4: Age Groups of Respondents

			
Age Group	Total	Female	Male
Below 21 **	3.3%	4.3%	1.9%
Age 21-29	14.4%	16.2%	11.9%
Age 30-39	22.6%	20.5%	25.7%
Age 40-49	19.2%	17.3%	21.9%
Age 50-59	19.5%	19.4%	19.7%
Age 60-69	12.9%	13.6%	11.9%
Age 70-79	6.4%	7.7%	4.5%
Age 80-89	1.6%	1.1%	2.2%
Age 90-99	0.2%	0.0%	0.4%
Grand Total	100.0%	100.0%	100.0%

**21 is the legal age in Cambodia

Indigenous Households

Fifteen percent of the total respondents identified themselves as being indigenous peoples (56 percent were women), and all of them were located in New Kbal Romeas and New Sre Sronok in Stung Treng. Ninety-five percent of the respondents living in New Kbal Romeas and two percent of those living in New Sre Sronok were indigenous peoples. The indigenous peoples in New Kbal Romeas represented 14.4 percent of the total respondents and those in New Sre Sronok represented 0.5 percent of the total respondents. All of the indigenous peoples accounted for 20 percent of the respondents living in the provinces, and represented seven indigenous groups (Phnong, Broa, Prov, Kreung, Kouy, Leav and Tumpoun). The most represented indigenous groups were Phnong (75 percent) and Broa (21 percent).

Whenever possible, this report disaggregated data and analyzed the experience of indigenous people households.

Eviction Sites





- The total number of eviction sites represented by the respondents were 37, and seven of them (19 percent) were in Phnom Penh.
- **Annex 1** provides the list of eviction sites with full address and their short names used as reference in this report.
- **Annex 2** lists eviction sites under each resettlement site. In some cases, respondents from the same eviction sites were moved to different resettlement sites.⁴

⁴ For example, selected respondents from Sambok Chap Building community in Phnom Penh were evicted to three resettlement sites in Phnom Penh (Andoung Thmey, Andoung Chas and Tuol Sambo). Some respondents were moved within the same village, for instance, those from Pis in Kampong Speu Province.

Household Size and Positions in Households

- As Table 5 shows, the most represented number of individuals in a household were five (23 percent), four (20 percent), three (16 percent) and six (15 percent).
- Fifty-five percent of the respondents were heads of households, 38 percent were family members of heads of households, and seven percent were spouses of heads of households.
- While 72 percent of the family members and 94 percent of the spouses were women, 70 percent of the heads of households were men.
- Fifty percent of the indigenous people were spouses of heads of households, 45 percent were heads of households, and five percent were family members. While 98 percent of the spouses were women, 88 percent of the heads of households and 60 percent of the family members were men.

Table 5: Size of households

							
Number of Individuals	Percentage of Respondents	Number of Individuals	Percentage of Respondents	Number of Individuals	Percentage of Respondents	Number of Individuals	Percentage of Respondents
1	2.9%	10	1.2%				
2	4.2%	11	1.2%				
3	15.5%	12	0.5%				
4	20.2%	13	0.6%				
5	22.6%	14	0.3%				
6	14.7%	15	0.2%				
7	7.8%	16	0.2%				
8	5.1%	20	0.2%				
9	2.5%	22	0.2%				

Marital Status

- Sixty-six percent of the female heads of households were widows and 30 percent of the female family members were married.
- Ninety-two percent of the male heads of households were married and 83 percent of the male family members were married.
- Among the indigenous peoples, all of the female heads of households were widows; half of the female family members were single and the other half were married.
- Among the male indigenous peoples, all of the heads of households were married and 67 percent of the family members were single.

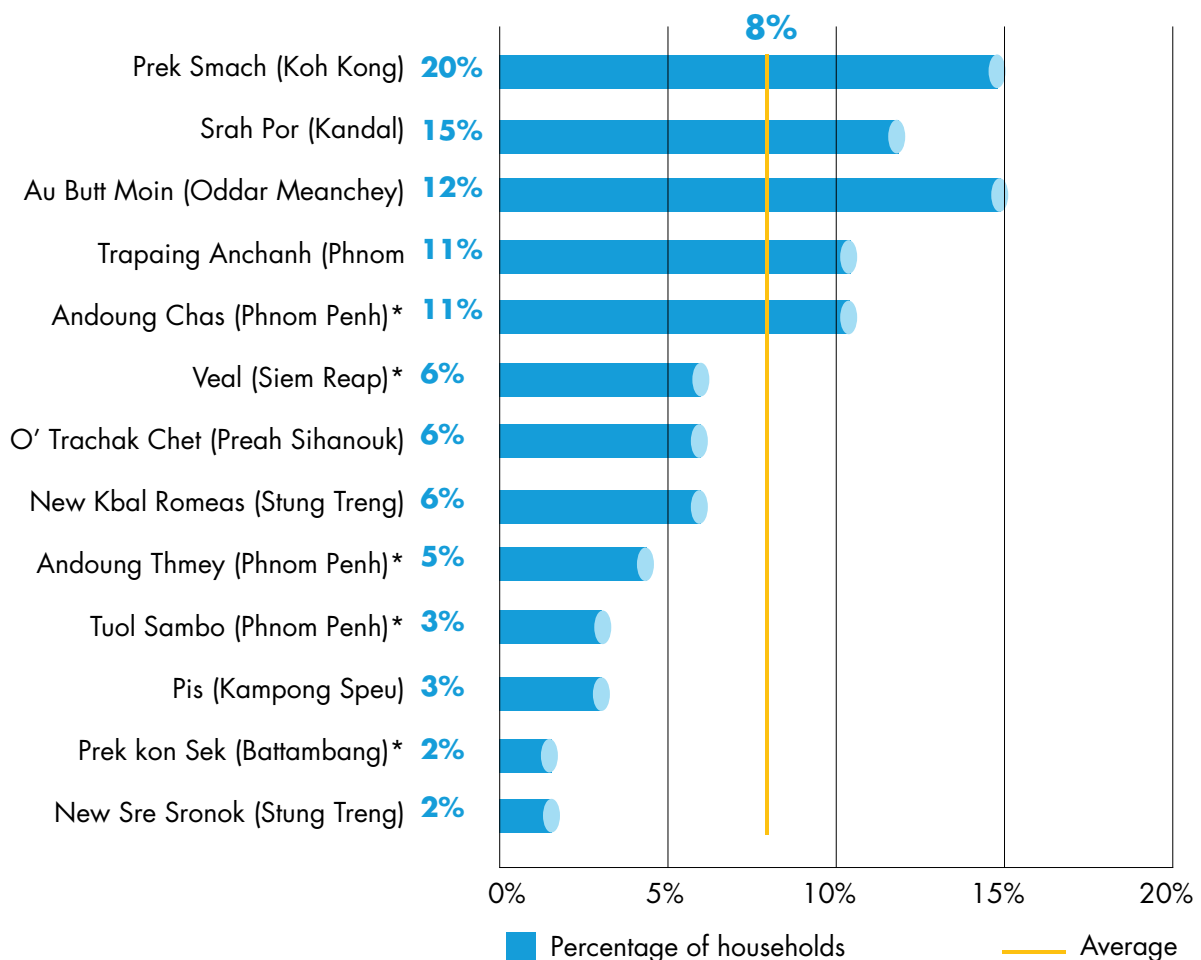
Migration

- Ten percent of the total respondents said not all of their family members lived in resettlement sites. Four percent of the indigenous people answered the same.
- As **Figure 1** shows, on average eight percent of the respondents across 13 out of the 17 resettlement sites had at least one family member who had migrated out of resettlement sites.
- There were eight types of family members who migrated out of resettlement sites. The top four types were sons (36 percent), daughters (36 percent), grandchildren (nine percent), and brothers (seven percent).
- Each of the migrated family members had one or more reasons for moving out of the resettlement sites, and each respondent provided one or more answers. There were eight different reasons. The top three reasons were for work or business in another location (61 percent of the counted responses), to live with a newlywed spouse (13 percent) and to study in town or city (seven percent). Five other reasons respondents provided were to live in other countries; to live with relatives; to live with parents/relatives in the provinces/further away; to live in urban/central locations; and to pursue monkhood.



Caption: Bathroom and hand basin inside an abandoned house at a resettlement site in Andoung Thmey, located in Andoung village, Kork Roka Commune, Khan Prek Pnov, Phnom Penh. Photo: Cufa

Figure 1: Family Members Emigrated Resettlement Sites



1.2. Legal and Policy Framework

International Legal Standards

The right to housing is guaranteed by international human rights law. Article 25 of the Universal Declaration of Human Rights, Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination and Article 14 of the Convention on the Elimination of All Forms of Discrimination Against Women provide a normative framework as well as the legal obligations. Cambodia has ratified these international human rights treaties, which, pursuant to Article 31 of the Constitution of Cambodia, Cambodian nationals can enjoy the rights recognized in international human rights treaties. Other conventions, ratified by Cambodia, have expanded on the protection of the right to an adequate standard of living and specified that it must be realized without discrimination.

The right to adequate housing is part of the right to an adequate standard of living. The right to adequate housing does not refer merely to structures where people reside, but also includes conditions that are necessary to secure a healthy place to live. Under the ICESCR⁵, there are seven components to the right to adequate housing. These are legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy. The right to adequate housing also encompasses protection against unlawful evictions and the arbitrary destruction and demolition of one's home. The right to adequate housing and protection from forced and unlawful eviction is also guaranteed by other international human rights norms and standards, which Cambodia has ratified.⁶

The General Comment No. 7 on the right to adequate housing provides that forced eviction is *prima facie* against the ICESCR.⁷ The General Comment further provides substantive protection and procedural guarantees concerning forced eviction, which includes contains the minimum standards required in the conduct of eviction and define the circumstances under which evictions would be considered illegitimate and “forced” under international standards. In 2007, the United Nations Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (Special Rapporteur on the right to adequate housing), issued the ‘Basic Principles and Guidelines on Development based Evictions and Displacement’ (2007).⁸ These Guidelines focused on the human rights implications of evictions and displacement linked to development. In December 2019, the Special Rapporteur on the right to adequate housing issued Guidelines for the Implementation of the Right to Adequate Housing⁹, which identify the key elements needed for the effective implementation of the right to housing, with one specific section addressing forced evictions. The 2019 Guidelines also include sections¹⁰ on the role of local authorities in implementing the right to adequate housing, the role of the private sector, and the need to address climate change.

5 UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, Art. 11(1) www.ohchr.org/en/professionalinterest/pages/cescr.aspx.

6 See the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of Racial Discrimination (CERD), the Convention on the Elimination of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW).

7 UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22, para 1.

8 A/HRC/4/18, 5 February 2007.

9 Special Rapporteur on adequate housing, Guidelines for the implementation of the right to adequate housing, A/HRC/43/43, 26 December 2019.

10 Guidelines 11-13.

There are also specific Guidelines on the right to housing for indigenous peoples contained in the 2019 Report of the Special Rapporteur on the right to adequate housing to the General Assembly¹¹. Aside from reaffirming that the right to adequate housing must be guaranteed to indigenous peoples and individuals without discrimination, the Guidelines stress the need for free, prior and informed consent and cultural adequacy in resettlement sites. In 2020, the UN Special Rapporteur on the right to adequate housing urged States to put a moratorium on all evictions during the pandemic.¹²

The United Nations adopted Sustainable Development Goal (SDG) 11, covers the right to adequate housing. Target 11.1, Indicator 11.1.1. is to “ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums.”

For the purposes of this study, the sources enumerated above offer the methodological and legal basis on which the present Study is based, with the caveat that there are other international instruments standards (e.g. on women’s rights, children’s rights, rights to health and education, right to food, right to water and sanitation, the rights of indigenous peoples and the right to a healthy environment, among others) that also apply to situations involving evictions and resettlement.

Business and human rights

States are obligated under international human rights law to protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. The United Nations Guiding Principles on Business and Human Rights are the global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity, and they provide the internationally-accepted framework for enhancing standards and practices with regard to business and human rights. The Guiding Principles are grounded in recognition of: (a) States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms; (b) The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights; and (c) The need for rights and obligations to be matched to appropriate and effective remedies when breached.¹³

Evictions and Resettlement under Cambodian National Law

Cambodia is a party to the ICESCR. The Cambodian Constitution envisages a direct incorporation of international human rights treaties and convention that Cambodia has ratified, thus under Article 31 of the Cambodian Constitution, the right to housing has been incorporated as a fundamental human rights of the Cambodian people. Children’s rights, women’s rights, the rights to education and health, and the requirement of social measures to promote the wellbeing of Cambodian citizens are also included in the Constitution. These obligations are directly relevant to resettlement processes.

Cambodian national laws not only recognize the right to adequate housing, but also provide protections for this right. In addition to the constitutional guarantee of the right to housing, the 2001 Land Law recognizes the right to own immovable property. Land/property expropriation can only occur in the public interest, and fair and just compensation

11 A/74/183, 2019.

12 OHCHR, “Ban evictions during COVID-19 pandemic, UN expert urges”, 18 August 2020, available at <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26170&LangID=E>.

13 The Guiding Principles do not constitute an international instrument that can be ratified by States, nor do they create new legal obligations. Instead, they clarify and elaborate on the implications of relevant provisions of existing international human rights standards, some of which are legally binding on States, and provide guidance on how to put them into operation. See The United Nations Guiding Principles on Business and Human Rights available at https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

must be paid in advance.¹⁴ The Land Law also describes how individuals can peacefully acquire possession rights, which are protected until legal title is conferred. These provisions should protect the possessor's occupation of the land and prevent any evictions until the legality of the possession is determined as long as there exists a peaceful possession. The 2010 Law on Expropriation reiterates the principle of payment of adequate and fair compensation to be given in advance, at market price or replacement price, to owners/possessors. Under the 2001 Land Law, any person who has lawfully enjoyed peaceful, uncontested possession land has the right to request a definitive title of ownership. The RGC has also been using the Sub-decree on Social Land Concessions (2003) to resettle poor, homeless communities that have been affected by development projects, natural disasters or are communities of veterans and disabled former soldiers and their families.

In May 2010, the Circular on Resolution on Temporary Settlements on Land (also known as Circular No. 03) was issued to deal with disputes related to relocations of communities in urban areas. It offered solutions to support development of urban poor settlements that were considered illegal, and while it established minimum standards for resettlement sites, it did not include adequate legal safeguards for relocation. Moreover, as a Circular, it does not have the same binding effect as a law.

On 9 May 2014, the RGC issued a National Housing Policy, which explicitly recognized the right to adequate housing. The Policy creates a Strategy and Action Plan, which cite principles of human rights and dignity, and notes that relocations should always be a last resort and encourages the participation of local communities. The Housing Policy also encourages the implementation of Circular No. 03. The RGC also issued a Policy on Incentive and Establishment of National Program for Development of Affordable Housing (2017), so that housing would be made available to low income and vulnerable groups. The Policy has two stages: the first stage focuses on fiscal incentives, such as tax breaks, to encourage investment in low cost housing, while the second stage creates a national program for the development of affordable housing, to work in conjunction with the social security system.

In February 2018, the Ministry of Economy and Finance issued a Sub Decree on the Promulgation of the Standard Operating Procedures for Land Acquisition and Involuntary Resettlement for Externally Financed Projects in Cambodia. The Sub Decree sets out the procedures to be followed when infrastructure projects funded by external donors (such as the World Bank, Asian Development Bank and others) will affect communities. The Sub Decree outlines the roles and responsibilities of various government agencies, lays out the steps to be taken when resettlement is deemed necessary, and establishes a grievance procedure for communities who disagree with the planned resettlement. This Sub Decree does not apply to resettlements caused by local development projects.

Children's rights, women's rights, the rights to education and health, and the requirement of social measures to promote the well-being of Cambodian citizens are also included in the Constitution. These obligations are directly relevant to resettlement processes.



A shanty house built on the given plot of land at a resettlement site in Andoung Chas, Andoung village, Sangkat Kouk Roka, Prek Pnov District, Phnom Penh. Photo: Cufa

¹⁴ Under Sub-Decree No. 129, Rules and Procedures on Reclassification of State Public Properties and Public Entities (2006) which sets the principles, strategy and legal procedures for the managing and functioning of state properties, the authority responsible to publicly observe and report on the public interest conditions of state public property is the State Property Management Authority.

2

CHAPTER

LIFE AT RESETTLEMENT SITES

Chapter 2: Life at Resettlement Sites

2.1. Prior to Eviction

2.1.1 Decision Making Process

During the survey, no respondents stated that they or their household members had participated in **consultation meetings**. Some respondents specifically noted that they had not participated in any consultation meetings prior to the move. These responses indicate that the process prior to resettlement did not comply with international human rights norms standards, as meaningful consultation is an essential element of the resettlement process.¹⁵ This calls into question the voluntariness of relocations. It further can be called into question whether respondents that claimed moves were voluntary relocations had actually been able to participate in a process prior to resettlement that meet the international human rights norms and standards.

Thirty percent of the households claimed that moves were **voluntary relocations**. Sixty-three percent of the households claimed that moves were **forced evictions**.

The top three reasons the households believed moves were voluntary were:

- They had participated in discussions with relevant government officials or company representatives prior to resettlement (92 percent)
- They had been provided relevant and adequate information on relocations prior to resettlement (61 percent)
- The alternatives to relocations were properly considered (30 percent).

Indigenous households added that their communities' cultural sites were taken into consideration during this process. The top three reasons the households believed moves were forced evictions were:

- They did not want to relocate (81 percent)
- They were not given any alternatives but to relocate (72 percent)
- No opportunities for genuine consultations with relevant stakeholders (37 percent).

Other reasons households believed moves were forced evictions were:

- Households were coerced into accepting additional benefits to agree to relocate (24 percent)
- Local authorities or companies used threats, violence and other measures to forcibly evict households (24 percent)
- Households were evicted with physical force on the day of the eviction (15 percent).

Figure 2 below shows the percentages of households that claimed moves were voluntary relocations and of the households that claimed moves were forced evictions.

Sixty-nine percent of the total respondents stated that their households had participated in **information meetings** with relevant stakeholders including government officials prior to resettlement. While people were informed of what would happen, nearly one-third (30 percent) of the households were not given opportunities to participate in the information process prior to resettlement. Whether households had participated in information meetings did not solely influence households in determining whether moves were voluntary relocations or not. It was the type of information meeting that had an influence on households. The characteristics of information meetings that had such influence were those that:

- Explained the reasons for relocations;
- Informed them about the time and date to relocate;

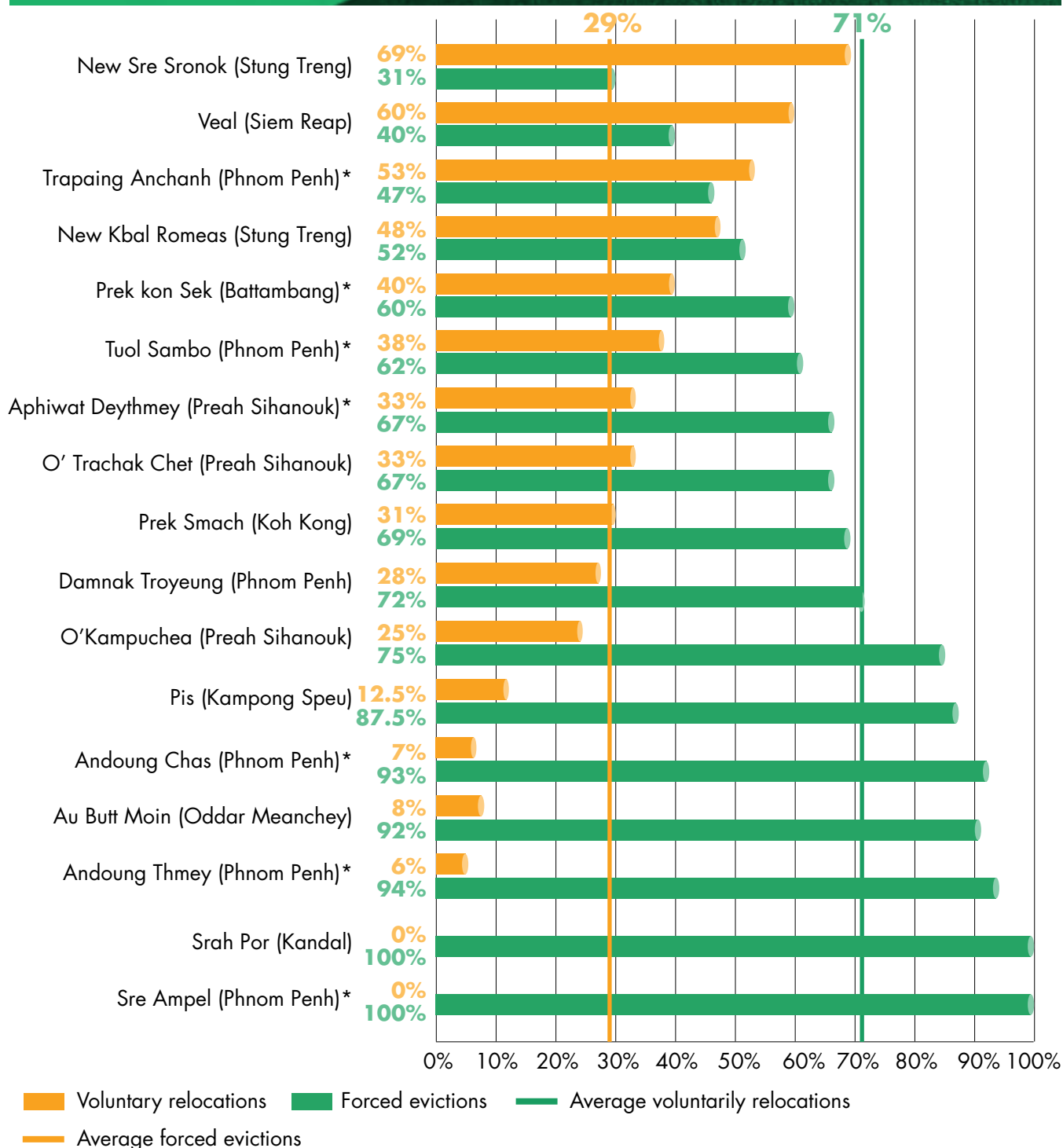
15 OHCHR (Reprint 2013). Basic Principles and Guidelines on development-based evictions and displacement as contained in the United Nations Commentary and Guidelines on Eviction and Resettlement, Phnom Penh, OHCHR, para. 37, p. 33, available at https://cambodia.ohchr.org/sites/default/files/Softlaw/UN%20Commentary-A5-En_0.pdf. It should also be noted that the requirement of public consultations is included in the Cambodian legal framework, see 2005 Sub-Decree on Economic Land Concessions, 2018 Sub-Decree on The Promulgation of the Standard Operating Procedures For Land Acquisition and Involuntary Resettlement For Externally Financed Projects in Cambodia and Law on Environmental Protection and Natural Resources Management, 1996.

- Informed them about the location of the resettlement site and living conditions in the resettlement site;
- Took place when government representatives visited households; and
- Provided adequate time to plan and prepare for relocations.

Indigenous households were similarly influenced by these factors in determining whether moves were voluntary relocations or forced evictions.

Most respondents stated that both men and women were present at information meetings, and the level of gender balance in meeting attendance did not influence households in determining whether moves were voluntary relocations or forced evictions. The number and length of information meetings also did not influence households in determining whether moves were voluntary relocations or forced evictions.

Figure 2: Voluntary Relocations or Forced Evictions (percentage of households)



In a majority of the sites, local authorities noted that they had no say in deciding where resettlement sites would be located. Local authorities and leaders stated that the institutions making the decision were at a higher level, from districts and provincial authorities, to Inter-Ministerial committees, Ministries, the Royal Cambodian Navy, and in some cases, the companies whose concessions or development projects caused the relocation. Some local authorities said they had attended meetings to discuss the resettlement, but felt they had no power or right to make any decisions. Local authorities and leaders from New Kbal Romeas and New Sre Sronok in Stung Treng, where indigenous households are located, stated that the community chose the relocation site after the offered sites were contested and people refused to relocate, and local authorities only informed higher authorities about the community's decision.

2.1.2 Notice of Eviction

Eighty-three percent of the households had been **notified of relocations** through meetings with affected households or communities prior to resettlement. Some 91.1 percent of the households that attended these meetings noted that both men and women were present. Whether households were able to read written information on relocation influenced households in determining whether moves were voluntary relocations or forced evictions. All indigenous households were notified of relocations through meetings prior to resettlement. No indigenous households stated that local authorities used physical force to evict them.

2.2. Requirements for Resettlement Sites

The conditions at resettlement sites upon the affected households' arrival did not meet the criteria and guidelines for a proper resettlement site. The **lack of housing** in some of the resettlement sites identified by ten percent of the respondents is inconsistent with the right to adequate housing, which requires that alternative housing should be provided prior to resettlement, and that persons who have been relocated should have access to basic shelter and housing.

Basic necessities at the resettlement sites were not readily available at the resettlement site upon their arrival, as indicated by respondents with regard to **food security** (no market [18 percent], no food [eight percent], food expensive [eight percent], difficulty in fishing for indigenous households [one percent]), lack of a **water source** (45 percent), lack of clean drinking water (37 percent), and lack of **electricity** (33 percent).

All of the above conditions are not consistent with the Basic Principles and Guidelines on Development-based Evictions and Resettlement, which mandate that competent authorities should ensure that evicted persons or groups have safe and secure access to essential services at the resettlement site, and that the sites should be prepared prior to relocation.

Resettlement sites need to provide access to **employment options** and livelihood sources. Eight percent of respondents said the sites were far from their workplace or business. Twenty-seven percent said there were not jobs or businesses at the resettlement sites, while six percent reported that they had lost their job/businesses due to being resettled.

Some **local authorities** and community leaders acknowledged issues faced by resettled households upon their arrival in the resettlement site. Local authorities and community leaders in Srah Por (Kandal), Prek Kon Sek (Battambang) and Prek Smach (Koh Kong) said that livelihood and employment opportunities were difficult to find. Local authorities in Prek Smach (Koh Kong) also had concerns about lack of roads and lack of water. The village chief in New Sre Sronok (Stung Treng) said the resettled households were unsatisfied because the area had no trees and lacked water. A community leader in O'Kampuchea (Preah Sihanouk) said that households were unhappy because the land had not been cleared prior to their arrival.

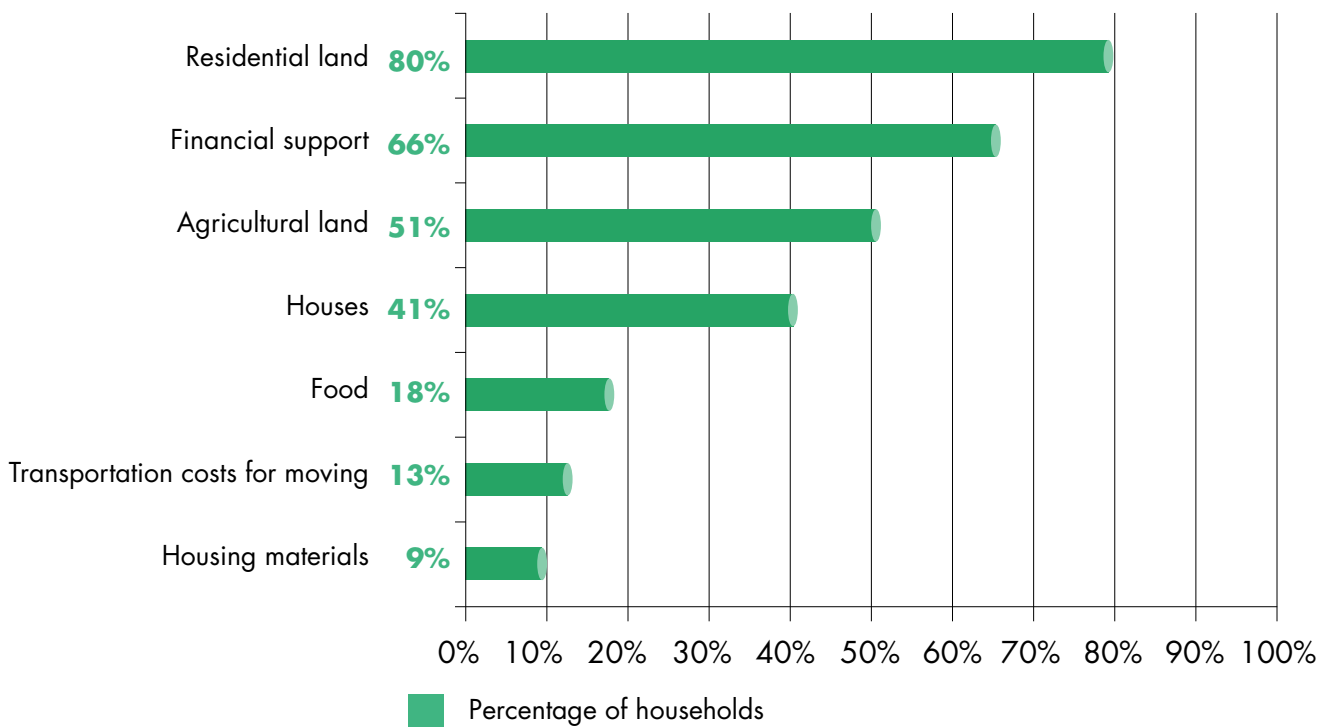
2.3. After Eviction

2.3.1. Compensation

The following analysis indicate the amount of compensation made, but does not demonstrate whether they were sufficient and adequately assessed against international human rights standards.

Seven types of monetary and non-monetary compensation were provided to households: residential land; financial support; agricultural land; houses; food; transportation costs to move household assets; and housing materials.

Figure 3: Types of Compensation



Each respondent provided one or more answers as to which type of compensation they had received. **Figure 3** lists all of the seven types of compensation and the percentages of households that had received the compensation: residential land (80 percent); financial support (66 percent); agricultural land (51 percent); houses (41 percent), food (18 percent); transportation costs to move household assets (13 percent); and housing materials (nine percent). The size of residential land provided the most was over 250m², while the size of agricultural land provided the most was 4–5 hectares. The amount of financial support provided the most (61 percent) was more than USD \$1,001. No respondents had to pay to be able to receive compensation.

Local authorities in Au Butt Moin (Oddar Meanchey) and Pis (Kampong Speu) said that some resettled households felt that the compensation and land given to them was insufficient.

All indigenous households were compensated for the loss of their **cultural sites** with land and financial support. Fourteen percent however, felt the compensation was unjust and unfair. Sixty-four percent of indigenous households had negotiations on **benefit sharing agreements** with relevant companies involved in the resettlement.

2.3.2. Overview: Positive and Negative Aspects of Resettlement

Resettled households were asked to identify the positive and negative aspects of resettlement. Almost all households identified both positive and negative aspects of the resettlement. Many found improved access to adequate housing and health and education services. At the same time, more than half of the households found deterioration of access to water and some found deterioration in livelihood.

Positive aspects

Most of the affected households had identified some aspects of their living conditions in resettlement sites that meet some international human rights standards on resettlement — particularly in the areas of housing, distance to local schools, water supply and sanitation.

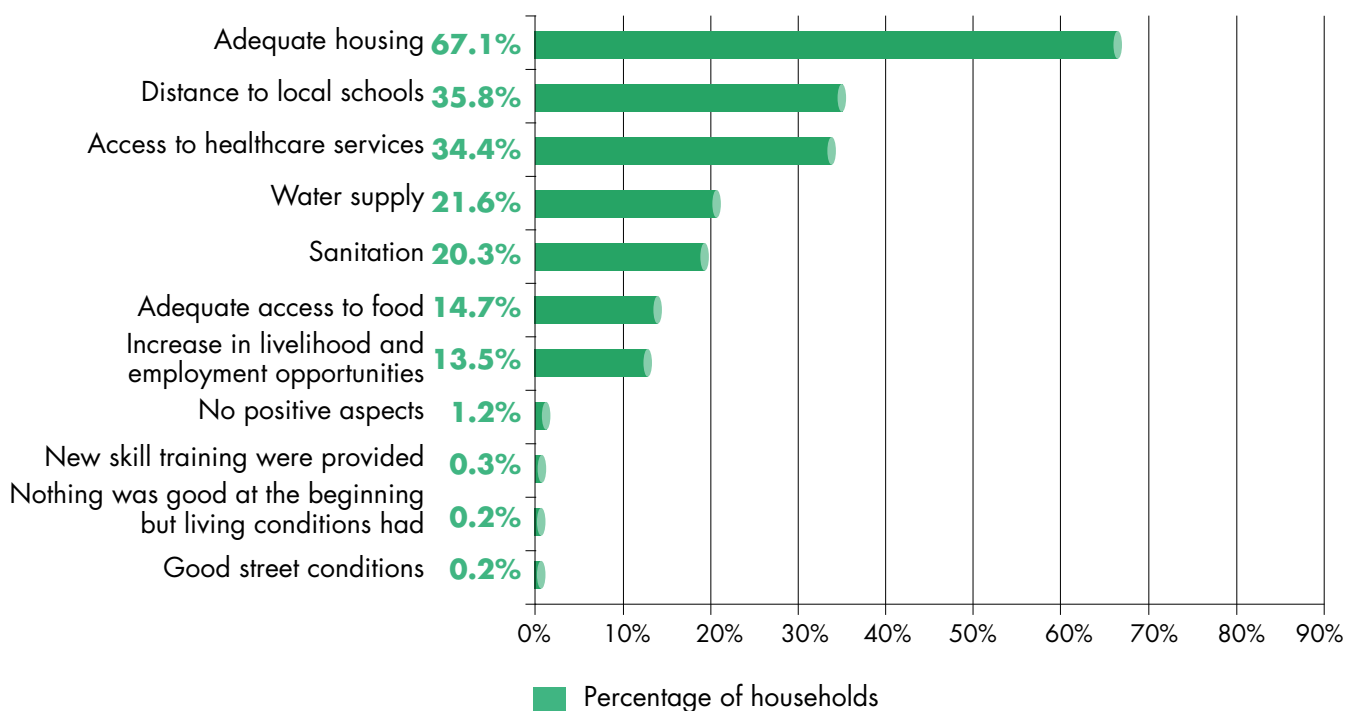
Some 98.8 percent of the total respondents had provided one or more answers as to whether their households had experienced **positive aspects** of the overall living conditions at resettlement sites. 1.2 percent did not know the answer. As **Figure 4** shows, 67.1 percent mentioned **adequate housing** as a positive aspect, 35.8 percent answered fair distance to local schools, 34.4 percent stated **access to healthcare** services, 21.6 percent referenced water supply, and 20.3 percent noted **sanitation**. In addition, 14.7 percent spoke of adequate access to food, and 13.5 percent answered increase in livelihood and employment opportunities.

Box 1: Did Resettlement Affect Women and Men Differently?

99.4% of the total respondents stated that there were no aspects of living conditions in resettlement sites that had affected women differently from men. 0.2% of the total respondents stated that they did not know the answer.

Other 0.2% of the respondents living in New Kbal Romeas (Stung Treng) and Tuol Sambo (Phnom Penh) answered that adequate access to food, adequate housing, and quality water supply had positively affected women differently from men. The same respondents answered that inadequate access to food and less livelihood and employment opportunities had negatively affected women differently from men.

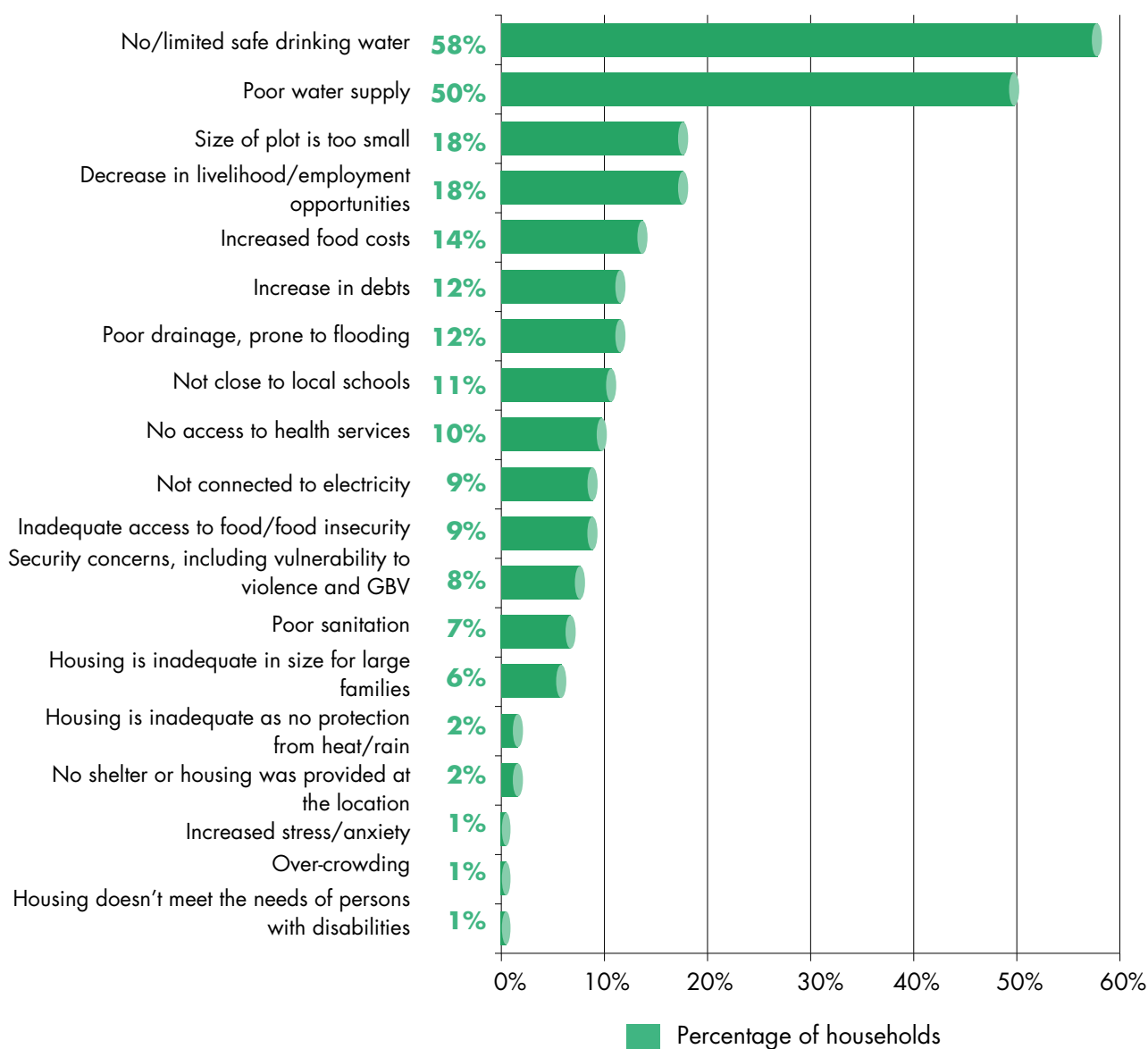
Figure 4: Positive Aspects of Living Conditions in the Resettlement Sites



Negative Aspects

One hundred percent of the households described **negative aspects** of the living conditions in the resettlement sites. Fifty-eight percent of households identified the **lack** or limited amount of **safe drinking water** as the main negative aspect. Fifty percent cited a poor water supply, 18 percent said the size of the plot of land given them was too small, and another 18 percent said there was a **decrease** in livelihood and employment opportunities. All of these negative aspects indicate lack of compliance with the Basic Principles and Guidelines for development-based evictions and displacement, as mentioned in the previous section “Arrival at the Resettlement Site”. **Figure 5** below provides a complete list of answers provided with the total percentages covering all 17 sites.

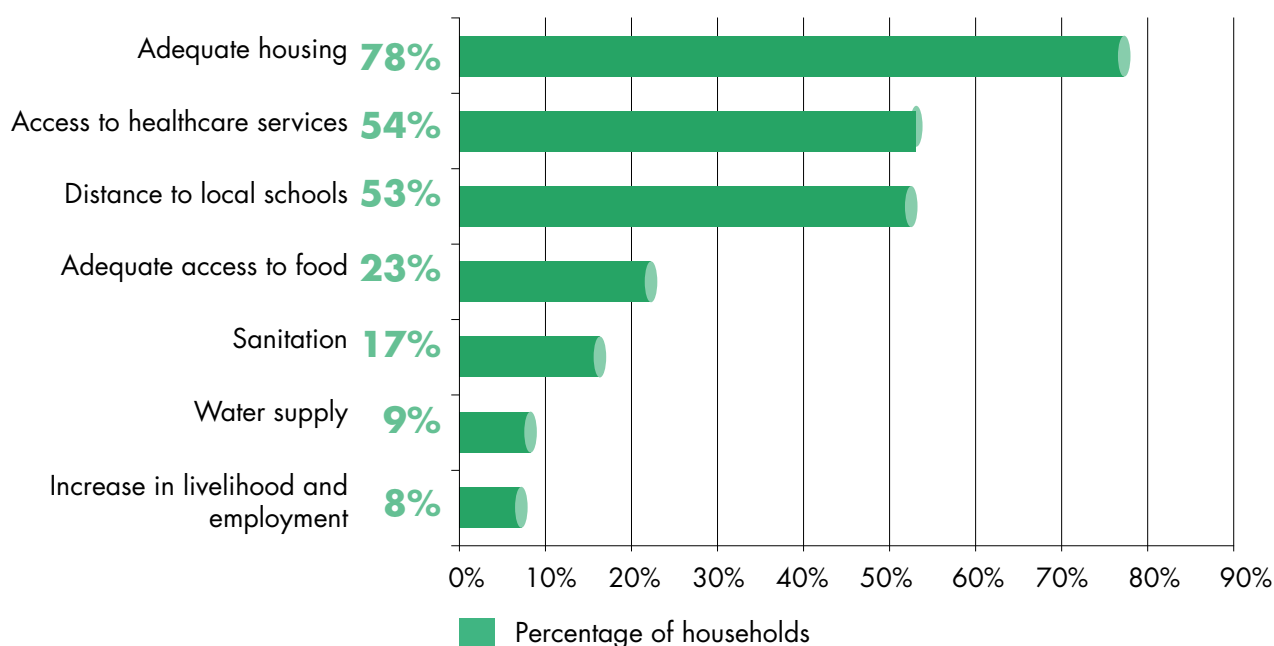
Figure 5: Negative Aspects of Living Conditions in the Resettlement Sites



Indigenous Households

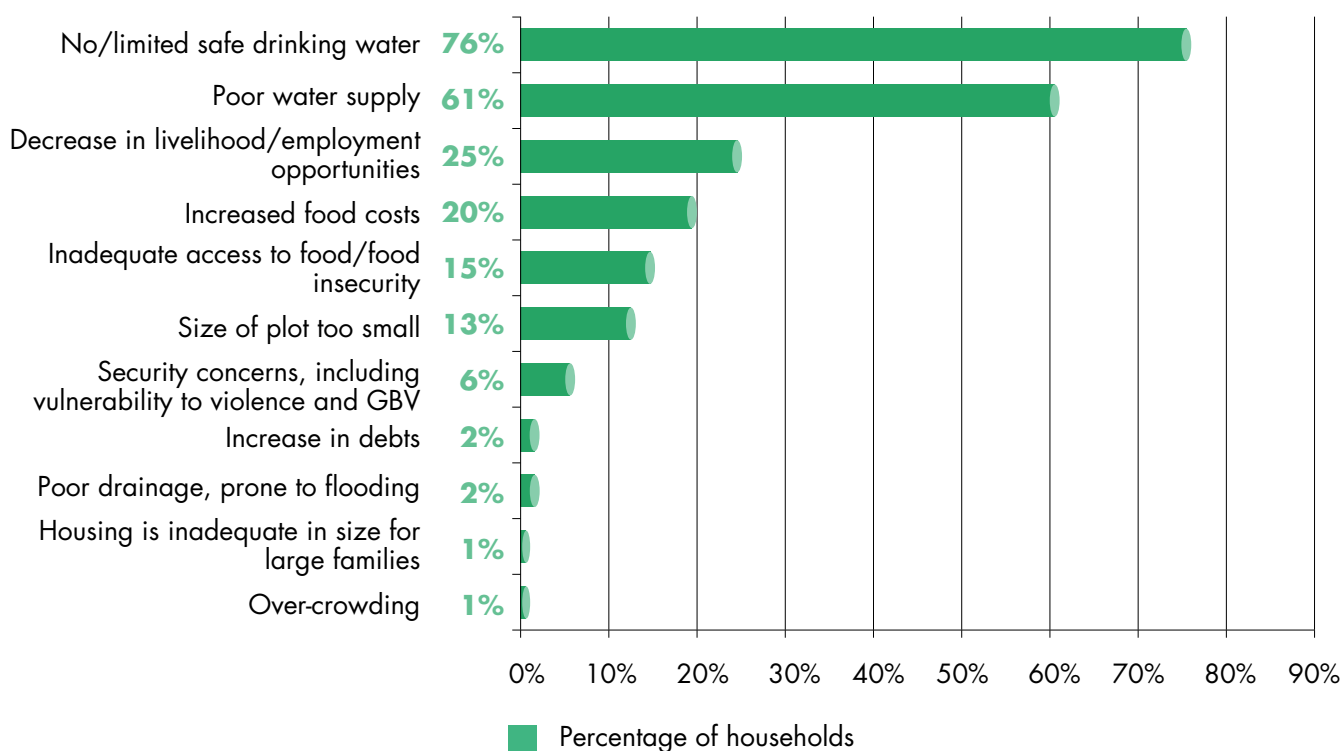
Indigenous people provided one or more answers as to whether they had experienced positive aspects of their households’ living conditions in resettlement sites. As **Figure 6** shows, 78 percent stated adequate housing was a positive aspect, 54 percent mentioned access to healthcare services, 53 percent distance to local schools, and 23 percent referenced adequate access to food.

Figure 6: Positive Aspects of Living Conditions in the Resettlement Sites, Indigenous Households



As **Figure 7** below shows, indigenous households identified 11 negative aspects. The top negative aspects involve water; 76 percent of indigenous households said there was no/limited clean drinking water. Sixty-one percent said there was a poor water supply at the resettlement site. The next highest percentages were decrease in livelihood/employment opportunities at 25 percent, and increased food costs at 20 percent.

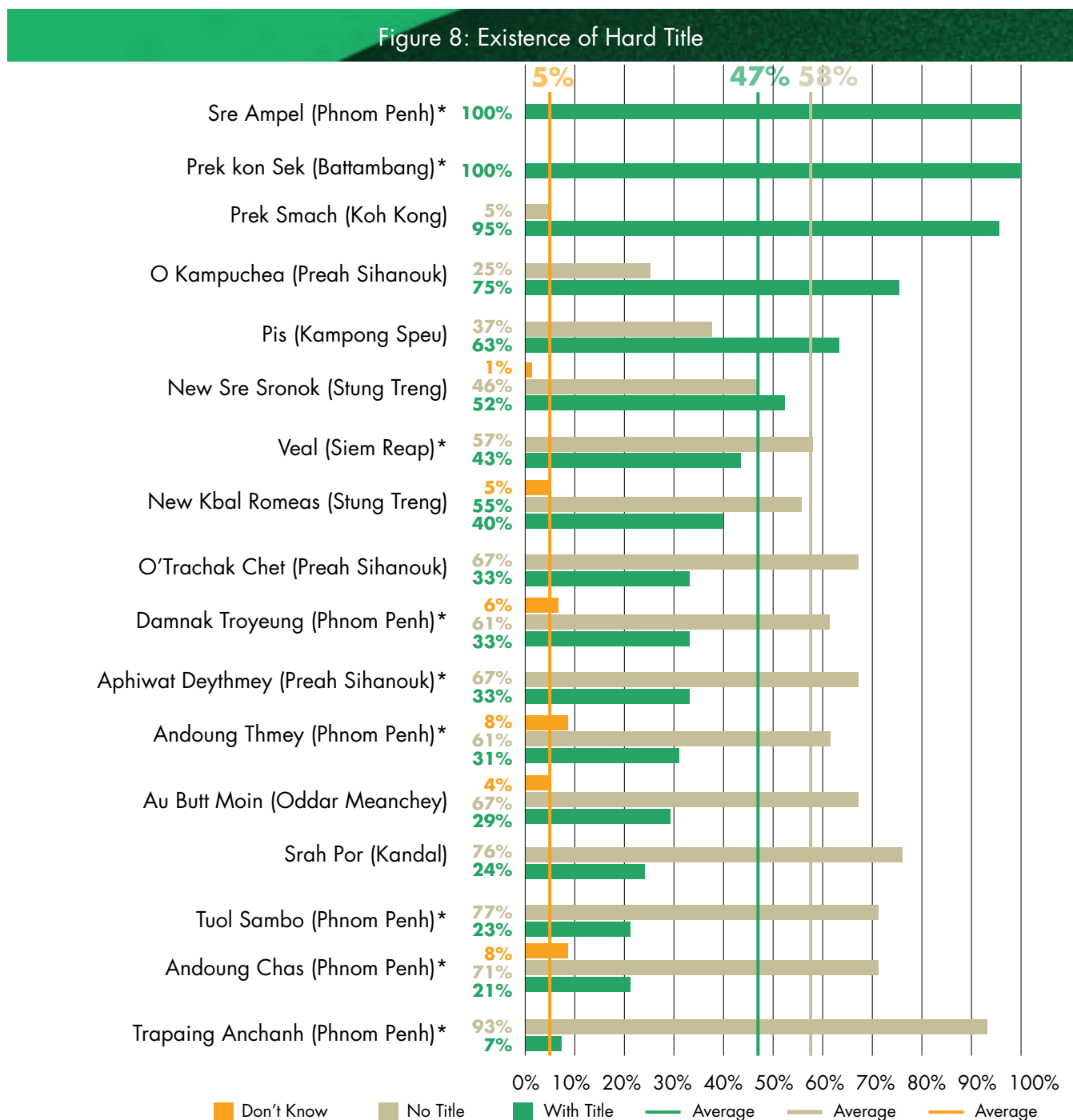
Figure 7: Negative Aspects of Living Conditions in the Resettlement Sites, Indigenous Households



2.3.3 Security of Tenure

Currently, there is no law or sub decree that provides a set period for people to **receive hard title** to property in resettlement sites. Instead they rely on what they are told by the authorities, which varies from weeks to 10 years. Some people in resettlement sites obtained title after a relatively short period of time (four years), while others who have lived on site for ten years or more, still have not received title. Of the households that reported not yet having title, 98 percent said they had been informed they would be eligible for title in five years, but the majority had not yet received title after living on site for five years or longer. It is essential that a clear period for receiving title be established.

Figure 8 shows the percentages of those with title, without title and those who could not say whether they had title. Households used other forms of documentation to prove ownership with more than half saying they had documents signed by local authorities acknowledging their ownership. However, these documents do not provide the required security of tenure, and may not be recognized by the court or cadastral commission should a dispute over ownership arise.

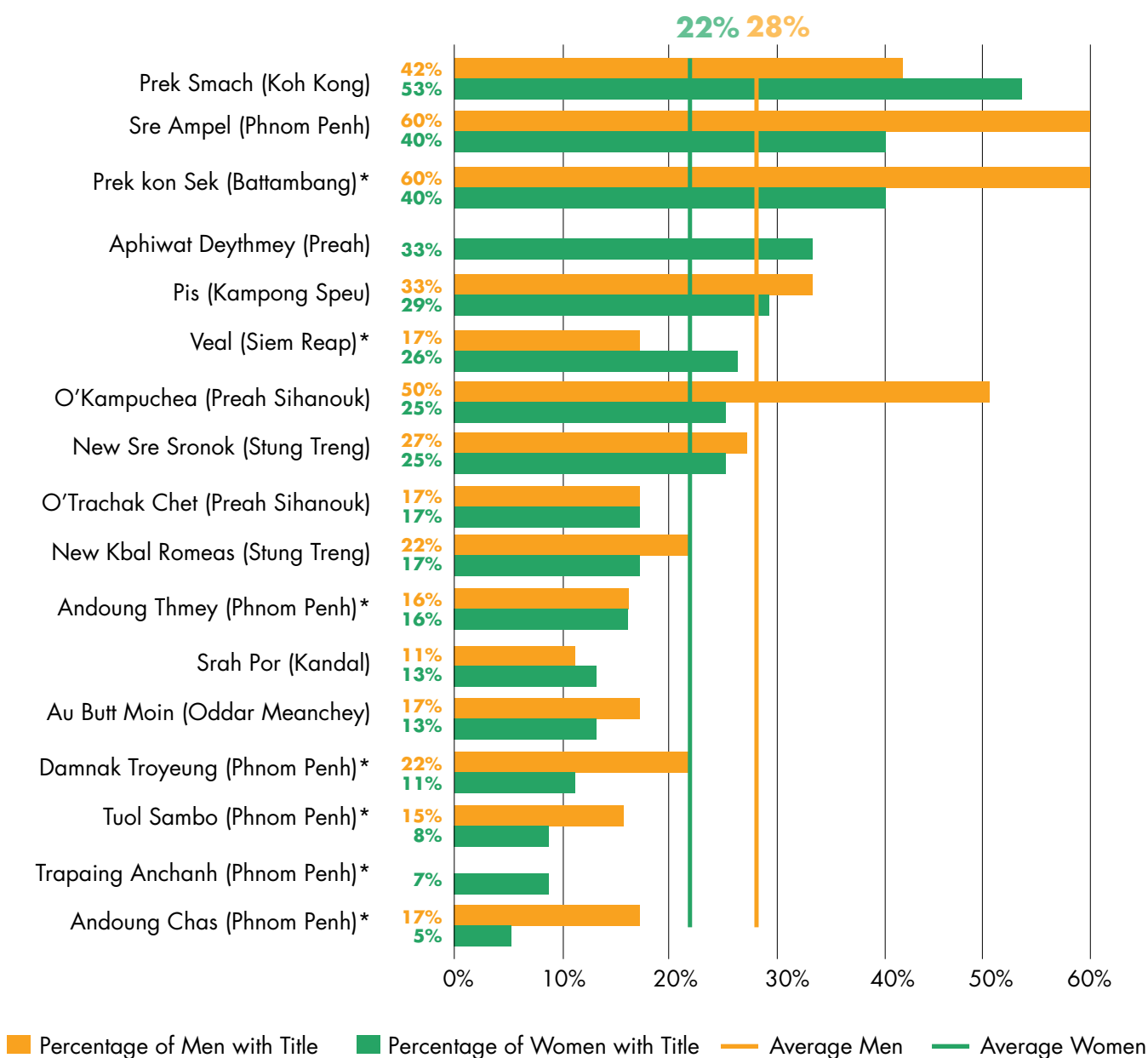


Seventy-two percent could not specify the **land mechanism** (whether social land concession, Instruction No. 01, etc.) that applied to their land and simply said “other” when asked, 74 percent said they did not understand the land mechanism and how it applied. This could indicate a lack of access to information prior to resettlement.

In this study, 51 percent of men and 49 percent of women reported having title. In general, when titles were issued, they were in the name of both partners; and when only one partner was named, more women than men reported having the land title in their name. **Figure 9** shows ownership of land title in each resettlement site, disaggregated by sex.

In terms of **administrative documents**, a high percentage of households reported that they had birth certificates and family books, and were registered with village and commune authorities. Local authorities have thus provided the necessary administrative services to the resettled households. The majority of those who had obtained family books reported that they did not have to pay for them. Of the 11 percent that paid, over a third said the fee was between \$0.5–10.

Figure 9: Comparison of Men and Women with Title



2.3.4. Availability of Basic Services

2.3.4.1. House, Road and Drainage Infrastructure

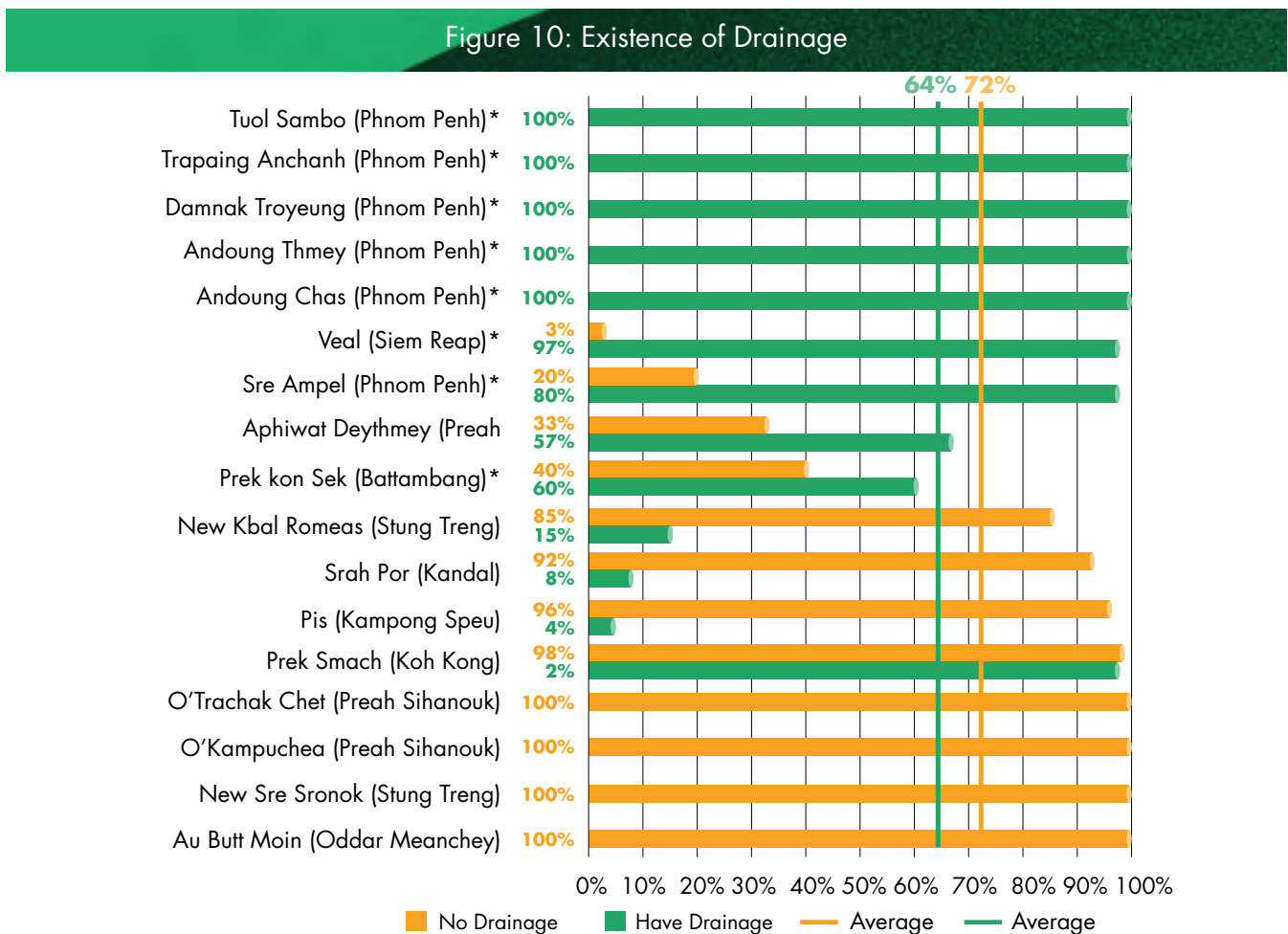
Forty percent of households reported having **houses** with sizes between 30–50m² in size. Fifty-seven percent of households said they had two rooms in their houses. Most rooms were used as bedrooms, with the second room usually a toilet. This study cannot draw conclusions on the adequacy of the house size, and whether there is overcrowding. Cambodia has no specified standard size for housing, but the minimum standards for shelter based on humanitarian responses range from 3.5 m² per person¹⁶ or 21–27 m² for a family of six.

Eighty percent of households reported that zinc/metal was used as **roofing material** and the majority said that their roofs were in “fair” condition. Fifty-two percent of households said their walls were made from timber, and the majority said their walls were in “fair” condition. In terms of roofs and housing, it would seem that the materials used are adequate.

Road conditions within the site, as well as to and from the site, are considered “fair” and would thus seem to meet standards of adequacy.

Sixty-six percent of respondents said there was no **drainage** in their resettlement sites. One fourth of all respondents said the resettlement site was affected by flooding, with 33 percent saying that the floods lasted one to two days, but dried relatively quickly. Twenty-six percent of households said the floods lasted several days and it affected their houses and their access to their houses, and 24 percent saying flooding usually lasted 3-4 days and did not drain properly. The government should have provided sewage and drainage at the resettlement sites.

Figure 10 illustrates the responses from all resettlement sites regarding the existence of drainage in their areas.



¹⁶ Kennedy J. and Parrack, C., The History of Three Point Five Square Metres, found in Shelter Projects 2011-2012 pp. 109-110 available at <https://reliefweb.int/report/world/shelter-projects-2011-2012>.

2.3.4.2. Food Accessibility and Availability

Eighty percent of the households had **adequate access to food**. More households living in resettlement sites located in major cities (including those in provinces) had adequate access to food. The top three reasons why some households had inadequate access to food were because:

- They had no regular incomes;
- Markets were located far from resettlement sites; and
- Food was more expensive than before the resettlement.

More households living in resettlement sites located far from markets had no regular incomes. This indicates that the distance between resettlement sites and markets affected both the level of income and the level of adequate access to food, which are interrelated.

Some 75.3 percent of the households had **access to sufficient food**. The top three reasons why some households had no access to sufficient food were because:

- They lost land to grow food;
- They lacked sufficient incomes; and
- They faced difficulties in accessing markets.

More households living in provinces and outside major cities experienced loss of land to grow food, and lacked access to sufficient food because of insufficient incomes and difficulty in accessing markets. When households had lost land to grow food, the households also lacked sufficient incomes. This indicates that land may have been an asset for both food and income.

As **Figure 11** shows, on average 21 percent of the households across 12 resettlement sites (11 percent of the total number of households) lacked both access to food and access to sufficient food. More households living in resettlement sites located in provinces and outside major cities faced threats to these two elements of the right to food.

Households **obtained food they had consumed** by purchasing it rather than by growing food or collecting non-timber forest products. Only 0.16 percent of households and no indigenous households had grown food to obtain most of their food. There was gender inequality when it came to who was responsible for purchasing food the households had obtained. Ninety-four percent of the households that had been purchasing food answered that women were responsible for purchasing food.

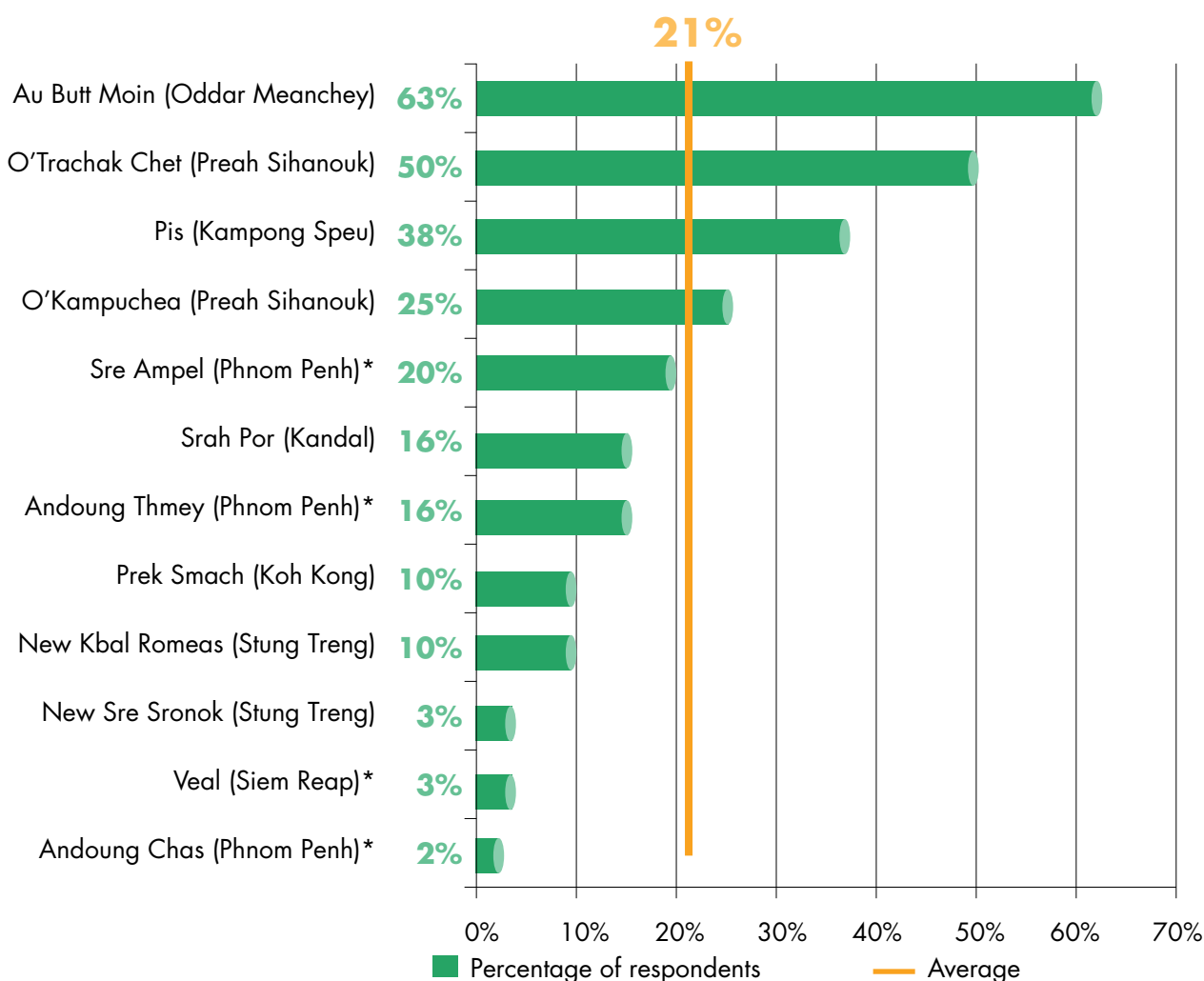
2.3.4.3. Utilities (Water, Power for Lighting, Electricity, Cooking Fuel, Sanitation)

During the dry season, **sources of water** for the majority of households were: water from private ponds, lakes, rivers, or streams or water purchased



***Caption:** This photo shows an abandoned house at a resettlement site in Trapaing Anchach Thmey, Phnom Penh. Photo: Cufa*

Figure 11: Neither the Adequate Access to Food nor Access to Sufficient Food



from the source owners or other affected households who collected water from private sources; public lakes, ponds, rivers or streams; and public water pipes. During the rainy season, the majority of households used: rainwater; public lakes, ponds, rivers or streams; and public water pipes. More households living in provinces and outside major cities used water from private and public lakes, ponds, rivers, or streams, while more households living in major cities used water from public water pipes.

Indigenous households used both private and public sources of water; none used water from public water pipes. More indigenous households relied on underground water, and relied extensively on private sources of water. This may be because their resettlement sites were closely located to their previous locations where hydropower dams had been constructed; the dams may have increased the cost of water for the indigenous households.

Some 67.6 percent of the households (including 60 percent of indigenous households) **used the water they had access to for drinking and cooking**. The top three reasons why some households had not used the water for drinking and cooking were because the water:

- Contained a large amount of soil and/or garbage;
- Needed to be boiled or filtered; and or
- Was considered unsafe.

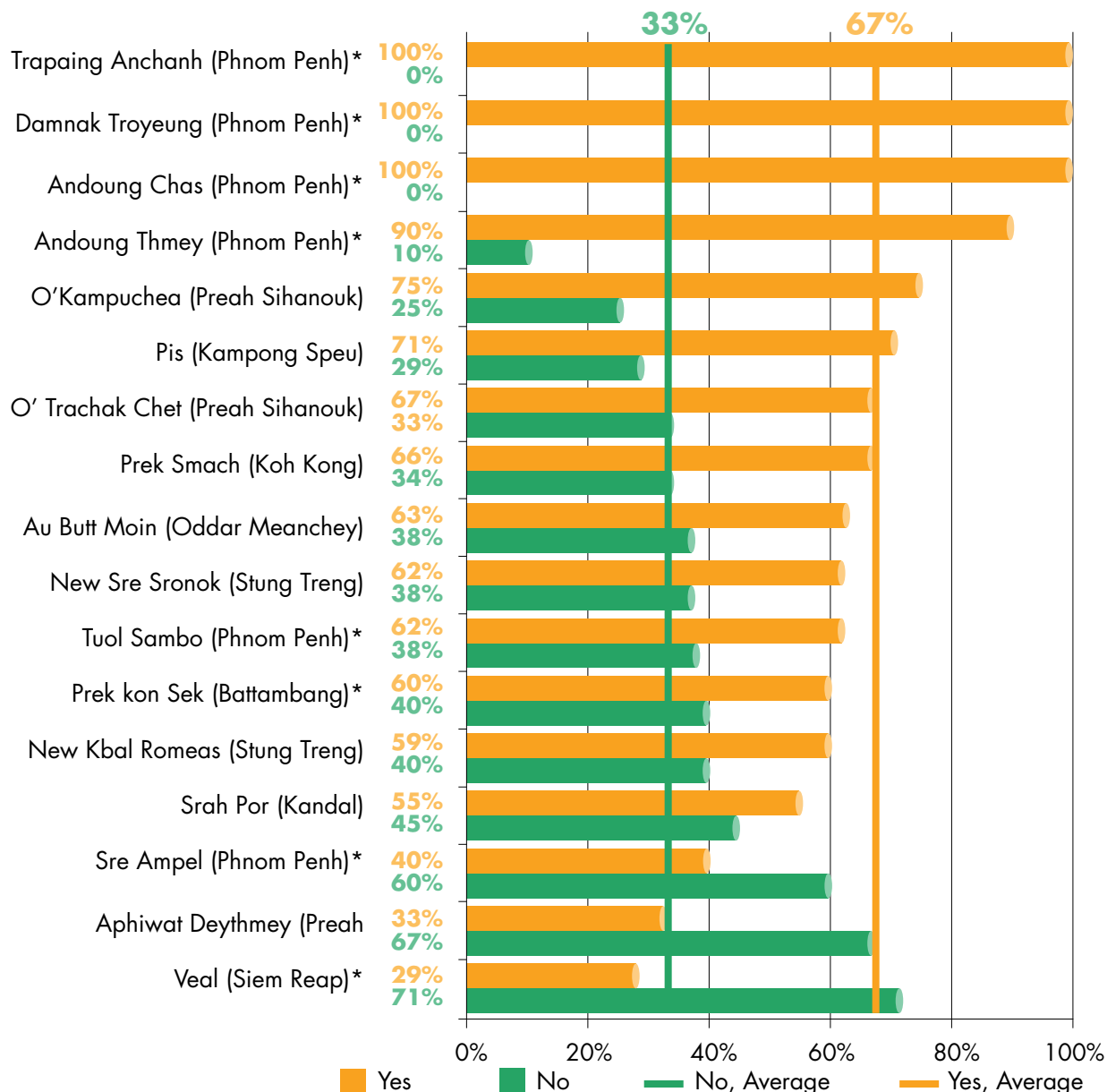
The top method to obtain water for drinking and cooking was boiling or filtering. **Figure 12** below shows the percentages of households that used the water they had access to for drinking and cooking, and households that did not use the water for drinking and cooking.

The top source of power for lighting was electricity (77 percent of households). More households living in major cities used electricity for lighting, and more households living in provinces and outside major cities used batteries for lighting. Ninety-five percent of indigenous households, while living outside a major city, used electricity for lighting. Out of the households that had used electricity for lighting, 97 percent stated that the electricity was from a public source. The monthly cost for electricity for majority of the households was USD \$1–10.

As for cooking fuel, 60 percent of households used fuelwood and 51 percent used gas for cooking. More households living in provinces and outside major cities used fuelwood, while more households living in major cities (including in provinces) used gas for cooking. The monthly cost of cooking fuel for 82 percent of households was USD \$1–10 per month. More households living in major cities had higher monthly bills for cooking fuel.

About sanitation, 72 percent of households used pour flush pit toilets, and 87 percent of households stated that the toilets they had access to were functioning. Thirteen percent of households claimed that the toilets were dysfunctional, mostly referring to pit toilets, which they felt uncomfortable in using, partly due to lack of privacy. Seventy-three percent of the households were burning their solid waste, 32 percent were dumping the waste in resettlement sites, and 21 percent stated that garbage trucks come to pick up their solid waste. More households in Phnom Penh had their solid waste picked up by garbage trucks.

Figure 12: Whether the Water is Used for Drinking and Cooking (percentage of households)



2.3.4.4. Education and Health Services

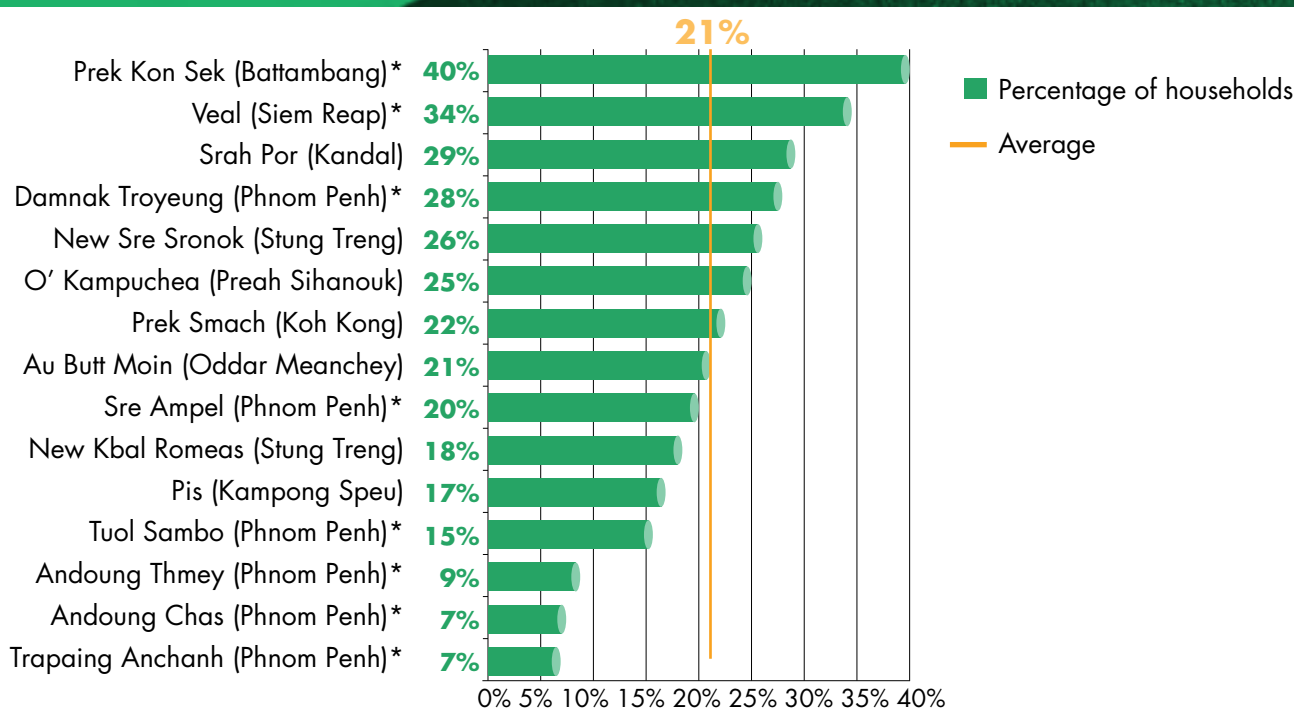
Some 43.6 percent of households had children not go to school.¹⁷ Of those households, 62 percent said the children had not gone to school because they were below the school age, and 47 percent stated that **their children needed to work to earn incomes instead of going to school**. Another 56.3 percent of households had one to seven **children of school age** (47.2 percent had one or two children of school age). **Figure 13** compares the percentages across 15 resettlement sites. More households living outside of Phnom Penh had their children out of school because they needed to earn incomes. Some 46 percent of indigenous households that had children needed them to work instead of going to school.

Some 90.3 percent of the children had gone to **schools that were located in resettlement sites or in the same village** as the resettlement sites. Ninety percent of the households with children going to school did not **pay for school**. Of the households that paid for schooling, 87.5 percent paid mandatory fees, and 12.5 percent made voluntary payments. In terms of the **cost of education**, 68 percent of the households with children going to school paid USD \$1 to \$30, and 21 percent paid more than \$50.

Seventy-two percent of households (including 51 percent of indigenous households) did not know whether **healthcare volunteers** were present in resettlement sites. Eighty-three percent of households had used **commune clinics**. **Figure 14** shows the reasons that 17 percent of households gave for not using commune clinics.

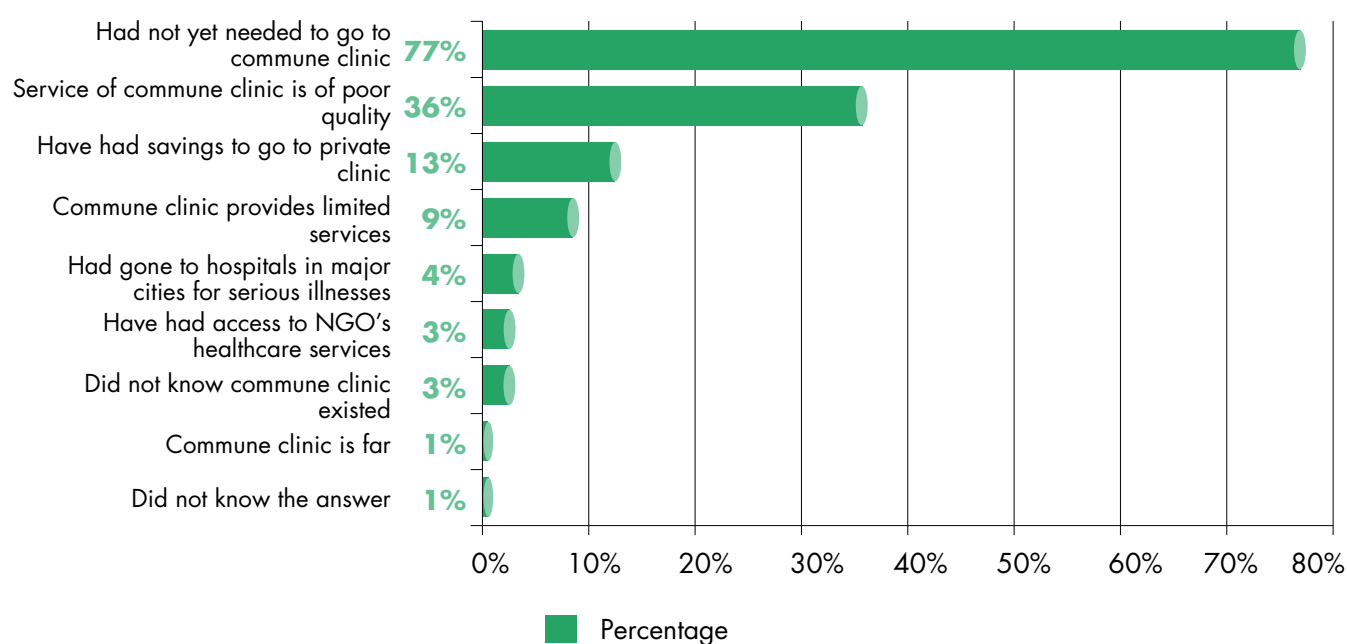
Most households used commune clinics to receive first aid treatment and medicines for minor illnesses, and one-fifth of households used commune clinics for sexual and reproductive health care services. In addition to or instead of commune clinics, 49 percent of households had gone to pharmacies and 37 percent had gone to private clinics for healthcare services. Sixty-six percent of households had received free **public healthcare services**, and 31 percent of the households (including 39 percent of indigenous households) had been asked to pay for those services. Eighty-six percent of the households that had paid for public healthcare services had paid the official standard fees, and four percent had been asked to pay **more than the official standards fees** (37.5 percent paid “tea money” that officials requested).

Figure 13: Households that Needed their Children to Work



¹⁷ Schools here imply both public schools and the schools located in resettlement sites that were run by charity or non-governmental organizations that are incorporated as a charity.

Figure 14: Reasons for not Using Commune Clinics



Six percent of total respondents said there were no health services (no health center, no health service and no hospital) in the resettlement site. These respondents came from only seven of the 17 sites. In the provincial sites, the highest percentage of respondents (50%) was in O’Kampuchea (Preah Sihanouk).

The right to the highest attainable standard of physical and mental health is not confined to the right to health care. The right to health embraces a wide range of socioeconomic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation.¹⁸

2.3.5. Livelihood

A third of all households reported being in **debt**. Nearly half the households reported having debts between \$1,000 and \$5,000. Of those who had debt, 87 percent said their debt had increased since they moved to the resettlement site. Out of the respondents who said they were in debt, nearly all said they had taken out one loan. Indigenous households were the least likely to have debt, as only three percent said they had taken out a loan. **Figure 15** below shows the amount of debt across all resettlement sites.

Twenty-three percent of respondents stated that the money borrowed was used for house construction, with another 20 percent stating the money was used on livelihood and agricultural inputs. Those who reported increase in debt gave the same reasons (and percentages) as above. This would indicate that resettlement has contributed to debt and the compensation for resettlement was not adequate. The Basic Principles and Guidelines on Development-based Evictions and Displacement indicate that for the compensations to be fair and just, compensation should be provided for any economically assessable damage, which take into consideration losses and costs “for example, of land plots and house structures; contents; infrastructure; mortgage or other debt penalties; interim housing; bureaucratic and legal fees; alternative housing; lost wages and incomes; lost educational opportunities; health and medical care; resettlement and transportation costs (especially in the case of relocation far from the source of livelihood). Where the home and land also provide a source of livelihood for the evicted inhabitants, impact and loss assessment must account for the value of business losses, equipment/inventory, livestock, land, trees/crops, and lost/decreased wages/income.”

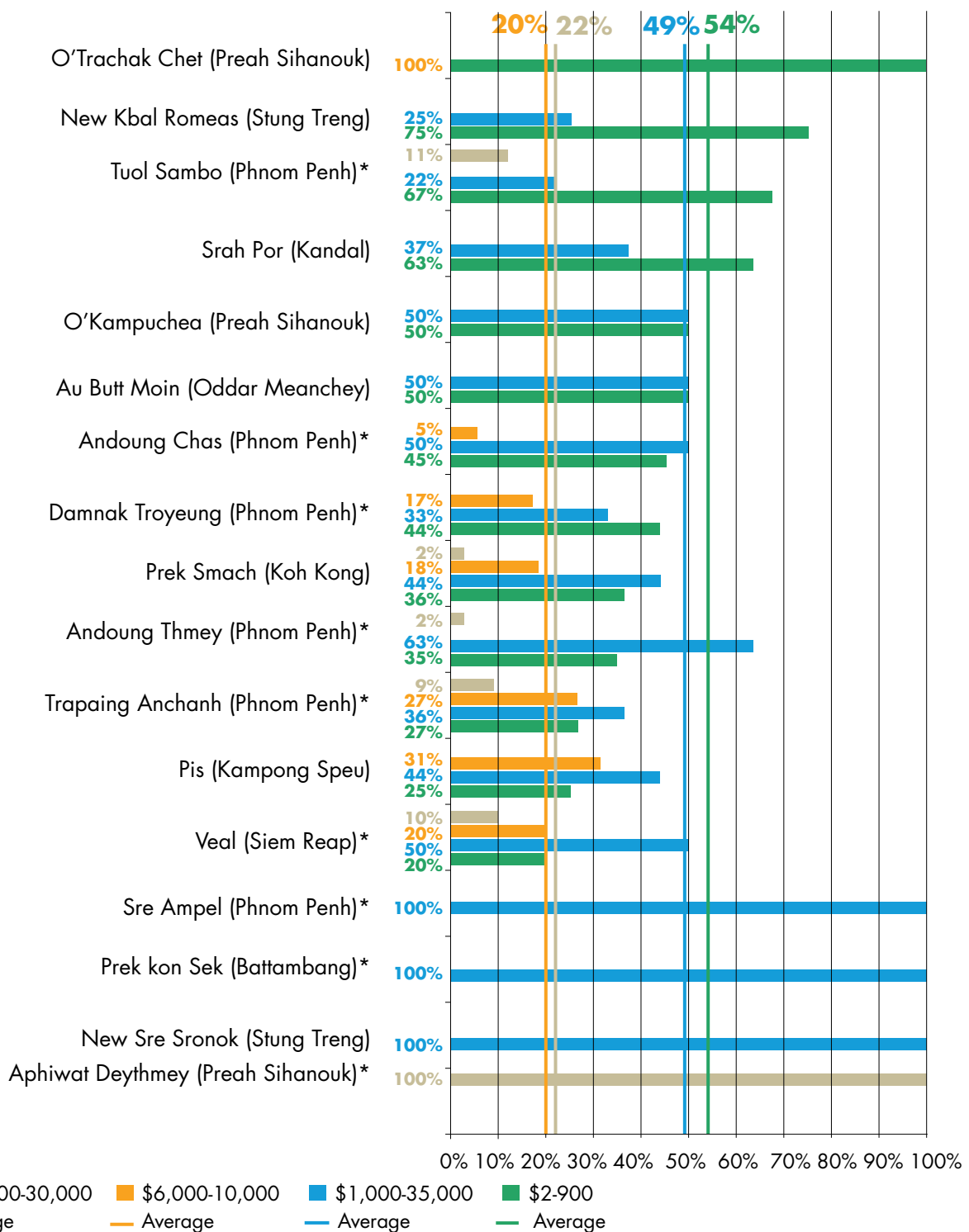
18 See, CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), 11 August 2000, E/C.12/2000/4, para. 4.

Most households had one or more persons in the family who contributed to income. Contributions were mostly in the form of cash. Sixty-six percent of all households said that income contributions were irregular, with the two sites in Stung Treng where indigenous households reside having the highest percentage of households reporting this issue.

Ninety-three percent of households said income contributors lived on the resettlement site. Of those who said income contributors had moved away, 45 percent said they had moved to a city/town.

While a high percentage currently reports having sufficient income, it should be noted that prior to relocation, the percentage who reported having sufficient income was even higher, thus implying that resettlement left households worse off than if they had stayed in their previous locations.

Figure 15: Total Debt (percentage of households)

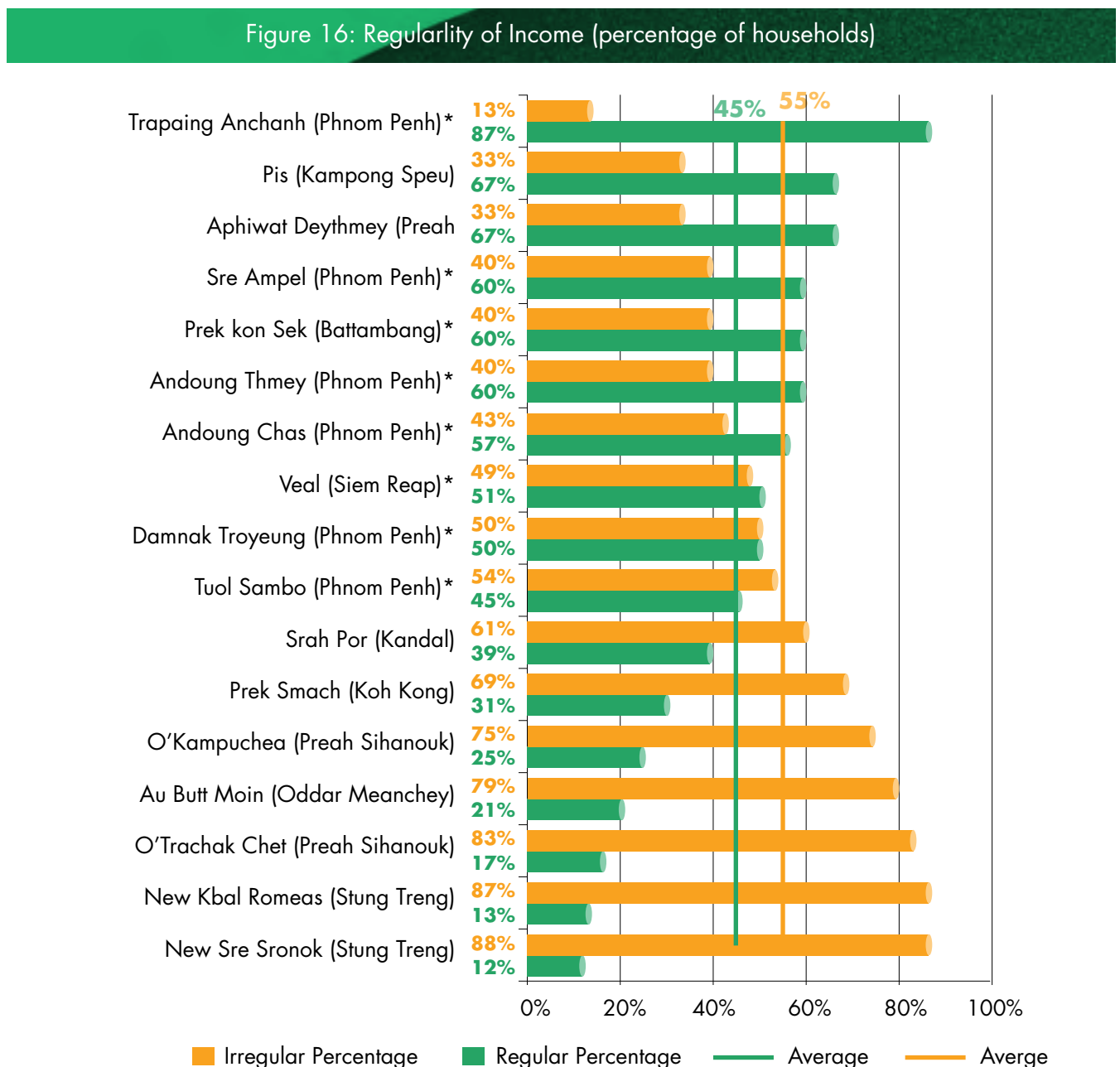


Eighty-five percent of households reported that all contributions to household income were sufficient to meet the household needs in the resettlement sites. The households that said income was insufficient were asked why they had made this claim, and over half said it was because there were less work opportunities at the resettlement site. When households were asked if their income had been sufficient at their previous location (from where they had been evicted), 96 percent said it was. Households were asked why they said income was sufficient at the previous location, and they said it was because the previous location:

- Was closer to their workplace (26 percent);
- Was closer to their workplace and it was easier to access the market (25 percent);
- Provided resources from nature (17 percent).

Nearly all households said they had no other sources of income aside from contributions from household members. The **irregularity of income contributions** is concerning, especially when it is tied to food security (see section on Food Accessibility and Availability).

Figure 16 shows the regularity of income in all resettlement sites.



Fifty-four percent of households said that **employment opportunities** had remained the same as their previous location; 24 percent said employment opportunities had improved, and the remaining 22 percent said that employment opportunities had decreased. Those who responded that the employment opportunities had changed were asked to explain their answers. Households that said employment opportunities had improved explained that:

- Working conditions were better (59 percent);
- There was a greater variety of opportunities (57 percent); and
- There was better access to the market (26 percent).

Households that said things had not improved said:

- There was a lack of customers near the resettlement site (55 percent);
- Working conditions had worsened (50 percent); and
- There was a lack of a local network (45 percent).

Indigenous households had a higher percentage who said that employment opportunities had decreased (28 percent), and they gave varying reasons. They added to the three answers mentioned above and said there was reduced access to markets, increased transportation costs, as well as a longer commute between the site and their workplace.

2.3.6. Social and Environmental Impacts

Ninety-eight percent of resettled households that responded to the survey said that they were able to continue openly and freely **practicing their religion**. This includes all of indigenous households.

According to local authorities and community leaders, there were **minor conflicts** between existing host villagers and resettled households in four resettlement sites. In Srah Por (Kandal), the conflict was caused by lack of trust, as resettled households were new to the area. In the other three areas, the conflicts were caused by land allocation. In Au Butt Moin (Oddar Meanchey), resettled households had reportedly attempted to take more land than had been allocated to them. In Pis (Kampong Speu) and Prek Smach (Koh Kong), existing residents of the host village already owned the land allocated to resettled households.

In Prek Kon Sek (Battambang), drug use by residents of the resettlement site was a concern. Unfortunately, no information was provided on how this issue came about and how authorities are addressing it.

All indigenous peoples in the New Sre Sronok resettlement site and 76 percent of indigenous peoples in the (from New Kbal Romeas and New Sre Sronok in Stung Treng) said that they could continue their way of life. Twenty-four percent from New Kbal Romeas said they were unable to do so. **Figure 17** below illustrates the explanations why they felt they could continue with their traditional way of life, and **Figure 18** below illustrates their explanations as to why they felt they could not do so.



A house built on a plot of given land, located in Srah Por village, Phnom Bat Commune, Punhea Luer District, Kandal Province. Photo: Cufa

Figure 17: Percentage of Reasons given why Respondents Can Continue Traditional Way of Life

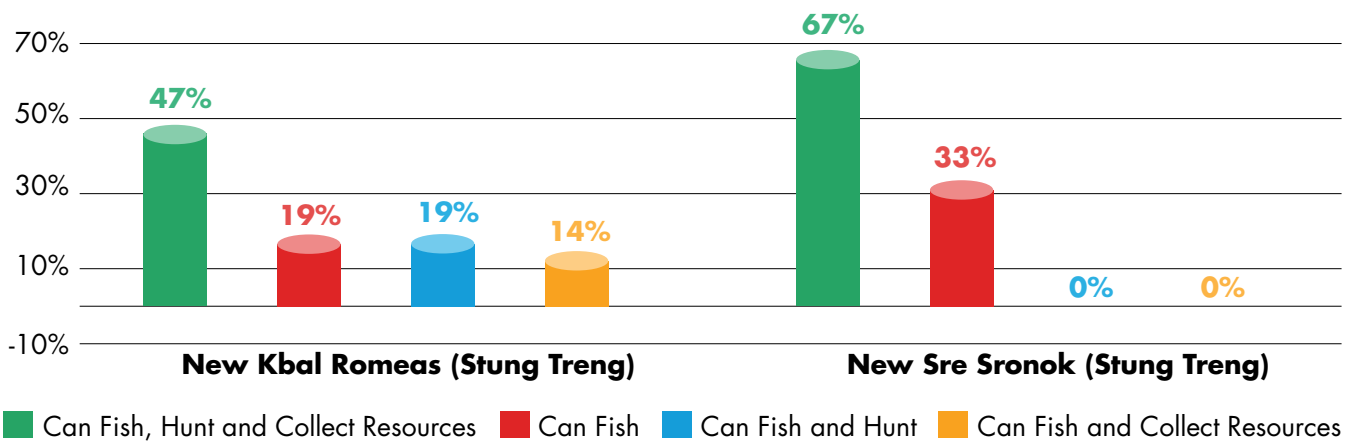
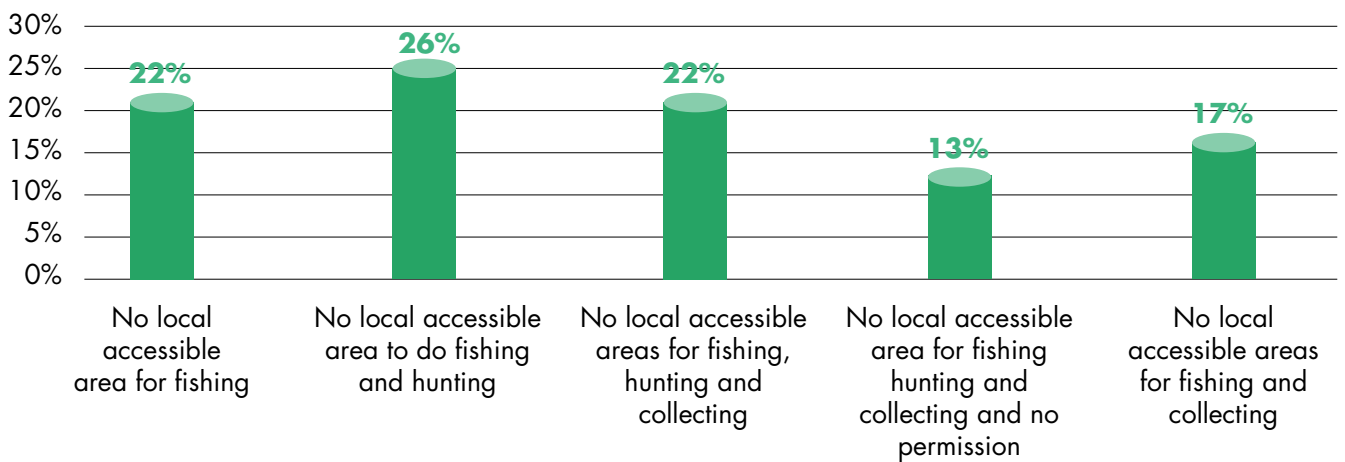


Figure 18: Percentage of Reasons for Being Unable to Continue Traditional Way of Life (New Kbal Romeas, Stung Treng)



A house in Aphiwat Deythmey community located in Mouy Village, Mouy Commune, Klaing Leu District, Sihanoukville province. Photo: Cufa



Entrance to a house in Prek Kon Sek Village, Sangkat Ou Char, Battambang City, Battambang Province. Photo: Cufa

3

CHAPTER

CONCLUSIONS AND RECOMMENDATIONS

Chapter 3: Conclusions and Recommendations

Prevalence of Forced Evictions

Legal Framework

1. There are no existing national guidelines on the process of resettlement when the relocation is a result of economic land concessions and privately funded development projects.

Recommendations for the Royal Government of Cambodia:

- 1.1 While the national laws and policies need revision to ensure their compliance with international human rights norms and standards, the existing framework should be strictly enforced and implemented by all relevant authorities, in conjunction with the international human rights obligations ratified by Cambodia.
- 1.2 Government should adopt and implement the draft Resettlement Guidelines annexed to this study that apply to all development projects in Cambodia, whether externally or internally funded.

Prohibition of Forced Evictions

2. Most of the relocations that occurred were forced evictions; resettled households faced coercion and intimidation before, during and after the evictions, and were not provided sufficient notice of relocation, so were not provided adequate time to plan and prepare for relocation.

Recommendation for the Royal Government of Cambodia:

- 2.1 Government should ensure that no forced evictions are conducted, regardless of ownership or tenure status of those affected. Evictions shall only occur in exceptional circumstances, which require full justification as defined in international human rights law and Cambodian national laws.

Prior to Eviction

Decision Making Process

3. Households did not participate in proper consultation meetings prior to resettlement.

Recommendations for the Royal Government of Cambodia:

- 3.1 Where resettlement is required, relevant authorities must clearly demonstrate that evictions are unavoidable and are consistent with international human rights commitments.
- 3.2 Relevant authorities should ensure that the entire resettlement process should be carried out with full participation by and with affected persons, including women, men and non-binary persons, groups and communities. The principle of free, prior and informed consent should be applied in the decision-making process.
- 3.3 Relevant authorities should conduct at least three consultation meetings prior to eviction, where affected households have enough time and opportunities to raise their concerns and propose alternative plans. Women, men, and non-binary persons, including those representing LGBTI persons, indigenous peoples, minorities, the landless, women, people with disabilities and people living with HIV and children, should be represented and included in this process. Meetings involving indigenous peoples and minorities should be conducted in their languages to ensure that they fully understand the proceedings.

- 3.4 Whenever possible, relevant authorities should take into account and adopt alternative plans proposed by the affected persons, groups and communities. Affected individuals must be able to influence the outcome of decision-making processes based on knowledge of their rights.
- 3.5 Relevant authorities should also consult host communities to determine whether they would accept the resettled households.
4. Local authorities and community leaders were not involved in deciding where the resettlement site should be located.

Recommendation for the Royal Government of Cambodia:

- 4.1 National and provincial authorities should include local authorities responsible for the village, commune and district, in the decision-making process on the location of the site. This will ensure that the area proposed for the site does not encroach on already occupied land and will allow local authorities to prepare for the arrival of the resettled households, and prevent conflict between host communities and resettled households.

Notice of Eviction

5. Some households did not receive sufficient notice in advance of the eviction.

Recommendations for the Royal Government of Cambodia:

- 5.1 Relevant authorities should announce decisions on evictions in advance, and in writing in Khmer and in the indigenous language to all individuals concerned. The eviction notice should contain a detailed justification for the decision, including on:
 - 5.1.1 absence of reasonable alternatives;
 - 5.1.2 the full details of the proposed alternative; and
 - 5.1.3 where no alternatives exist, all measures taken and foreseen to minimize the adverse effects of evictions.
- 5.2 Relevant authorities should ensure that the notice provides enough time for those households to be evicted to inventory and assess the values of their properties, investments and other material goods that may be damaged. Households to be evicted should also be given the opportunity to assess and document non-monetary losses to be compensated.
- 5.3 Relevant authorities should ensure that all final decisions are subject to administrative and judicial review. Affected parties must also be guaranteed timely access to legal counsel, without payment if necessary. If, after a full and fair public hearing, resettlement will proceed, the affected persons, groups and communities shall be given at least 90 days' notice prior to the date of the resettlement.

Requirements for Resettlement Sites

6. Resettlement sites were not ready for the evicted persons and basic services were not provided upon arrival, in particular provision of potable water, roads, food security, power sources, sanitation, health and education services.

Recommendations for the Royal Government of Cambodia:

- 6.1 Relevant authorities should ensure that, in conjunction with the requirement of due notice, no evictions or relocations should be conducted unless and until the resettlement site has been prepared and is ready for the arrival of resettled households. The resettlement site should be as close as possible to the previous location, to schools, health centers and employment opportunities.

- 6.2 Relevant authorities should ensure that appropriate housing is provided, to protect the resettled households from disease, inclement weather and the like.
- 6.3 Relevant authorities should ensure that prior to resettlement, basic services are established in the resettlement site including materials, facilities and infrastructure such as:
 - 6.3.1 potable water;
 - 6.3.2 energy for cooking, heating and lighting;
 - 6.3.3 sanitation and washing facilities;
 - 6.3.4 means of food storage;
 - 6.3.5 refuse disposal;
 - 6.3.6 site drainage;
 - 6.3.7 emergency services; and
 - 6.3.8 access to natural and common resources, where appropriate.
- 6.4 Relevant authorities should take into account the need for provided housing to be culturally appropriate, particularly for indigenous populations and ethnic minorities, for example, in terms of the size of housing for large families, and a location that allows maintenance of traditional way of living.

After Eviction

Compensation

- 7. Not all households were satisfied with houses and housing materials they received as compensation. Some indigenous households felt that the compensation for their cultural sites (land and financial support) were unjust and unfair.

Recommendations for the Royal Government of Cambodia:

- 7.1 Relevant authorities should ensure that fair and just compensation is provided immediately upon the eviction for any losses of personal, real or other property or goods. Compensation should be provided for any economically assessable damage, such as:
 - 7.1.1 loss of life or limb;
 - 7.1.2 physical or mental harm;
 - 7.1.3 lost opportunities, including employment, education and social benefits;
 - 7.1.4 material damages and loss of earnings, including loss of earning potential;
 - 7.1.5 moral damage; and
 - 7.1.6 costs required for legal or expert assistance, medicine and medical services, and psychological and social services.
- 7.2 Relevant authorities should take into account that cash compensation should not replace real compensation in the form of land and common property resources. Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better.
- 7.3 Relevant authorities should keep in mind that all those evicted are 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.
- 7.4 Relevant authorities should reassess living conditions in existing relocation sites, with particular attention to the sites that have been found to be problematic under this study. Relevant authorities should then take

corrective action to improve living conditions and provide redress to families who were affected by the inadequate standard of living.

- 7.5 Relevant authorities should ensure that appropriate medical care, including psychological and social services, is provided to evicted persons who are injured, sick, living with disabilities, or suffered trauma during the eviction. The special needs of women, children, persons with disabilities and persons living with HIV/AIDS should be addressed. Eviction should not interrupt any person's medical treatment.
- 7.6 Relevant authorities should respect the right of all evicted persons, and persons facing eviction to have access to timely remedy. Appropriate remedies include:
 - 7.6.1 a fair hearing;
 - 7.6.2 access to legal assistance;
 - 7.6.3 compensation;
 - 7.6.4 restitution and return; and
 - 7.6.5 resettlement.

Recommendation for the Royal Government of Cambodia, civil society, and international community and business enterprises:

- 7.7 Further studies should be conducted on whether resettled households actually received compensation for any injuries (both physical and mental) sustained due to relocation, loss of income opportunities and social benefits and loss of earning, as required under international standards.¹⁹
- 7.8 Abide by the United Nations Guiding Principles on Business and Human Rights to strengthen the protection against business-related abuse of human rights.

Security of Tenure

8. Almost half of households had not received hard title to their land. Respondents used other forms of documentation to prove ownership, which do not provide the required security of tenure, and may not be recognized by the court or cadastral commission should a dispute over ownership arise. There is no law or sub decree that provides a set period for people to receive title after relocation, and there are households who have been living on site for over ten years that have not yet received title.

Recommendations for the Royal Government of Cambodia:

- 8.1 The Cadastral Commission should give priority to resettled households who have been living in the site for more than five years in applying and receiving title. Local authorities should survey the resettled households to determine who is eligible for title and support their application for title.
- 8.2 The Ministry of Land Management, Urban Planning and Construction should establish a standardized period for resettled households to become eligible to apply for hard title, such as five years after continuously residing in the resettlement site. "Continuous residence" should take into account improvements made to the dwelling and the awarded land, and not merely the presence of the resettled household members.
- 8.3 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.

¹⁹ Basic Principles and Guidelines on development-based evictions and displacement as contained in the United Nations Commentary and Guidelines on Eviction and Resettlement, (Reprint 2013), para. 60, p. 41.

9. Local authorities have provided good administrative services to resettled households, as nearly all reported having received family books, birth certificates, documents acknowledging ownership, and the like without the payment of excessive fees.

Availability of Basic Services

House, Road and Drainage Infrastructure

10. Cambodia has no specified standard size for housing. No conclusions can yet be made on whether the size of houses respondents currently occupy is adequate, as there is no information on the number of family members living in the house.

Nearly all respondents reported that their roofs and walls were in fair condition, with the majority using zinc/metal for housing, and timber or bricks for walls. However, some other aspects of adequate housing were not met, for example sanitation, drinking water, energy, adequate lighting and protection from natural hazards.

11. Road conditions within the site, as well as to and from the site, are considered “fair” and would thus seem to meet standards of adequacy.
12. There is a lack of drainage systems in some of the resettlement sites.

The Right to Food

13. The right to food had not been fully realized; some households did not have adequate access to food, and roughly a quarter of households did not have access to sufficient food. Some households lacked both access to food and access to sufficient food.
14. There was gender inequality when it came to who in the household were responsible for purchasing food; nearly all households answered that women were responsible for purchasing food. This may put women at a disadvantage, as women are usually first to sacrifice their own food intake to ensure their families have enough.

Utilities (Water, Power for Lighting/Electricity, Sanitation)

15. The right to water has not been fully realized; approximately a quarter of households could not use water they had access to for drinking and cooking because the water contained a large amount of soil and/or garbage. This creates a disproportionate burden on women who are the primary caregivers in the homes, responsible for cooking and cleaning.
16. Some households had no access to electricity and used kerosene and petroleum lamps for lighting.
17. The right to sanitation has not been fully realized; households using pit toilets said they were “dysfunctional”, and that they were uncomfortable in using them, partly due to lack of privacy, including for menstrual health and hygiene.
18. The rights to health, sanitation and a healthy and sustainable environment have been compromised, as a majority of households is burning their solid waste, and about one-third are dumping the waste in resettlement sites.

The Right to Education and the Right to Health

19. The right to education has not been fully realized; one-fifth of households (including almost half of indigenous households) had their children out of school because they were working to earn incomes, this was more prevalent in the provinces.

20. The right to health has not been fully realized; some households stated that commune clinics were of poor quality, lacked staff, provided limited services, and were located far from resettlement sites. Some households were asked to pay more than the official standard fees for public healthcare services. Underlying determinants of health, including adequate food, housing, access to safe and potable water and adequate sanitation had not been fully realized.

Recommendations for the Royal Government of Cambodia:

- 20.1 The Ministry of Land Management, Urban Planning and Construction should establish standards for minimum acceptable housing size. Until these standards are established, the international standard of 3.5m² per person in the household should be used.
- 20.2 The Ministry of Land Management, Urban Planning and Construction should ensure minimum standards of adequacy and size for all families, irrespective of the type of housing they enjoyed previously.
- 20.3 The Ministry of Public Works and Transport should ensure that the quality of roads within and outside the resettlement sites are maintained.
- 20.4 The Electricity Authority of Cambodia and other relevant authorities should ensure that electricity is accessible to all households at an affordable price to minimize health and environmental risks.
- 20.5 The Ministry of Education, Youth and Sport should implement the recommendations in the 2018 UNICEF commissioned report²⁰ on the creation of a monitoring framework, and improvement of school supporting committees should be followed up and implemented.

Recommendations for the Royal Government of Cambodia, civil society, and international community:

- 20.6 Resettled households who have reported having roofs and walls in bad condition should be provided assistance in upgrading their dwellings, to prevent their incurring additional debt.
- 20.7 Further study needs to be conducted on the following issues:
- 20.7.1 to assess whether overcrowding occurs in resettlement sites, by comparing statistics on the number of persons living in each household with the international standards;
 - 20.7.2 into gender roles in terms of financial decisions in households, and including why women are responsible for purchasing food.
- 20.8 The interventions of different stakeholders and the assistance they provided to communities should be evaluated and assessed in the following areas. Gender analysis should be applied to such evaluation/assessment, actively using gender disaggregated data:
- 20.8.1 Provision of proper drainage systems;
 - 20.8.2 Realization of the right to adequate access to food and sufficient food;
 - 20.8.3 Realization of the right to water, particularly potable water;
 - 20.8.4 Provision of proper sanitation and waste disposal;
 - 20.8.5 Whether children under age 18 are being subjected to child labor; and
 - 20.8.6 Quality of health service.
- 20.9 Government and stakeholders should provide all necessary assistance to ensure:
- 20.9.1 Availability of site drainage to prevent flooding and associated health and environmental risks;

20 UNICEF (2018). Child Protection and Education Needs for the Children and Adolescents of Phnom Penh's Urban Poor Communities, available at https://www.unicef.org/cambodia/media/641/file/20181112_URBAN_POOR_FULL_REPORT_ENG.pdf%20.pdf.

- 20.9.2 Availability and accessibility of food;
- 20.9.3 Availability and accessibility of clean drinking water; and
- 20.9.4 Availability and accessibility of adequate health care.

Livelihood and Economic Opportunities

21. Resettlement has contributed to debt, and the right to adequate housing and other rights (such as food, health, education and work) have been affected, as households have gone into debt to improve their housing and livelihood conditions.
22. The irregularity of income contributions is concerning, especially when it is tied to food security. Resettlement left households worse off than if they had stayed in their previous locations.
23. The right to work and the opportunity to gain a living by work has not been fully realized, as employment opportunities are still lacking at the resettlement sites. This has affected indigenous households, as nearly a third have reported a decrease in employment opportunities.

Recommendations for the Royal Government of Cambodia:

- 23.1 Relevant authorities should ensure that resettled communities enjoy at least the same standards of living after eviction. Standards of living should not deteriorate after resettlement.
- 23.2 As noted earlier (see para. 6.1, above) authorities should ensure that resettlement sites should be located in areas where livelihood and employment opportunities are accessible for both women and men, and as close as possible to previous locations, where resettled households had businesses or workplaces. The costs of transportation to and from workplaces also needs to be taken into account.

Recommendations for the Royal Government of Cambodia, civil society, and international community:

- 23.3 Further studies should be undertaken regarding the impact of loans and debts incurred by resettled households, and appropriate actions undertaken to remedy any violations of rights that may be occurring. A gender analysis should be incorporated into the assessments and responses.
- 23.4 Relevant authorities and stakeholders should assess livelihood opportunities at resettlement locations and address issues of lack of income, especially when the lack of income negatively impacts the enjoyment of other rights. A gender analysis should be incorporated into the assessments and responses.
- 23.5 Where employment and livelihood opportunities were lost or are scarce in the resettlement site, relevant authorities and stakeholders should provide livelihood and skills training so that resettled households can have other means to earn income, ensuring no undue deprivation of other rights, such as the right to food, health and the like.

Social and Environmental Impacts

24. The right to openly and freely practice their religion has been respected, as nearly all households, including all indigenous households, stated that they could do so at the resettlement sites.
25. One site reported that drug use by persons outside and in the resettlement site was a major issue. No information was provided regarding the causes and how it is being addressed.
26. The rights of indigenous peoples, with regards to their ability to continue their traditional way of life in the resettlement sites, has been respected. Three-fourths of indigenous households reported being able to continue their traditional way of life by hunting, fishing and collecting food. However, even in the same site, some found it difficult to maintain their traditional way of life.

Recommendation for the Royal Government of Cambodia:

26.1 The Ministry of Land Management, Urban Planning and Construction, together with the Ministry of Rural Development and other relevant authorities, should respect, protect and fulfill the rights of all indigenous peoples to maintain their traditional way of life. Resettlement sites should be designed in a manner that is culturally appropriate and provides all indigenous peoples the opportunity to continue their way of life.

Recommendation for the Royal Government of Cambodia, civil society, and international community:

26.2 The Ministry of Health and other relevant authorities and stakeholders should conduct further studies into the root causes of drug use in this resettlement site, and design and implement proper interventions, based on the right to health.



Boreisantepeah II community, located in Damnak Troyeung village, Chom Chao Commune, Khan Porsen Chey, Phnom Penh. Photo: Cufa

ANNEXES

Annex 1: Full Address of Eviction Sites and Reference Names

List of 37 eviction sites by province (alphabetical order)

Full Address	Reference Name
Battambang	
Kampong Kro Bei Village, Sangkat Svay Pao, Battambang City, Battambang Province	Kampong Kro Bei
Tuol Ta Aek Village, Sangkat Tuol Ta Aek, Battambang City, Battambang Province	Tuol Ta Aek
Kampong Speu	
[Community/Village Name Unidentified], Trapeang Chour Commune, Aoral District, Kampong Speu Province	Trapeang Chour
Kloch, [Village Name Unidentified], Amleang Commune, Thpong District, Kampong Speu Province	Kloch
Opulov, [Village Name Unidentified], Amleang Commune, Thpong District, Kampong Speu Province	Opulov
Phum Chas, [Village Name Unidentified], Amleang Commune, Thpong District, Kampong Speu Province	Phum Chas
Pis Village, Amleang Commune, Thpong District, Kampong Speu Province	Pis
Sras Pope, [Village Name Unidentified], Amleang Commune, Thpong District, Kampong Speu Province	Sras Pope
Tuek Thla Leach Village, Trapeang Chour Commune, Aoral District, Kampong Speu Province	Tuek Thla Leach
Koh Kong	
Prek Smach Village, Kaoh Sdach Commune, Kiri Sakor District, Koh Kong Province	Prek Smach
Ta Noun Village, Ta Noun Commune, Botum Sakor District, Koh Kong Province	Ta Noun
Tuol Po Village, Ta Noun Commune, Botum Sakor District, Koh Kong Province	Tuol Po
Oddar Meanchey	
Bous Village, Sangkat Koun Kriel, Krong Samraong, Oddar Meanchey Province	Bous
Phnom Penh	
Boeung Kok, [Village Name Unidentified], Sangkat Srah Chak, Khan Doun Penh, Phnom Penh	Boeung Kok
Borei Keila, [Village Name Unidentified], Sangkat Veal Vong, Khan 7 Makara, Phnom Penh	Borei Keila
Dey Krohom, [Village Name Unidentified], Sangkat Tonle Bassac, Khan Chomkarmorn, Phnom Penh	Dey Krohom

Group 66, Village 11, Sangkat Phsar Thmey 3, Khan Doun Penh, Phnom Penh	Group 66
Kilo 6, [Village Name Unidentified], Sangkat Kilometer 7, Khan Russey Keo, Phnom Penh	Kilo 6
Sambok Chap Building, [Village Name Unidentified], Sangkat Tonle Bassac, Khan Chomkarmorn, Phnom Penh	Sambok Chap Building
Tuol Sangke, [Village Name Unidentified], Sangkat Toul Sangke, Khan Russey Keo, Phnom Penh	Tuol Sangke
Preah Sihanouk	
[Community/Village Name Unidentified], Tumnob Rolok Commune, Stueng Hav District, Preah Sihanouk Province	Tumnob Rolok
Kbal Chhay Village, [Name of Commune Unidentified but possibly Ou Treh Commune], Stueng Hav District, Preah Sihanouk Province	Kbal Chhay
Ong Village, Ream Commune, Prey Nob District, Preah Sihanouk Province	Ong
Phum 3 Village, Sangkat Muoy, Preah Sihanouk City, Preah Sihanouk Province	Phum 3
Village 6, Sangkat 4, Khan Mittapheap, Preah Sihanouk City, Preah Sihanouk Province	Village 6
Siem Reap	
Boeung Doun Pa Village, Sangkat Sla Kram, Siem Reap City, Siem Reap Province	Boeung Doun Pa
Mondul 3 Village, Sangkat Sla Kram, Siem Reap City, Siem Reap Province	Mondul 3
Sala Kom Reuk Village, Sangkat Sala Kamraeuk, Siem Reap City, Siem Reap Province	Sala Kom Reuk
Sla Kram Village, Sangkat Sla Kram, Siem Reap City, Siem Reap Province	Sla Kram
Spean Chas, [Village Name Unidentified], Sangkat Sla Kram, Siem Reap City, Siem Reap Province	Spean Chas
Treang Village, Sangkat Sla Kram, Siem Reap City, Siem Reap Province	Treang
Wat Domnak Village, Sangkat Sala Kamraeuk, Siem Reap City, Siem Reap Province	Wat Domnak
Wat Po Village, Sangkat Sala Kamraeuk, Siem Reap City, Siem Reap Province	Wat Po
Wat Svay Village, Sangkat Sala Kamraeuk, Siem Reap City, Siem Reap Province	Wat Svay
Stung Treng	
Kbal Romeas Chas Village, Kbal Romeas Commune, Sesan District, Stung Treng Province	Kbal Romeas Chas
Sre Sronok Chas Village, Kbal Romeas Commune, Sesan District, Stung Treng Province	Sre Sronok Chas
Srekor Chas Village, Kbal Romeas Commune, Sesan District, Stung Treng Province	Srekor Chas

Sangkat” and “commune” have similar administrative sections but the former is used for addresses in urban areas and the latter is used for addresses in rural or provincial areas. “Khan” and “district” have similar administrative sections but the former is used for addresses in urban areas and the latter is used for addresses in rural or provincial areas.

Annex 2: Resettlement and Eviction sites by Province

Resettlement and Eviction Sites by Province (Province, Resettlement Site, Eviction Site)

Battambang

Prek Kon Sek

Kampong Kro Bei

Tuol Ta Aek

Kampong Speu

Pis

Kloch

Opulov

Phum Chas

Pis

Sras Pope

Trapeang Chour

Tuek Thla Leach

Kandal

Srah Por

Borei Keila

Koh Kong

Prek Smach

Prek Smach

Ta Noun

Tuol Po

Oddar Meanchey

Au Butt Moin

Bous

Phnom Penh

Andoung Chas

Boeung Kok

Sambok Chap Building

Andoung Thmey

Boeung Kok

Borei Keila

Sambok Chap Building

Damnak Troyeung

Boeung Kok

Borei Keila

Dey Krohom

Sre Ampel

Group 66

Trapaing Anchanh

Kilo 6

Tuol Sangke

Tuol Sambo

Borei Keila

Sambok Chap Building

Preah Sihanouk

Aphiwat Deythmey

Kbal Chhay

Phum 3

Tumnob Rolok

O'Kampuchea

Ong

Tumnob Rolok

O'Trachak Chet

Kbal Chhay

Village 6

Siem Reap

Veal

Boeung Doun Pa

Mondul 3

Sala Kom Reuk

Sla Kram

Spean Chas

Treang

Wat Domnak

Wat Po

Wat Svay

Stung Treng

New Kbal Romeas

Kbal Romeas Chas

Sre Sronok Chas

Srekor Chas

New Sre Sronok

Sre Sronok Chas

Srekor Chas

Annex 3: Consultations

In November 2021, OHCHR held consultation meetings to allow key stakeholders from various Ministries of the Royal Government of Cambodia, community leaders and civil society representatives in the field to validate the findings; in the light of that the research took place in 2019 and 2020; to discuss the recommendations in the report; the draft resettlement guidelines and ways forward to implement them.

OHCHR received valuable contributions from the participants during the consultations. Recommendations made by the participants have been included in the report as deemed necessary.

Acknowledgement of COVID-19 pandemic

The report acknowledges the outbreak of the COVID-19 pandemic, in Section 3 - methodology.

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 by the legal term ‘eviction’ in English.

For example, instead of using the word ‘eviction,’ in Circular on Resolution on Temporary Settlements on Land (Circular No.03) the term ‘ka pardo ti tang thmey’ is used, which literally means ‘to change to a new location’, and would thus rather be translated as ‘relocation’ in English. Similarly, in Circular No.03 the term ‘ka tang ti lumnov thmey’ is used, 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, the term ‘resettlement’ has been used 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.

Clarification on the legal terms ‘Eviction’ and ‘Forced eviction’

Forced evictions are prohibited in all circumstances, regardless of ownership or tenure status of those affected. Forced evictions are acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection.²¹

In cases where an eviction is considered to be justified, it should be carried out in strict compliance with the relevant international human rights norms and standards, in accordance with general principles of reasonableness and proportionality, and with all legal recourses and remedies available to those affected.²²

21 The obligation of States to refrain from, and protect against, forced evictions from home(s) and land arises from several international legal instruments that protect the human right to adequate housing and other related human rights. These include the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (art. 11, para. 1), the Convention on the Rights of the Child (art. 27, para. 3), the non-discrimination provisions found in article 14, paragraph 2 (h), of the Convention on the Elimination of All Forms of Discrimination against Women, and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination. In addition, and consistent with the indivisibility of a human rights approach, article 17 of the International Covenant on Civil and Political Rights states that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence”, and further that “[e]veryone has the right to the protection of the law against such interference or attacks”. Article 16, paragraph 1, of the Convention on the Rights of the Child contains a similar provision.

22 UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, para. 14-15.

ANNEX 4

DRAFT RESETTLEMENT GUIDELINES

1. Introduction	51
2. Prohibition of Forced Evictions	52
3. Prior to Eviction	53
3.1 Decision-making Process	53
3.2 Notice of Eviction	54
3.3 Requirements for Resettlement Sites	54
4. Conduct of Eviction	56
5. After Eviction	57
5.1 Guidelines for Determining Just Compensation	58
5.2 Restitution and Return	58
5.3 Security of Tenure	59
5.4 Dispute Resolution	59
6. Monitoring, Evaluation and Follow-up	60

1. Introduction

1. These Guidelines were developed by the Office of the United Nations High Commissioner for Human Rights and aim to assist the Royal Government of Cambodia to ensure its national legislation, policies and guidelines pertaining to the right to adequate housing complies with Cambodia's international human rights obligations. These guidelines are further intended to provide guidance to the Royal Government of Cambodia as part of the right to an adequate standard of living, when conducting eviction, relocation or resettlement to ensure they are in compliance with domestic and international human rights norms and standards.
2. These Guidelines shall apply to all relocations and resettlement in Cambodia caused by development projects, such as concessions and public contracts, regardless of the source of funding, and/or natural disasters, including slow and sudden onset effects of climate change.
3. The practice of forced eviction that is contrary to laws that are in conformity with international human rights norms and standards constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing. Everyone has the right to adequate housing as a component of the right to an adequate standard of living. Prevention of forced evictions is an inherent part of this right.
4. As a party to the International Covenant on Economic, Social and Cultural Rights and under Article 31 of the Constitution of the Kingdom of Cambodia, the right to adequate housing applies to all Cambodian citizens, regardless of ethnicity, sex, language, religion or belief, political or other opinion, legal or social status, age, disability, property, birth or other status.
5. All persons, groups and communities have the right to resettlement, which includes the right to alternative land of better or equal quality, and housing that must satisfy the following criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education.
6. An Inter-Ministerial Committee on resettlement (eviction, relocation and resettlement) composed of, but not limited to the Ministry of Interior, Ministry of Economy and Finance, Ministry of Land Management, Urban Planning and Construction, Ministry of Rural Development, Ministry of Health, Ministry of Education, Youth and Sport, Ministry of Social Affairs, Veterans and Youth Rehabilitation, Ministry of Public Works, Ministry of Women's Affairs, Ministry of Environment and Ministry of Justice should be established. The Inter-Ministerial Committee will have the duty to oversee the implementation of these guidelines, including to prevent forced evictions by:
 - a. Determining the justifiability of any proposed eviction and disallowing those which could be considered forced evictions;
 - b. Overseeing the conduct of justifiable evictions and the entire resettlement process;
 - c. Monitoring and evaluating the effects of resettlement on affected peoples and communities; and
 - d. Ensuring and overseeing remedial measures, including compensation for affected populations.
7. This Inter-Ministerial Committee may be divided into sub-committees to deal with:
 - a. Justifiability of evictions (Section 2 of the guidelines);
 - b. Consultation and notice of eviction (Sections 3.1 and 3.2);
 - c. Identifying and preparing resettlement sites (Section 3.3);
 - d. Overseeing the conduct of evictions (Section 4);

- e. Payment of compensation to affected households (Sections 5.1 and 5.2);
 - f. Ensuring security of tenure (Section 5.3); and
 - g. Monitoring and evaluating the situation of resettlement communities (Section 6).
8. Responsibilities of the State and business enterprises
- a. Non-state actors including business enterprises have a responsibility to respect human rights and legitimate tenure rights. Business enterprises should act with due diligence to avoid infringing on the human rights and legitimate tenure rights of others. They should include appropriate risk management systems to prevent and address adverse impacts on human rights and legitimate tenure rights. Business enterprises should provide for and cooperate in non-judicial mechanisms to provide remedy, including effective operational-level grievance mechanisms, where appropriate, where they have caused or contributed to adverse impacts on human rights and legitimate tenure rights. Business enterprises should identify and assess any actual or potential impacts on human rights and legitimate tenure rights in which they may be involved.
 - b. The Royal Government of Cambodia, in accordance with its international obligations, should provide access to effective judicial remedies for negative impacts on human rights and legitimate tenure rights by business enterprises. Where transnational corporations are involved, their home States have roles to play in assisting both those corporations and host States to ensure that businesses are not involved in abuse of human rights and legitimate tenure rights. States should take additional steps to protect against abuses of human rights and legitimate tenure rights by business enterprises that are owned or controlled by the State, or that receive substantial support and service from State agencies.

2. Prohibition of Forced Evictions

1. Forced evictions include acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection.
2. Forced evictions are prohibited in all circumstances, regardless of ownership or tenure status of those affected. All institutions of the Royal Government of Cambodia, from national to local level, must ensure that no forced evictions occur in their respective jurisdictions.
3. Evictions shall only occur in exceptional circumstances. They require full justification and must be:
 - a. authorized by law;
 - b. carried out in accordance with existing Cambodian laws and with international human rights norms and standards;
 - c. undertaken solely for the purpose of promoting public welfare, keeping in mind Cambodia's human rights obligations and the need to protect the most vulnerable;
 - d. reasonable and proportional;
 - e. regulated so as to ensure full and fair compensation and rehabilitation; and
 - f. carried out in accordance with these guidelines.
4. Evictions are not justified when they do not contribute to the enjoyment of human rights.

3. Prior to Eviction

3.1 Decision-making Process

1. Prior to any decision to initiate an eviction, the relevant authorities should explore fully all possible alternatives to evictions, in consultation with all potentially affected persons. The rights of indigenous peoples to own, use, develop and control the lands, territories and resources that they possess should be respected and protected.
2. Comprehensive and holistic impact assessments should be carried out prior to the initiation of any project that could result in displacement, eviction or resettlement. Such assessments should inform decisions on eviction, as well as identification of alternatives to evictions. Impact assessments must take into account the differential impacts of evictions on women, men, children, older persons, and marginalized sectors of society. All such assessments should be based on the collection of disaggregated data, such that all differential impacts can be appropriately identified and addressed.
3. If eviction is unavoidable, the authorities proposing the eviction must demonstrate that the eviction is unavoidable and consistent with international human rights norms and standards protective of the general welfare.
4. Relevant authorities proposing and overseeing the eviction should ensure that the entire eviction and resettlement process is carried out with full participation of and with affected persons, groups and communities, including both resettling communities and host communities. The principle of free, prior and informed consent should be applied in the decision-making process.
5. Relevant authorities should hold a minimum of three consultation meetings, to ensure that all affected persons are fully aware of the proposed eviction and its consequences, and have sufficient time and opportunities to raise their concerns and propose alternative plans.
6. Particular attention must be paid to ensuring that men, women, LGBTI persons, persons belonging to minorities, indigenous peoples, and the landless, children, older persons and persons with disabilities or living with HIV/AIDS are represented and included in this process. When indigenous peoples are affected, the Department of Ethnic Affairs of the Ministry of Rural Development in collaboration with relevant authorities should ensure that the rights and interests of indigenous communities are protected.
7. As much as possible, all alternative plans proposed by the affected persons, groups and communities should be taken into account. Affected individuals must:
 - a. be able to influence the outcome of decision-making processes based on knowledge of their rights; and
 - b. have access to relevant information and sufficient time to consult.

Socio-economic, linguistic, literacy and other barriers to meaningful participation must be addressed prior to the consultations.

8. Affected persons, groups and communities have the right to appeal the notice of eviction and have the right to legal representation. They should be provided free legal assistance by the Bar Association of the Kingdom of Cambodia or other organizations that provide free legal aid.
9. If, after a full and fair public hearing, resettlement will proceed, the affected persons, groups and communities shall be given at least 90 days' notice prior to the date of the resettlement.
10. Prior to eviction or resettlement, relevant authorities should conduct an independent assessment, with participation

of all affected persons, of existing tenure rights and claims, including those of customary and informal tenure, as well as of the rights and livelihoods of all those affected. Such assessment should be the basis for a fair valuation and prompt compensation. Informal tenure includes subsidiary tenure rights, such as gathering rights.

3.2 Notice of Eviction

1. Relevant authorities should announce any decision relating to evictions in writing in Khmer and/or the appropriate indigenous language to all individuals concerned, sufficiently in advance. Where illiteracy is prevalent, or when there is no written form for an indigenous language, local authorities should ensure that an interpreter reads the notice to affected households that cannot read or speak Khmer. The Department of Ethnic Affairs shall assist in ensuring the presence of an interpreter. The eviction notice should contain a detailed justification for the decision, including:
 - a. absence of reasonable alternatives;
 - b. full details of the proposed alternative; and
 - c. all measures taken and foreseen to minimize the adverse effects of evictions where no alternatives exist.

All final decisions should be subject to administrative and judicial review. Affected parties must also be guaranteed timely access to legal counsel, without payment if necessary.

2. The eviction notice should allow and enable those subject to eviction to take an inventory to assess the values of their properties, investments and other material goods that may be damaged. Those subject to eviction should also be given the opportunity to assess and document non-monetary losses to be compensated.

3.3 Requirements for Resettlement Sites

1. Evictions should not result in individuals being rendered homeless or vulnerable to violations of other human rights. Before an eviction can take place, alternative housing, resettlement or access to productive land must be available and provided.
2. The Inter-Ministerial Committee and its sub-committees as mentioned in Section 1, paragraphs 5 and 6, should ensure that efforts to provide required services are coordinated. The Inter-Ministerial Committee should work closely with provincial, municipal and local authorities to provide these services.
3. The Inter-Ministerial Committee and its sub-committees must ensure that resettlement protects the human rights of women, children, indigenous peoples and other groups in vulnerable situation equally, including their rights relevant to property ownership and access to resources and livelihood.
4. The relevant authorities proposing and/or carrying out the resettlement shall be required by law to pay for any associated costs, including all resettlement costs, in addition to fair and just compensation. Private companies whose development projects are the cause of relocation shall be requested to contribute to the costs.
5. No affected persons, groups or communities shall suffer detriment as far as their human rights are concerned, nor shall their right to the continuous improvement of living conditions be subject to infringement. This applies equally to host communities at resettlement sites, and affected persons, groups and communities subjected to forced eviction.
6. When selecting new relocation sites, the Inter-Ministerial Committee and its sub-committees should take into consideration the following factors:
 - a. any alternative plans proposed by the affected people, groups and communities;

- b. the relocation site should be as close as possible to the existing location to preserve existing social networks, community ties and sources of livelihoods. If possible, resettled households should be relocated within the village or commune of their original residence;
 - c. the resettlement site should be close to schools, hospitals and employment opportunities;
 - d. there should be state land available to convert into a resettlement site;
 - e. host communities should be consulted to assess the extent of their acceptance of the resettled households;
 - f. the site should have access to food, water, sanitation, electricity and transport facilities;
 - g. the time and financial cost required for travel to and from the place of work or to access essential services should not place excessive demands upon the financial means of low-income households;
 - h. relocation sites must not be situated on polluted land or in immediate proximity to pollution sources or hazardous substances;
 - i. for communities reliant on agriculture and farming, relocation sites should include fertile land appropriate in size and quality for agriculture and the raising of livestock. The Ministry of Agriculture, Forestry and Fisheries should be included in the selection process for this type of land; and
 - j. in the case of indigenous communities, land provided must be culturally appropriate, and recognize their religion and traditions, including respect of their burial grounds, spirit land/forests and the practice of shifting agriculture.
7. Decisions on where to create a resettlement site must be made with the participation and input of local authorities responsible for the village, commune and district of the proposed site, to ensure that:
- a. the area proposed for the resettlement site will not take away land tenure and other existing property and proprietary rights from existing communities;
 - b. local authorities are willing and prepared to accept resettled households;
 - c. local authorities can oversee the preparation of the resettlement site;
 - d. local authorities can facilitate the integration of resettled households with any host communities; and
 - e. local authorities are provided with the necessary human and financial resources to accomplish the above responsibilities.
8. The Inter-Ministerial Committee should ensure that identified relocation sites fulfil the criteria for adequate housing according to international human rights norms and standards. These include:
- a. security of tenure;
 - b. services, materials, facilities and infrastructure such as potable water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services, and to natural and common resources, where appropriate;
 - c. affordable housing;
 - d. habitable housing providing inhabitants with adequate space, protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors, and ensuring the physical safety of occupants;
 - e. accessibility for disadvantaged groups including persons with disabilities;
 - f. access to employment options, health-care services, schools, childcare centers and other social facilities, whether in urban or rural areas; and
 - g. culturally appropriate housing.
9. The Inter-Ministerial Committee and relevant local authorities should ensure security of the home at identified relocation sites by including the following essential elements of adequate housing:
- a. privacy and security of the home;

- b. affected households persons' participation in decision-making on issues affecting security of tenure and the adequate standard of living;
- c. affected households persons in the relocation sites are protected against violence; and
- d. affected persons have access to remedies for any violations suffered.

4. Conduct of Eviction

1. Governmental officials or their representatives must be on site during evictions. They must identify themselves to the persons being evicted and present formal authorization for the eviction. Evictions carried out in accordance with judicial decisions of competent courts should be supervised by the relevant prosecutor and conducted by judicial police as defined in Article 60(1) and Article 60(2) of the 2007 Criminal Procedure Code. Military forces and unofficial police forces should not be used to carry out evictions.
2. Neutral observers, including civil society organizations, regional and international observers, should be allowed access upon request, to ensure transparency and compliance with international human rights norms and standards during any eviction.
3. Evictions shall not be carried out in a manner that violates the dignity and human rights to life and security of person of those affected. Nobody, including women, men, non-binary and LGBTI persons, should be subjected to gender-based violence and discrimination in the course of evictions, and the human rights of children should be protected.
4. Any use of force by the judicial police who are carrying out evictions must respect the principles of necessity and proportionality, as well as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
5. Evictions must not take place in inclement weather, at night, during festivals or religious holidays, during pandemics, prior to elections, or during or just prior to school examinations.
6. No one should be subjected to direct or indiscriminate attacks or other acts of violence, especially against those in a vulnerable situation, or arbitrarily deprived of property or possessions as a result of demolition, arson and other forms of deliberate destruction, negligence or any form of collective punishment. Property and possessions left behind involuntarily should be protected against destruction and arbitrary and illegal appropriation, occupation or use.
7. Evicted persons should not be required to demolish their own dwellings or other structures. The option to do so must be provided to affected persons to salvage possessions and building material.

5. Services to be Provided after Eviction

1. The Inter-Ministerial Committee and its sub-committees should provide adequate compensation and sufficient alternative accommodation, or restitution when feasible, immediately upon the eviction, except in cases of force majeure.
2. The Ministry of Health, through health posts, commune clinics, district and/or provincial hospitals should oversee the provision of medical care and attention to all evicted persons who are wounded and sick, pregnant women, as well as persons with disabilities, to the fullest extent practicable and with the least possible delay, without distinction on any non-medically relevant grounds. When necessary, evicted persons should have access to psychological and social services. Special attention should be paid to:
 - a. the health needs of women and girls, including access to female health-care providers where necessary, and

to services such as sexual and reproductive health care and appropriate counselling for victims of sexual and gender-based violence;

- b. different health needs of persons in vulnerable conditions, including children, older persons, persons with disabilities and persons with ill-health;
 - c. ensuring that ongoing medical treatment is not disrupted as a result of eviction or relocation; and
 - d. the prevention of contagious and infectious diseases, including HIV/AIDS, at relocation sites.
3. Members of the same extended family or community should not be separated as a result of evictions.
 4. Rehabilitation policies must include programmes designed for women and marginalized and vulnerable groups to ensure their equal enjoyment of the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman or degrading treatment, a safe, clean and healthy environment, and freedom of movement. The Inter-Ministerial Committee should ensure that efforts to provide these services are coordinated.
 5. Persons, groups or communities affected by an eviction should not suffer detriment to their human rights, including their right to the progressive realization of the right to adequate housing. This applies equally to host communities at relocation sites.
 6. All persons threatened with or subject to forced evictions have the right to access timely remedy. Appropriate remedies include:
 - a. a fair hearing;
 - b. access to affordable legal counsel or legal aid;
 - c. fair and just compensation;
 - d. restitution and return; and
 - e. resettlement.

Remedies should comply, as applicable, with the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

5.1 Guidelines for Determining Just Compensation

1. When eviction is unavoidable and necessary for the promotion of the general welfare, fair just and reasonable compensation for any losses of personal, real or other property or goods, including rights or interests in property should be ensured. The Inter-Ministerial Committee and its sub-committees should be responsible for all matters related to compensation. Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, such as:
 - a. loss of life or limb;
 - b. physical or mental harm;
 - c. lost opportunities, including employment, education and social benefits;
 - d. material damages and loss of earnings, including loss of earning potential;
 - e. non-economic loss or damage; and
 - f. costs required for legal or expert assistance, medicine and medical services, and psychological and social services.
2. Cash compensation should not replace real compensation in the form of land and common property resources. Where land has been taken, affected persons should be compensated with land commensurate in quality, size and value, or better.

3. 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. Consideration of the circumstances of each case shall allow for the provision of compensation for losses related to informal property tenure, such as slum dwellings, hunting, fishing and gathering rights.
4. Women and men spouses must be co-beneficiaries of all compensation packages. Single women and widows should be entitled to their own compensation.
5. To the extent not covered by assistance for relocation, the assessment of economic damage should take into consideration losses and costs, for example, of land plots and house structures; contents; infrastructure; mortgage or other debt penalties; interim housing; administrative and legal fees; alternative housing; lost wages and incomes; lost educational opportunities; health and medical care; resettlement and transportation costs (especially in the case of relocation far from the source of livelihood). Where the home and land also provide a source of livelihood for the evicted inhabitants, impact and loss assessment must account for the value of business losses, equipment/inventory, livestock, land, trees/crops, and lost/decreased wages/income earned through work in formal and informal sectors.

5.2 Restitution and Return

1. When circumstances allow, such as when economic land concessions that caused evictions have been canceled or abandoned, the Royal Government of Cambodia should prioritize the return of groups and communities subjected to forced evictions to their previous locations and the Ministry of Land Management, Urban Planning and Construction shall ensure tenure security upon their return. Persons, groups and communities shall not, however, be forced to return to their homes, lands or places of origin against their will.
2. When return is possible or adequate resettlement in conformity with these guidelines is not provided, the competent authorities should establish conditions and provide the means, including financial, for voluntary return in safety and security, and with dignity, to homes or places of habitual residence. The relevant authorities should facilitate the reintegration of returned persons and exert efforts to ensure the full participation of affected persons, groups and communities in the planning and management of return processes. Special measures may be required to ensure women's equal and effective participation in return or restitution processes to overcome existing household, community, institutional, administrative, legal or other gender biases that contribute to marginalization or exclusion of women.
3. The relevant authorities have the duty and responsibility to assist returning persons, groups or communities to recover, to the maximum extent possible, the property and possessions that they left behind or were dispossessed of upon their eviction. Means to resolve disputes over tenure rights should be provided.
4. When return to the previous place of residence and recovery of property and possessions is not possible, competent authorities must provide victims of forced evictions, or assist them in obtaining, appropriate compensation or other forms of just reparation.

5.3 Security of Tenure

1. The Inter-Ministerial Committee and its sub-committees, through the Ministry of Land Management, Urban Planning and Construction should ensure that after five years of continuous residence in the resettlement site, resettled households persons are able to obtain a hard title to the land they were awarded during resettlement.
2. In determining "continuous residence", the Inter-Ministerial Committee and its sub-committees should take into account improvements made to the dwelling and the awarded land, and not merely the presence of the resettled household members in the resettlement site.

3. Local authorities are responsible for recording the length of time resettled persons reside in a resettlement site, and should support any application for title made by these households.
4. Resettled persons who have resided in resettlement sites longer than five years, and who still have not obtained hard title, should be given priority in receiving a title by the Cadastral Commissioner.
5. The independent right of women to security of tenure, irrespective of their family or relationship status, should be recognized by the Cadastral Commission and the Ministry of Land, Urban Planning and Construction.

5.4 Dispute Resolution

1. The Royal Government of Cambodia should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of human rights abuses.
2. In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:
 - a. Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
 - b. Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
 - c. Predictable: providing a clear and known procedure with an indicative time frame for each stage, clarity on the types of processes and outcomes available, and means of monitoring implementation;
 - d. Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
 - e. Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
 - f. Rights-compatible: ensuring that outcomes and remedies are in accordance with internationally recognized human rights;
 - g. A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;
 - h. Operational-level mechanisms should also be based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

6. Monitoring, Evaluation and Follow-up

1. The number, type and long-term consequences of evictions, including forced evictions, should be monitored by the Inter-Ministerial Committee and its sub-committees. Such monitoring should allow the participation of persons, groups and communities affected by evictions. Monitoring reports and findings should be public to promote the development of best practices and problem-solving experiences based on lessons learned.
2. The Inter-Ministerial Committee should monitor incidences of forced evictions and compliance with these guidelines and international human rights norms and standards.
3. The Inter-Ministerial Committee should support and take into account research on the right to adequate housing in Cambodia conducted by other stakeholders.



Office of the United Nations High Commissioner
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