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The NGO Forum on Cambodia

ធ្វើការរួមគ្នាដើម្បីការប្រសើរឡើង
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THE EXCLUSION OF URBAN POOR COMMUNITIES FROM SYSTEMATIC LAND REGISTRATION IN PHNOM PENH



Phnom Penh, Cambodia
January 2015

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Printed Date: January 2015

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ACKNOWLEDGEMENTS

The research team would like to express its profound appreciation to the residents of the 12 urban poor communities where the study was conducted for answering our questions and telling us their story.

We are also thankful to our research assistants Ms. Sor Sopheap and Mr. Choub Sarey Vathana who helped conduct the household interviews.

Special thanks go to the village and commune chiefs, commune representatives, and the government officials we interviewed.

Our profound thank also goes to NGOF and WVC for commissioning and supporting this study, and especially to two staff members of NGOF– Mr. Chea Sarom and Ms. Sao Vicheka– for working closely with the research team and providing useful technical assistance during the study.

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EXECUTIVE SUMMARY

For many Cambodians without a formal title to the property where they may have settled years ago, security of tenure remains a great concern. In 2001, a new *Land Law* was passed and the Royal Government of Cambodia (RGC) has been working to rebuild the formal framework of land ownership and develop land administration infrastructure. In 2002, the RGC established the comprehensive Land Management and Administration Project (LMAP) under the Ministry of Land Management, Urban Planning, and Construction (MLMUPC) with the support of multiple donors. The overall aim of the project was to increase tenure security, reduce and prevent land conflicts, and in turn, encourage development and reduce poverty. A key component of the LMAP was the Systematic Land Registration (SLR), which aimed at issuing titles for all land parcels in Cambodia. While the program has been seen as mostly successful in rural areas, in Phnom Penh many poor communities have been excluded from SLR despite evidence of possession rights and without official explanations for the exclusion. Many have argued that the slow progress of SLR was mostly due to the large number of exclusions from the titling process of urban areas that contain valuable real estate and were likely to be disputed. The problem was particularly serious for urban poor communities (UPCs) where several cases of forced evictions were recorded. WVC and NGOF have jointly commissioned a study to explore the reasons behind the government's exclusion of many Phnom Penh UPCs from SLR and its impact on affected households, particularly women and children.

The study was conducted in 12 UPCs that had been excluded from the SLR process in six khans where SLR had been completed or was well under way. Data collection methods included interviews with 60 households from excluded UPCs, as well as village chiefs, community representatives, government officials, and NGO members. Analyses consisted of both quantitative and qualitative approaches and explored the reasons behind the exclusion and the socio-

economic impact of exclusion on UPC households. Secondary data, useful to inform and complement the analysis of the primary data were gathered from a review of the literature on UPC and SLR in Cambodia.

The 12 UPCs in the study had access to the public electricity supply, 11 to potable water supply, but only six to sewerage and four to garbage collection services. The 60 households in our sample have a total of 360 family members—53% of whom were children. Each household counted on average six members. Most of the UPCs residents earned their income working as low paid workers, street sellers, fishermen, small grocery sellers, and motor-taxi or taxi drivers. The households interviewed were generally poorer than average households in Phnom Penh. They tended to have more children, which increased their financial burden. A number of children dropped out of school because of poverty. The treatment of a relatively high rate of chronically ill members and the care required by disabled individuals brought additional costs to families, leading to a cycle of impoverishment. The majority of the families had debts and the lack of hard title meant they could not borrow from banks but had to rely on moneylenders, who generally charge higher interest rates.

All but one of the UPCs were located on public land (e.g. along railway lines, on footpath). About half the respondents were aware that their property was built on public land, but some thought that they were occupying private residential land because they had been there before the *Land Law* or had bought the property from previous owners. Ten of the 12 UPCs had been explicitly told that their community was excluded from the SLR, but only half the households had been informed of the reason many households, as well as local authorities, lacked awareness and understanding about the SLR process. They also lacked understanding of what constituted proof of possession.

Overall, most households felt that exclusion did not have any significant negative socio-economic impact, although residents of UPCs in inner khans, who tended to run small businesses were more likely to report a negative socio-economic impact. The lack of hard title meant that they could not get low

interest loans from banks to invest in their business or improve their house. They also could not sell their property for a good price, and some had the feeling of being stuck. They also did not feel confident that they would have any property to pass on to their children.

While it appeared there was no imminent risk of eviction for any of the UPCs in the study sample, half the respondents, but women more often than men, expressed fear and anxiety about their situation. Related to feelings of anxiety, was the feeling of uncertainty for the future and “living in limbo.” Most families had little hope that one day they would be given formal titles for their property, either because they believed that they had settled on public land or simply because they were taking for granted that they were living in slums that cannot be titled. The exclusion made their already precarious situation worse because it increased uncertainty for the future. The lack of formal title and tenancy security took away agency over their life and led to feeling of disempowerment. The report concludes with 14 recommendations in four domains: knowledge of the problem, clarity and transparency, dealing with exclusions from SLR, and dealing with UPCs.

ACRONYMS

AC	Administrative Committee
CC	Cadastral Commission
CSES	Cambodian Socio Economic Survey
DK	Democratic Kampuchea
ELC	Economic Land Concession
FGD	Focus Group Discussion
KII	Key Informant Interview
LASSP	Land Administration Sub-Sector Program
LICADHO	Cambodian League for Promotion and Defense of Human Rights
LMAP	Land Management and Administration Program
LTR	Land Registration Team
MLMUPC	The Ministry of Land Management, Urban Planning, and Construction
MPP	Municipality of Phnom Penh
NGO	Non-Governmental Organization
NGOF	The NGO Forum on Cambodia
PPDLMUPC	Phnom Penh Department of Land Management, Urban Planning and Construction
RGC	Royal Government of Cambodia
SLC	Social Land Concession
SLR	Systematic Land Registration
SPSS	Statistical Package for the Social Sciences
SSI	Semi Structured Interviews
STT	Sahmakum Teang Tnaut
UN	United Nations
UPC	Urban Poor Community
UPS	Urban Poor Settlement

DEFINITION OF KEY TERMS

Urban poor community and slum

Urban poor communities (UPCs) are often popularly referred to as “slums.” There is no official definition of slums but they are generally understood to be unauthorized settlement areas inhabited almost exclusively by the poor.¹ This study adopts UN-Habitat’s (2012) definition of a slum as a group of households lacking one or more of the following amenities:

1. Durable housing: a permanent structure that protects against extreme climatic conditions;
2. Sufficient living space: no more than three people sharing the same room;
3. Easy access to safe water in sufficient amounts and at an affordable price;
4. Access to improved sanitation facilities such as a private or public toilet shared by a reasonable number of people;
5. Security of tenure (formal or informal) and protection against forced eviction.

The present study has drawn from a survey conducted by Sahmakum Teang Tnaut (STT, 2014) to select its sample of UPCs. STT (2014, p. 3) defined an urban poor settlement (UPS) as “a group of ten or more adjacent households whose housing structures are of visibly poor quality, and/or whose homes have been laid out in a non-conventional fashion without adherence to a ground plan.”

Excluded communities

This study adopts the definition of the 2012 report by World Vision and NGO Forum in which excluded communities are “those who have been excised from adjudication areas prior to or during the process of [SLR] survey and

¹ In its 2012 Annual Report, the Municipality of Phnom Penh (MPP) used a very limited definition of slums as “informal settlements erected on state public land” (Channyda & Seiff, 2013). In its 2012 survey, MPP used the term “urban poor communities” but did not provide a definition.

demarcation, and to those cases where land parcels are left unregistered due to having “unclear status” (World Vision & NGO Forum, 2012, p. ii). CCHR (2013, pp. 17-18) described excluded communities as those remaining untitled because the case was “too complex” or the land of “unclear status.” Bugalski & Pred (2009, p. 4) defined excluded households and communities as those blocked from accessing land titles because their land was “likely to be disputed” or of “unclear status.” Both NGOs stated that there are no legal provisions for exclusions in the SLR design documents, and that terms such as “unclear status” are not defined.

I- INTRODUCTION



I. INTRODUCTION

More than three decades after the ousting of the regime of Democratic Kampuchea (DK) in 1979, the impact of its radical policies, particularly the abolition of private property and the forced relocation of millions of people, is still being felt. The framework for private land ownership established under the French Protectorate was destroyed along with most land records. Through the 1980s and 1990s people returned to Phnom Penh and settled in unoccupied buildings and lands as ownership rights from earlier regimes were no longer recognized, but a formal system of land ownership was still lacking. Several legislations were introduced to attempt rebuilding private land ownership rights, but land ownership and security of tenure remain great concerns for many Cambodians without a formal land title to properties where they may have settled years ago.

To try and remedy this problem, the comprehensive Land Management and Administration Project (LMAP) was established in 2002 under the Ministry of Land Management, Urban Planning, and Construction (MLMUPC) with the support of multiple donors (Bridges Across Borders-Cambodia, 2014). Its stated aim was to improve tenure security for the poor, and reduce and prevent land conflicts and land-rights violations through systematically registering land and issuing titles across the country (Bugalski & Pred, 2009). Systematic Land Registration (SLR) was one of five key components of the LMAP. The LMAP ended in 2009 but the SLR continued to operate under the MLMUPC's Land Administration Sub-Sector Program (LASSP) in 15 of the 25 Cambodian provinces. By September 2014, no more than 134,067 land parcels had been titled under the SLR in Phnom Penh.²

In September 2014, the Phnom Penh Department of Land Management, Urban Planning, and Construction (PPDLMUPC) estimated that nearly 25,000

² Statistics from the PPDLMUPC. In 2013, it was estimated that 1,688,044 people or 11.5% of the Cambodian population were living in Phnom Penh (NIS, 2013).

families in Phnom Penh's lived in urban poor communities. Many of these people did not have secure tenure and risked or already had been the victims of forceful displacements. For the sake of development and beautification projects, large numbers of urban poor have been forced to relocate often with little compensation or assistance (Amnesty International, 2008, p. 6). Between 1990 and 2011, 29,358 families (146,790 people) living in various Phnom Penh squatter settlements have been displaced either through planned relocations or forced evictions (STT, 2011). In 2013, at least 36 settlements have received eviction notices (STT, 2013, p. 11).

Many UPC households continue to face insecure tenure and may fear eviction even if they have documents supporting their right of possession because, for various reasons discussed later, they have been excluded from SLR (CCHR, 2013; Lindström, 2013). Little data are publicly available on SLR and it is difficult to obtain information on the extent of and reasons for exclusions from official sources. Generally, the success of SLR has been measured in terms of numbers of titles issued but rarely in terms of poverty reduction. Little research has been conducted on the impact of SLR on poverty reduction (FIAN Germany, 2011). WVC and NGOF are jointly commissioning this study to explore the reasons behind the government's exclusion of many urban communities from SLR and its impact on affected households, particularly on women and children (Appendix A).

1.1 Goal and objectives

The goal of the study is to identify the impact of exclusion from the SLR of the Phnom Penh poor communities on the livelihoods of affected families and the reasons behind these exclusions. The study aims to:

1. Identify UPCs excluded from SLR in six khan of Phnom Penh;
2. Understand the government's plans and reasons for these exclusion as well as factors contributing to them;

3. Compare the livelihoods of households, particularly women and children, in the UPCs before and after exclusion; and
4. Understand the impact of exclusion on the livelihoods of the UPCs with a focus on women and children.

1.2 Research questions

The report seeks to answer the following questions:

1. Where are the UPCs excluded from SLR in six khan of Phnom Penh?
2. What are the reasons for the exclusion of these UPCs from the SLR process?
3. Has exclusion affected the livelihood of households in the communities, and if so, in which ways?
4. What is the perception of these communities toward the exclusion?
5. What are the possible solutions for the excluded communities?
6. What recommendations should be made to deal constructively with exclusion cases?

II- METHODOLOGY



II. METHODOLOGY

2.1 Selection of study areas

Phnom Penh Municipality comprises 12 khans:³ 7 Makara, Chamkar Mon, Chbar Ampov, Chroy Changva, Daun Penh, Dangkor, Meanchey, Por Senchey, Prek Pnov, Russey Keo, Sen Sok, and Toul Kork. The present study focuses on six khans – Chamkar Mon, Dangkor, Daun Penh, Meanchey, SenSok, and Toul Kork – where SLR has been completed or is well under way. Data on communities officially excluded from SLR were not available publicly. However, in February 2014, NGO Sahmakum Teang Tnaut (STT) released a study of Phnom Penh urban poor settlements, which provided information on exclusion from SLR in these UPCs (STT, 2014). The study was based on extensive fieldwork during which residents from 340 UPCs and local authorities in nine khans of Phnom Penh were interviewed. Findings indicated that in the six khans where SLR had been or was being conducted there were 208 UPCs inhabited by 22,420 families (Table 1). Of these UPCs, 31 had clearly been excluded from the process. Drawing on this information, exclusion data were crosschecked with local authorities, and two UPCs in each khan were randomly selected for the study.

Table 1 presents the number of UPCs in the six khans, those that had been excluded, and the 12 UPCs selected for the present study. Appendix A shows maps of the selected UPCs.

³ Khan is the Khmer term for “district.”

Table 1: Urban poor settlements and exclusions in six khans, 2013

Khan	N of UPS	N families	N excluded UPS	Settlements clearly told they had been excluded from SLR*
Chamkar Mon	25	2,270	2	<ul style="list-style-type: none"> • Boeung Trabek • Chao Punheahok
Dangkor	25	3,976	11	<ul style="list-style-type: none"> • Moil (Sambok Chab) • Mor • Phum Cheak • Phum Nakta (Roluos) • Sereydeydous • Teok Thla • 5 communities with no name
Daun Penh	17	614	3	<ul style="list-style-type: none"> • Block Tampa • Plov Rotplerng • Plov Rounplornng
Meanchey	89	7,017	6	<ul style="list-style-type: none"> • Christ Vealsbov • Phum Chroy Basac • Phum Prek Ta Nu 2 • Phum Toul Rorkar • Saharkum Preah • Tnuat Chrom 5 • Tmor San (Dermsleng)
Sen Sok	31	6,255	6	<ul style="list-style-type: none"> • Borey 100 Knong • Krom 8 • Phum 5 Khnornng • Phum Phsar Lech • Teuk Thla 2 • 1 community with no name
Toul Kork	21	2,288	3	<ul style="list-style-type: none"> • Community 102 • Community 347 • Krom Span
Total	208	22,420	31	

Notes: * Urban poor settlements written in bold are those selected for this study.

Source: STT (2014, p. 17)

2.2 Data collection method and sample

Data collection methods included: semi-structured interviews (SSI), focus-group discussions (FGD), in-depth interviews, key informant interviews (KII), and site observations (see Appendix B for questionnaires). In each of the 12 UPCs,

five households were randomly selected for formal SSI with the head of household (Table 2). Interviews with households were conducted by a team of three consultants assisted by one male and one female interviewers during August and September 2014. FGDs were conducted with community representatives in two UPCs, and with a group of eight officials from the Phnom Penh Department of Land Management, Urban Planning, and Construction (PPDLMUPC). KIIs were conducted with five village chiefs and three representatives of NGOs from GIZ and STT. In each UPC the team of consultant conducted on-site observations, which included informal conversations with residents.

Table 2: Sample of respondents and sample size

<i>Participants</i>			<i>Methods</i>
Type	Total N	Female N (%)	
UPC households	60	40 (67%)	SSI and some in-depth discussions
Village chiefs	5	1 (20%)	KII
Communities representatives in 2 UPCs (Prek Ta Nu 2 and Teuk Thla 2)	17	9 (53%)	FGD
Officials at PPDLMUPC	8	0 (0%)	FGD
NGO representatives	3	0 (0%)	KII
Total	93	50 (54%)	

2.3 Data analysis

Analyses included both quantitative and qualitative approaches. Socio-demographic and economic data from interviews with UPC households were coded to generate comparable quantitative measures for statistical analysis. Some qualitative data related to the process of SLR and exclusion were also coded.

Descriptive statistics were generated using SPSS.⁴ Qualitative data from UPC households provided information for the case studies. Interviews with village chiefs, commune council members, and commune representatives provided general information on the socio-economic conditions of the UPCs that could be triangulated with the data from the households. Village and commune officials were also able to discuss the process of SLR, potential reasons for exclusion, and the impact of exclusion on the UPCs. Secondary data were gathered from a review of the literature on UPCs and SLR in Cambodia. They were useful to inform and complement the general analysis of the primary data.

2.4 Limitations and challenges

The research methods are essentially qualitative and based on a small sample of households (5 in each UPC). It is sufficient to be representative of the eight selected small UPCs⁵ but not the large ones. The findings cannot be generalized to all UPCs in Phnom Penh but they highlight important issues as foundations for further research with larger samples. Our study has drawn from the research literature, especially from the 2012 Municipality of Phnom Penh study and the 2014 STT's project. These studies provided important statistics and information on UPCs in Phnom Penh, but we were not able to collect sufficient statistics on UPCs from official sources for data triangulation. The issue of land rights is a sensitive political topic in Cambodia, and the research team found that cooperation from local authorities and ministries was limited. In many instances, authorities simply declined to be interviewed.

⁴ SPSS (Statistical Package for the Social Sciences) is a software to analyze quantitative data.

⁵ STT (2014) noted that the majority of settlements contained fewer than 50 building structures; in our study, 8 UPCs had between 10 and 51 households (mean = 35). On average the number of interviewees in these 8 UPCs represented 14% of the households. The 4 other UPCs had between 100 and 400 households (mean = 250).

III- LITERATURE REVIEW



III. LITERATURE REVIEW

3.1 Land ownership in Cambodia

3.1.1 History of land ownership

Under the regime of Democratic Kampuchea (DK), which lasted from April 1975 to January 1979, radical changes including the abolition of private property were implemented. Phnom Penh and other urban areas were almost entirely evacuated as people were forcibly moved to the countryside to work on the land. Most land titling and cadastral records were destroyed. After the DK regime was ousted in January 1979 displaced people returned to their homeland and took over properties and houses. Flexibility was accorded to local officials in determining land occupation arrangements, but implementation was disorganized and often influenced by patronage ties (Biddulph, 2014). In Phnom Penh, newcomers were allowed to settle relatively freely in unoccupied buildings and lands (World Bank, 2009). From around 100,000 residents at the end of 1979, the population had grown to 615,000 by 1990. A new land law that restored some private land ownership rights was adopted in 1992 but made it clear that pre-1979 property rights were no longer recognized.

Phnom Penh was expanding rapidly, and in 1998 the population exceeded 860,000. While squatter settlements were virtually absent in 1989, landlessness increased and by 1994 an estimated 12 to 15% of the population were living in informal settlements (World Bank, 2009). Conflicts over land became a source of potential unrest. They typically occurred when senior officials or companies whose origins were difficult to trace suddenly dispossessed villagers of valuable land that the latter considered was theirs (Williams, 2013). A clear system of land tenure and a strong land management and administration were needed. In 1999 the new Ministry of Land Management, Urban Planning and Construction (MLMUPC) was established to administer land related matters.

3.1.2 Current legal framework

A new *Land Law*, still in force today, was passed in 2001, which provides the most significant legal developments for the protection of land rights in Cambodia. The 2001 *Land Law* (art. 7) reiterated that ownership of land and houses before 1979 was nullified and included provisions for acquisition of ownership through possession and use for at least five years, but only if it had occurred prior to the passing of the law. Occupancy of land that commenced after the passing of the law is illegal. The law also protects legal possessors until full ownership is conferred, making any eviction illegal until the occupant's land rights are determined through the adjudication process. Expropriation from land registered as private property can only be carried by the state with fair compensation.

The law defined three categories of land that provide the basis for all legal questions over land use rights in rural and urban areas: private land, state land, and collective land.

- Private land consists of residential and agricultural land used for private purposes;
- Collective land comprises monastery property and the property of indigenous communities;
- State land broadly includes all land that is not collective or private; it is further divided into state public land – of natural origin such as lakes or seashore or developed for public purpose such as roads or railways – which cannot be sold or purchased, and state private land – all other state land – which can be sold or acquired (World Bank, 2009). Possession on state public property is not legal regardless of when it started. In 2005, a sub-decree outlined the process through which State public land, which had lost its public benefit, could be reclassified as state private land, and subsequently redeveloped or sold.

The 2001 *Land Law* was drawn up in general terms and subsequent sub-decrees, guidelines, and policies that clarified specific details were subsequently passed. For example, there was a sub-decree on demarcation of State Land, a

sub-decree on Social Land Concessions (a mechanism for redistributing state land to landless and poor households) (Biddulph, 2014).

3.2 Systematic land registration

3.2.1 The LMAP and the titling process

The formal titling of land held through possession and use was a means to securing land tenure as well as providing economic opportunities and reduce poverty (Bugalski & Pred, 2009; FIAN Germany, 2011). Land registration was achieved through sporadic registration at the demand of individual households, which was time consuming and ineffective to meet the needs of the whole country. Systematic land registration (SLR) was adopted in order to register whole areas at once.⁶ With the support of international donors including the World Bank and the Finnish and German governments, and to achieve large-scale land registration, the RGC developed the Land Management and Administration Program (LMAP), a 5-year program that began in 2002 but was extended by a further two years in 2007, with the aim of issuing one million titles in 10 provinces and Phnom Penh (World Vision & NGO Forum, 2012).

An important component of the LMAP involved a process of mass titling in which surveyors systematically visited villages, mapped every plot of land in the villages, and provisionally assigned an occupier to each plot. They created a village map, which was displayed for 30 days, during which anyone could dispute the provisional assignment of land. Titles were issued for all the plots of land that were not contested, and contested plots remained untitled for separate adjudication after a series of dispute resolution processes, thus not disrupting or delaying the issuance of titles to the rest of the village. By the end of the project in 2009, the main targets of LMAP had been achieved: nearly 1.7 million land parcels had been surveyed and adjudicated, with nearly 1.3 million titles issued,

⁶ According to the MLMUPC, the official cost of sporadic land registration is between \$12.50 (for rural land) and \$87.50 (in Phnom Penh) while the cost of SLR is approximately \$10 per parcel (CCHR, 2013).

and around 1,000 Cambodian cadastral officers had been trained and equipped, significantly increasing the institutional capacities of the MLMUPC (Anttonen, 2012).

3.2.2 Land titling in Phnom Penh

While SLR seemed to have been effective in non-contentious rural areas where land value was modest, conflicts arose when the land being adjudicated had a high value, for example, when it had been targeted for private development (Bugalski & Pred, 2009). The problem was particularly acute in Phnom Penh where the real estate market was booming with high potential for land speculation and was compounded by the rapid and unplanned growth of the city and the increasing number of squatter settlements, as growing numbers of newcomers started to settle on whatever empty land was available. By 1994, it was estimated that up to 120,000 people were living in slums and low-income settlements rising to 175,000 by 2001 (World Bank Inspection Panel, 2010).

In Phnom Penh, the SLR process fell short of targets: the MLMUPC planned to survey and adjudicate 198,000 titles between 2002 and 2007, but only about 40% (83,665 titles) were surveyed and 38,500 titles were issued (Bugalski & Pred, 2009). Many argued that the slow progress of SLR was mostly due to the large number of exclusions from the titling process of urban areas that contain valuable real estate earmarked for development by powerful individuals and companies, therefore likely to be disputed, despite legitimate possession claims by existing residents (Biddulph, 2014; Bugalski & Pred, 2009; Grimsditch & Henderson, 2009; World Vision & NGO Forum, 2012). In such cases, SLR seemed to have failed the most vulnerable households, and during the LMAP several cases of forced evictions from low-income settlements were recorded in Phnom Penh, for example in Koh Pich, the Bassac area, and Boeung Kak Lake (OHCHR, 2012; World Bank, 2009; World Vision & NGO Forum, 2012). While some point out that several eviction events took place outside of the SLR process, many of the families concerned claimed they had evidence of possession rights

and thus should have been under the protection of the 2001 *Land Law* (Anttonen, 2012; Williams, 2013).

In 2009, an international NGO lodged a complaint to the World Bank, which was funding the SLR, over evictions in Boeung Kak Lake, claiming that the system was not implemented properly. In this case, the SLR began in the area in 2006 but the communities around the lake were excluded from the process with the “justification” that the land status was “unclear.” However, at the same time, the government leased the land, which was reclassified from state public to state private land, to a development company. Although many residents had lived there prior to 2001 and claimed they had informal titles to the land, their plots of land were not recorded during the adjudication process and they started receiving eviction notices. In 2008 the development company started filling up the lake with sand, flooding many homes in the process. Most of the residents eventually left with minimal compensations or were forcibly evicted. An inquiry by the World Bank Panel found that the bank had failed in its supervision duty and that serious breaches of the Bank’s safeguard policies had occurred resulting in serious harm to the residents (Biddulph, 2014; Bugalski & Pred, 2009; World Bank Inspection Panel, 2010). In September 2009, the World Bank decided to suspend funding to the project until the RGC committed to stop all such illegal evictions, to which the latter responded by cancelling the project because of too many of the Bank’s “difficult conditions.”

Despite the withdrawal of the World Bank the titling program continued under the Land Administration Sub-Sector Program (LASSP) with the support of Canadian, Finnish and German development agencies. The new LASSP was deployed in 15 provinces and Phnom Penh, but a 2012 study by NGOF showed it followed a similar pattern to the LMAP, of rapid implementation in undisputed farming areas, but slow progress and high rate of exclusions in urban areas disputed, and with ongoing criticisms of lack of transparency and land grabbing (Biddulph, 2014; Williams, 2013).

In May 2010, the RGC issued a *Circular on Resolution of Temporary Settlements on State Land Illegally Occupied in the Capital, Municipal and Urban Areas* (Circular 03). The *Circular* outlines steps to address the case of communities residing on state public land and that therefore cannot claim possession rights even if they were there prior to the 2001 law.⁷ These steps, which should involve local authorities, community groups and civil society organizations, include: 1) data collection on the number of sites of temporary settlements, 2) identification, mapping and classification of land at the site of temporary settlements, 3) a census of the number of households and household members in the sites, and 4) the identification and discussion of options for resolution. Options include on-site upgrading, relocation if on-site upgrading is not possible, and “other forms of resolution” on a case-by-case basis (for detailed description and analysis see Lindström, 2013).

Land ownership and security of tenure are major problems in modern Cambodia, particularly following the dramatic reforms and massive relocation of millions of people under the DK regime. A new regulatory framework has been developed to solve land disputes, improve tenure security, and protect residents’ rights. Under this framework a systematic campaign of land titling started in 2002. According to the RGC, under both systematic and sporadic land titling, three millions land titles had been issued by September 2013 (CCHR, 2013, p.17). Despite this impressive result, there are concerns that the land-titling program is not improving tenure and providing protection to urban vulnerable groups even when they have legitimate claims to land. There are many examples of communities with well-documented long-term possession rights that are not selected for systematic titling or are excluded during the process. This is particularly problematic for urban poor families living on land targeted for private development who remains at risk of being evicted and dispossessed (Grimsditch & Henderson, 2009). Grimsditch and Henderson (2009, p. 7) argued

⁷ Circular 03 is not a law and stakeholders involved on implementation tend to call it “an administrative tool” with a flexible and non-prescriptive nature (Lindström, 2013).

that “focusing on the issuance of titles in areas where households are relatively safe from eviction, while excluding those communities at risk of displacement *in both urban and rural areas*, entrenches the inequitable system that existed before LMAP.” Large scale exclusions, however, seem to be more frequent in urban rather than rural areas. For example, in the study by World Vision and NGO Forum (2012) exclusions were more likely to occur in the urban areas of Phnom Penh and Preah Sihanouk than in other areas. The next section examines the process of SLR, the problems posed by frequent exclusions from the process, and the potential impact for excluded communities.

3.2.3 The SLR process and its limitations

The 2001 *Land Law* laid out the basis for the SLR, which was further elaborated in the 2002 *Sub-Decree No.46 on the Procedures to Establish Cadastral Index Map and Land Register*. The SLR process involves five main steps: preparation, fieldwork, public display, decision, and registration and issuance of title:

- 1. Preparation** – The provincial or municipal governor selects and announces areas for adjudication and appoints an Administrative Committee (AC), which includes members from the local department of land management, local officials and representatives from each village. A public meeting is held in each area to be adjudicated, during which the leader of the land registration team⁸ (LRT) explains the SLR process and answers questions.
- 2. Fieldwork** – The LRT then visits each household in the SLR area, records ownership claims, and surveys land parcels. A Cadastral Index Map and a list of landowners are drawn up.

⁸ The land registration team consists of adjudicators, surveyors, demarcators, and Geographical Information Systems and data entry officers.

3. **Public display** – The map and list of landowners are publicly displayed for 30 days. Families check that the data are accurate, errors are corrected, and objections and complaints are lodged.
4. **Decision** – After the 30-day display, the AC confirms the adjudication records for parcels not subject to disputes. The records are delivered to the provincial or municipal land management office for inspection and signing by the Governor.
5. **Issuance of titles and registration** – The process concludes with issuance and registration of land titles.

The process is supposed to be transparent, and unsatisfied landholders have the possibility to lodge complaints (for details see World Vision & NGO Forum, 2012). If disputes arise during the SLR survey or at the display stage, the parties are encouraged to conciliate the dispute with the help of the AC. If this is not possible, it will be referred to the Cadastral Commission (CC), a dispute resolution body established under the MLMUPC that deals with unregistered lands.⁹ Plots cannot be registered until the dispute is resolved.

Administrative exclusions and unclear status

In Phnom Penh, official data on exclusion are not available but studies have noted large numbers of cases when whole communities are “excluded” from the adjudication process prior to or during the SLR, as well as large numbers of plots left unregistered due to their “unclear status” (CCHR, 2013; World Vision & NGO Forum, 2012). STT (2014) estimated that one-quarter of the urban poor settlements they identified in 2013 in Phnom Penh may have been

⁹ The role of the Cadastral Commission was set out by the 2002 *Sub-Decree on Organization and Functioning of the Cadastral Commission*. Another land dispute mechanism is the National Authority for Land Conflict Resolution, established in 2006. However, disputes arising during the SLR are generally referred to the CC, which deals with all disputes over unregistered lands arising from or outside of adjudication areas.

excluded. NGOF examined the titling process in four adjudication areas in Banteay Meanchey, Kampong Cham, Phnom Penh, and Preah Sihanouk. In the three provinces,¹⁰ the process followed the legal procedures and the majority of disputes were settled during the process. However, in Tumnup Village, Phnom Penh, the number of exclusions and the number of disputes were high and by the end of the adjudication process, 80% of land parcels remained unregistered.¹¹ No legal justification was provided for these exclusions. The unregistered plots given an “unclear status” generally bordered or overlapped with state land, which had not been clearly demarcated. Respondents also remarked that they were provided with very little information, some finding out they had been denied a title only after the process was concluded, with no avenue for lodging a complaint.

There are a number of legal reasons why people may not receive a land title following the SLR process: 1) the land is subject to dispute that arises prior or during adjudication and it cannot be registered before the dispute is resolved; 2) landholders are absent during the demarcation process and their land claim cannot be recorded, or they cannot confirm neighbors’ land boundaries; and 3) the land is found to be state public land (e.g. along a railway line), which can never be privately titled (NGO Forum, 2012). However, there are no legal provisions to exclude or remove plots or whole communities from the adjudication area and *sub-decree 46* prescribes that disputes and the status of the claimed land must be assessed in a transparent manner through the adjudication process. No official data are publicly available on the extent of or reasons for exclusion. Previous research has found that exclusions generally happened in a non-transparent manner and the two main reasons were that the cases were “too complex” for adjudication or land parcels were deemed to have “unclear status”

¹⁰ Problems of exclusion and disputes were also noted in Preah Sihanouk, where about one-third of plots were unregistered by the conclusion of the SLR process.

¹¹ In Tumnup Village, there were 861 households in the adjudication area: 666 were excluded from the process, 195 were adjudicated but 154 were deemed too problematic or lacking sufficient data, and only 41 titles were issued.

(World Vision & NGO Forum, 2012). It also found that such exclusions typically occurred in urban poor communities, for example in Boeung Kak Lake, Tonle Bassac, Community 78, and Tumnup Village (Hap, 2007; Lindström, 2013). The reasons for excising areas from the SLR are not legally defined, nor are the situations when it would be justified to exclude land from the process. The use of such justifications to arbitrarily exclude families with claims of possession from the SLR presents a significant loophole that may permit land grabbing by powerful parties at the expense of urban poor communities.

Lack of state land classification

There is little research on how adjudication areas are selected for the SLR. There are suggestions that the SLR has mainly targeted areas with minimal potential conflicts over land, and avoided areas where conflicts are common or where the status of the land is uncertain. Indeed, in its review of LMAP the World Bank noted that to build up the capacity of titling teams and avoid slowing down the SLR a decision was taken to initially not title land in areas where disputes about the status of state land – state private vs. state public – was likely to occur until the status of the land was clarified. Although such a move may be justified in order not to stall the titling process, it is problematic because these areas are those where tenure insecurity is greater, and which often are at the greatest risk of eviction.¹²

Furthermore, under Component 5 of the LMAP – land management – an objective of the project was to assess, demarcate, classify, and map all state private and public land in consultation with communities and civil society groups. It was assumed that once this was completed, the risk of land disputes would be reduced, and it would be possible to run the SLR more effectively.

¹² In addition to the lack of demarcation and mapping, state public land can be reclassified into state private land, which can then be sold or leased. *Sub-decree 129* outlines such a process but the procedures are not detailed and include no provisions for public disclosure or consultations; in any case, the RGC often issues only decrees to reclassify state land, thus disregarding legal procedure, as happened in the case of Boeung Kak Lake (CCHR, 2013).

However, the implementation of Component 5 was severely limited and no official mapping of state land was achieved. The review identified “the absence of State land mapping [...] as [an] important shortcoming that needs to be addressed for LMAP to succeed and help solve land conflicts and security of tenure” (World Bank, 2009, p. 6).

Another problem is that if possessors of land that is determined to be state public land, cannot be considered for ownership, it is still unclear whether this refers to the status of the land at the time of *first occupation* or at the time of *adjudication*. Some possessors had settled on vacant land more than 30 years ago, at a time when the land had not been surveyed, recorded, and registered as state public land. Such land could then be considered state private land, therefore making it suitable for occupation and eligible for ownership (World Bank Inspection Panel, 2010). For example, in the early 1990s, civil servants were allowed to settle on land near their ministry. These families’ tenure is now threatened because the land they occupy may be considered state public land, even though it is often unclear to the ministries concerned what land they actually hold (World Bank Inspection Panel, 2010).

3.3 UPCs in Phnom Penh

A study by the Municipality of Phnom Penh (MPP) reported that between 1980 and 2011, 516 UPCs in which 250,000 people resided had developed in nine khans (Phnom Penh Capital, 2012, p.5). In 2013, the NGO Sahmakum Teang Tnaut (STT) identified 340 UPCs in the same khans (STT, 2014, p. 8).¹³ According to the PPDLMUPC, as of September 2014 Phnom Penh counted 503

¹³ The Municipality of Phnom Penh study was conducted in November 2011 and it included 2,033 individual interviews with families and 281 interviews with UPC representatives. The STT study took place in May-August 2013 and included interviews with residents (N=218), village chiefs (N=21), community leaders (N=47), community committee members (N=10), and settlement representatives (N=44).

UPCs in 12 khans where 24,668 families or 140,114 people were living.¹⁴ The different counts of UPCs between these three sources are the result of different definitions (communities vs. settlements)¹⁵ and data collection periods (data for STT's study were collected 18-21 months after MPP's and 12 months before PPDLMUPC).

The number of UPCs increased from 379 in 1997 to 569 in 2003, then dropped to 410 in 2009 and 340 in 2013 (STT, 2014). The number of families living in UPCs has also decreased by around 7,000 between 2009 and 2013. Overall, the number of UPCs has decreased in the inner khans¹⁶ – 7 Makara, Daun Penh, Chamkar Mon, Toul Kork – and increased in the outer khans – Dangkor, Meanchey, Por Senchey, Russey Keo, and Sen Sok. In 1997, STT estimated that 68% of all UPCs were located in the inner khans and 32% in the outer khans; in 2013 the trend has reversed with only 24% of UPCs in the inner khans and 76% in the outer khans. While some UPCs were upgraded and improved, thus no longer defined as UPCs, and small UPCs of fewer than ten households were integrated within larger ones, STT remarked that half the decrease resulted from the disappearance of 64 UPCs. The parcels of land on which these UPCs were located have been redeveloped or are now vacant, and STT (2014) argued that it is likely some of these UPCs have been displaced or evicted.

Table 3 shows that the number of UPCs in the six target khans decreased from 261 in 1997 to 208 in 2013.

¹⁴ Based on the estimate that on average each UPC household has 5.68 members (Phnom Penh Capital, 2012, p. 11).

¹⁵ STT focuses on urban poor settlements while MPP focuses on urban poor communities. In STT's view, settlements need to be organized – e.g., having leaders, saving groups, etc. – to be considered communities. Therefore, settlements may include no organized community or they may include more than one.

¹⁶ "Inner khans" refers to khans which are located around central Phnom Penh, while "outer khans" refer to those which are located far away from central Phnom Penh.

Table 3: Urban Poor Settlements in six Khan from 1997 to 2013

Khan	1997		2003		2009		2013	
	UPC	Fa	UPC	Fa	UPC	Fa	UPC	Fa
Chamkar Mon	67	6,479	68	8,574	29	2,421	25	2,270
Dang Kor	16	903	141	19,690	54	7,242	25	3,976
Daun Penh	72	2,970	81	7,188	32	2,337	17	614
Mean Chey	46	6,656	94	5,382	93	9,002	89	7,017
Sen Sok	N/A	N/A	N/A	N/A	38	4,260	31	6,255
Toul Kork	60	3,411	48	4,540	38	4,920	21	2,288
Total	261	20,419	432	45,374	284	30,182	208	22,420

Note: UPC= Urban Poor Community; Fa= Family/HH

Source: STT (2014)

3.4 Evictions and relocations

Between 1990 and 2011, 29,358 families (146,790 people) living in various Phnom Penh UPSs were displaced through planned relocations or forced evictions (STT, 2011). In 2011 alone, over 32,440 people faced threats of eviction (HRTF, 2011). In 2013, at least 36 Phnom Penh UPSs received eviction notices (STT, 2014, p. 11, and slum households in other parts of the country were also evicted. In 13 provinces/municipalities studied by LICADHO, 53,758 families were affected by land-related human rights violations between 2003 and 2008 (LICADHO, 2009, p. 5).

The literature on the conditions of relocation of evicted UPSs shows that resettlement often occurred under duress, was done hastily, and lacked planning and consideration of the challenges relocated families would encounter in new sites, where they were often dumped without proper housing, basic utilities and infrastructures, and education and health services (HRTF, 2011; STT, 2012; UNOHCHR, 2012). These sites were often located on the urban periphery, offered few job opportunities, and leaving residents with little choices but to return and resettle in remaining UPS in the urban center. Those who settled at the new sites had to spend more time and money to get to the center and earn an

income. For many, living conditions and socio-economic opportunities had further deteriorated and security of tenure had not improved (HRTF, 2011).

Many of the relocated communities do not have direct access to clean water and electricity from public sources, and the price of such privately delivered basic utilities is much higher than the usual rates enjoyed by the general public who are generally better off (STT, 2014). Their living conditions are generally appalling, characterized by crowdedness, and poor hygiene and sanitation, making them more vulnerable to diseases (i.e., diarrhea, typhoid, dengue, malaria, and skin diseases) (NCPD, 2007, p. 9).

IV- FINDINGS



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4.1 Profile of the 12 UPCs in this study

4.1.1 Chao Punheahok Community, Sangkat Boeung Keng Kang, Khan Chamkar Mon

Chao Punheahok community is located next to the Boeung Keng Kang market and school, along the market side of Street 380, between St 63 and Norodom Blvd. This is a busy street, surrounded by newly built apartment blocks and others being constructed.



UPCs houses lining Street 380

Thirty families have been living here since around 1990. The families have soft titles but the community has been officially excluded from the SLR.

Public amenities – electricity, water, sewerage, and garbage collection – are available. The wooden houses are small and rather shabby, most have a corrugated iron roof, and some are patched up with pieces of iron sheets. The areas surrounding the community and the street are clean, with no rubbish lying around. Most of the houses include a small shop or business at the front, with the living quarters at the back. Businesses include coffee shops, bike repair, laundry, tailor, and hairdresser shops. Many people seem to make a living from their home, helped by the proximity to the market, and would lose much if they were evicted.

4.1.2 Boeung Trabek Community, Sangkat Phsar Doeum Thkov, Khan Chamkar Mon

The community is part of Village 5, where about 200 out of the 350 households live along a huge wastewater canal feeding the Boeung Trabek Pumping Station just off St. 271. The 200 houses in the excluded UPCs are old and small. At least 60 of them are built on stilts above the dirty and stinking



Many houses in Boeung Trabek Community are built above open sewerage

water of the open sewerage system. Most of the families work as scrap collectors or small-scale scrap dealers. Those who moved into the community between 1979 and 1990 have soft titles for their properties, but the whole community has been explicitly told of their exclusion from SLR.

4.1.3 Phum Nakta Community, Sangkat Cheung Ek, Khan Dangkor

This small community of 10 families has existed since the early 1980s and is part of Roluos Village, which went through SLR and has been titled. The community, however, has officially been excluded from the SLR because it is built around a



Dilapidated houses in Phum Nakta

shrine, which should remain accessible to the public for communal activities. Although said to be still in use, the shrine is decrepit with no statue or ornament. The families do not have any title to the land. The area surrounding Phum Nakta

is semi-rural and industrial with a few large factories. The small wooden houses are very run down and the slum-like community is extremely poor. It is muddy with rubbish laying around. People survive from fishing in the nearby lake and picking and selling tamarind leaves. There are no business or shop in the community, but a small shop sells water and basic items at the entrance to the community. The access road is too narrow for cars and would not allow access to fire trucks in case of fire. Electricity and water are available but people cannot afford the connection fee and buy privately from a nearby house.

4.1.4 Cheak Community, Sangkat Cheung Ek, Khan Dangkor

Cheak Community is located south of Phnom Penh city and counts about 278 households. The village is connected to public electricity but not to other services. In 2012, most households received a title for their properties through SLR except a



Cheak Community is built on the banks of a waterway

group of 30 households who were excluded from the process. The assumed reason, which has not been officially confirmed, was that the community is built on a public waterway linked to a sizable water reservoir. Almost all of the households are living in poor conditions and the place has all the characteristics of a slum. Some families started settling in the community in the mid-1980s. They subsist on menial work including fishing, driving motor-taxis, laboring, and collecting wild vegetables for sale. Many of them used to live in the village but relocated to the UPC ground because they had to sell their land in the village to deal with family emergencies or because they had to move out of their parents' home to start a new family after they married.

4.1.5 Plov Rotplerng Community, Sangkat Srah Chak, Khan Daun Penh

The community is located right along the eastern fence to the Boeung Kak Lake development. The village is home to 228 families, but 51 families live directly along a disused railway line, the official reason for exclusion from the SLR. The community was first settled around 1994. There are no current plan for eviction and redevelopment.



Around 50 households in Plov Rotplerng Community line a disused railway

Public electricity and water are available. There are only tiny local businesses and shops. Most of the houses are made of wood, some of bricks, but all are run down and decrepit. They are small – 4 x 4 meters – and mostly one story only. The road across the community is in a bad state with many large pools of laying water. There are chickens and ducks roaming around, and children playing on the road or in the water. Plenty of rubbish has accumulated along the fence and the whole area seems quite insalubrious. Conditions worsen, as we get further away from the main access road.

4.1.6 Block Tampa, Sangkat Phsar Thmey 1, Khan Daun Penh

Two Block Tampa rooftop Communities (Tampa 1 and 2) are located around the Central Market. They have been built on top of two large buildings. Block Tampa 1 has 50 households and Block Tampa 2 about 250. Block



Block Tampa 1 Community is clean and safe

Tampa 1 looks clean and safe, but not Block Tampa 2, where plenty of used syringes had been discarded by drug users. Both communities have access to public running water, electricity, and sewerage. Many of the settlers work outside the community, and some do crafts at home and sell them at the nearby Central Market. Most families seem to have soft titles to their properties and had been allowed to trade their properties with administrative endorsement from local authorities, yet they have officially been excluded from SLR.

4.1.7 Prek Ta Nu 2 Community, Sangkat Chak Ang Re Leu, Khan Meanchey

Prek Ta Nu 2 Community is located along the Mekong River sandwiched between a tobacco factory and its warehouse. It was originally a market place and taxi station. When they were demolished some 10 years ago, people started to build houses around



The access road to Prek Ta Nu 2 Community is paved

the area. These original houses are now recognized by the local authorities as legal dwellings, but newer houses built directly on the ground of the former market and taxi station are not.

The community counts about 400 households, whose socio-economic level ranges from poor to above average. Residents engage in a mixture of income-generating activities, including street sellers, laborers, and small sellers at markets. Many of the houses in the community are durable and built in concrete. Access road is bitumen. The community has access to public water, electricity, sewerage, but not garbage collection and much garbage is visible along the bank of the Mekong River.

4.1.8 Tmor San Community, Sangkat Chbar Ampov, Khan Meanchey

Located south of Phnom Penh, on the other side of the Monivong Bridge in the village of Doeum Sleng, Tmor San Community has been built in a graveyard off St 369. Many of the 90 to 100 families in the community have lived here for 30 years or so. Few have soft



Shack-like houses are built around old graves

titles to their plot, others, who have come later, do not, but they have all been officially told they were excluded from SLR. There is no road through the community. The only access is a narrow lane from St 369, and the community seems isolated. Water and electricity are available, although some families may not be able to afford the connection fee.

Shack-like houses have been built around the graves, which are used to dry washing or as stepping-stones to the houses. The houses are made of wood and corrugated iron and are in a very dilapidated state. Because of some swampy areas around the community, there is water lying around and much rubbish, mostly along the swamp. This community is one of the poorest we have seen and is clearly a slum. There are no business or shop, although some women were making sweets, others drying water snakes and frogs on skewers, for sale.

4.1.9 Teuk Thla 2 Community, Sangkat Teuk Thla, Khan Sen Sok

There are 24 families officially excluded from SLR in the village because the government claims that those families are partly located on a road, which it plans to widen. The community has access to public utilities except sewerage but the road is in terrible conditions. This plot used to be a graveyard, and after 1979 people started to settle in the area. Back then the only access was through a narrow footpath, which year after year the community widened. The road is

currently about 4m wide and has become a public road that the government wishes to expand further. From the perspective of the residents the community was created before the road and should not be regarded as a slum because at the time people did not settle illegally on the roadside.



Access road to Teuk Thla 2 Community

4.1.10 Borey 100 Knong community, Sangkat Teuk Thla, Khan Sen Sok

The community is located in Sen Sok near the famous landmark Borey 100 Knong, and close to Phnom Penh Royal University. Some new buildings are sprouting up in the area and there are several large warehouses and a pagoda. The community has been officially excluded from the SLR because it is located



Borey 100 Knong Community stretches along the railway line

directly along the railway line, and a 30 meters-zone on either side of railways is declared public land and must remain vacant. Fifty-one families live in this community. Many have been there since the early 1980s and possess soft titles for their properties.

The community is accessible from St 598 but no proper road runs across it, just a dirt track. Small wooden houses are grouped along one side of the railway, which is relatively dry although areas of dirty swampy water are visible.

Electricity lines run along the railway line and houses are connected to it and public water. Houses directly along the railway line are made of wood and corrugated iron and in very poor conditions. Further back from the railway, there are some small decent houses (e.g, tiled roof), some of which seem empty, others in various states of demolition. There are no shop or business, suggesting people make their living elsewhere. Overall the community resembles a slum. There is rubbish lying around and because of swampy water lying everywhere, living conditions are insalubrious.

4.1.11 Community 102, Sangkat Boeung Kak 2, Khan Toul Kork

Community 102 sits along the fence of the Neakra Vorn pagoda in Toul Kork on St 608, and has been officially told of its exclusion from SLR. It is not far from the central railway station and the Boeung Kak Lake. There are a few warehouses and a railway



Community 102 along Street 608

workshop in the area, which seem mostly residential. It is home to 40 families who have documents attesting of their possession rights. The community squeezes between the pagoda wall and the street, so the houses are small and narrow – around 4 x 5 meters – but most have two stories with a little balcony on top. They are made of bricks, wood, and corrugated iron, are old but clean, with a few ornamental plants around the doorways and on the balconies. Electricity, water, sewerage, and garbage collection are available. The street is clean and resembles any working class street in Phnom Penh. People are working in front of their houses, women are washing clothes; others are drinking coffee. There are a couple of tiny shops selling water and a few goods but no business.

4.1.12 Community 347, Sangkat Boeung Kak 1, Khan Toul Kork

Community 347, in Toul Kork, takes its name from the street on which it is located. The area surrounding the community is not very developed and commercial activity is limited, but there are a few warehouses. Public amenities – electricity, water, sewerage, and garbage



There are plans to widen Street 347 in front of Community 347

collection – are available. The community includes two groups of families, who have been living here for around 30 years. The first group counts 21 families who live directly along street 347 and do not have documentation attesting of their possession rights; the other is located further away from St 347 and includes a similar number of families with soft titles.

There are plans to widen St 347 in front of the community. Houses located directly along St 347 are in the path of the planned widening of the road and have been officially excluded from the SLR. Most of the houses along the street are small buildings in wood and tin. There are a few tiny shops catering only for locals. Recently the government started work to expand the road but families living along the street refused to move, arguing that the government should reclaim part of the concrete footpath on the other side of the road rather than evicting them. The government gave up and nothing more happened. However, STT (2014) reports that Community 347 is one of 15 settlements that have been selected for implementation of *Circular 03*.

4.2 Access to public services

The 12 UPCs in the study had access to the public electricity supply, 11 to Phnom Penh potable water supply, but only six to sewerage and four to garbage

collection services- making sanitation a matter of grave concern (Table 4). Our sample of UPCs had slightly superior access to electricity and water than the samples in STT (2014) and Municipality of Phnom Penh (2012), but lower access to sewerage and garbage collection. However, the 10 families at Phum Nakta Community were too poor to afford the connection fee for electricity and water, and resorted to using private suppliers, which in general cost between 50-100% more than from public sources.

Table 4: Access to basic utilities / services in the 12 UPCs

Khan	UPC	Access to basic utility/service			
		Electricity	Water	Sewerage	Garbage collection
Chamkar Mon	Chao Punheahok Community	✓	✓	✓	✓
	Boeung Trabek Community	✓	✓	✓	
Dangkor	Phum Nakta Community	✓ (Private)	✓ (Private)		
	Cheak Community	✓			
Daun Penh	Plov Rotplerng Community	✓	✓		
	Block Tampa Community	✓	✓	✓	
Meanchey	Prek Ta Nu 2 Community	✓	✓	✓	
	Tmor San Community	✓	✓		
Sen Sok	Teuk Thla 2 Community	✓	✓		✓
	Borey 100 Knong Community	✓	✓		
Toul Kork	Community 102	✓	✓	✓	✓
	Community 347	✓	✓	✓	✓
% communities with access to utility/service					
This study's sample (N=12 UPCs)		100%	91.6%	50%	33%
STT (2014) sample (N=340 UPCs)		80%	71.5%	43%	41%
Municipality of Phnom Penh (2012) sample (N=281 UPCs)		92%	85.4%	71.8%	60%

Note: tick (✓) denotes community access.

4.3 Socio-economic profile of UPC households

Sixty people (40 females) representing 60 households from 12 UPCs in six khans were interviewed. Their average age was 46 years (range: 24-67 years); 46 were married, 13 widowed, and one divorced. One-third of the households were headed by a female. This is higher than the national average (27%) (NIS, 2013) but slightly lower than the rate of female-headed households in the MPP study (38%).

The 60 households in our sample have a total of 360 family members, including 192 children younger than 18 years. On average six people lived in each household (range: 2 to 13 members, median: 5). All but two families had children (range 1 to 8, average 3.3 per family). Children represented over half (53%) of the population of the 60 families that were interviewed. The 2008 Census reported that overall 36% of the Cambodian population was aged under 18, and the average number of children in Phnom Penh households was 1.5 (NIS, 2008). In 16 families, children had dropped out of school because of poverty, but also because the children did not want to study. Eight families had a family member with a permanent disability (2.2% of the population of the 60 families) and 14 families had one or two members with a chronic disease (6.9% of the population of the 60 families).¹⁷ These rates are much higher than average (1.3% of the urban population had a disability in 2013 [NIS, 2013]).

The majority of respondents (65%) had no or only a primary level of education, 19% had completed lower secondary, 13% upper secondary, and 3% had studied at tertiary level, which is in line with national averages (NIS, 2013). In most cases, the couple heading the family was the main provider of income, but in 11 cases children worked to support their aging parents. Two-fifth of households (N=24) relied on more than one source of income. Households' daily income averaged \$8.5 (range: \$2.5 - \$30), or less than \$260 per household per month. This is just over half the average monthly disposable income for Phnom

¹⁷ Four families had both members with a disability and with a chronic disease.

Penh families estimated at \$492 in 2009- not to mention the annual inflation rate from 2009 to 2014 (NIS, 2009). Most of the residents earned their income working as low paid workers, street sellers, fishermen, small grocery sellers, and motor-taxi or taxi drivers. A few were employed in the formal but low-paid public and private sectors.¹⁸

Over half the families (35) had debts ranging from \$100 to \$10,000.¹⁹ The primary source of loans is NGOs operating credit programs, followed by private moneylenders, banks, and relatives/friends. Interest rates depend on the source, purpose, and duration of the loans. Loans from relatives generally attract no interest; NGOs charge up to 3.5% per month (42% per annum) but private moneylenders commonly charge up to 10% per month (120% per annum). About half the families took loans for small business purposes, and another half for health care and expenses in the families. Only a few took loans for house renovation or buying productive assets such as motorcycles, houses, or lands.

In summary, the households we interviewed in 12 UPCs were generally poorer than average households in Phnom Penh. They tended to have a large number of children, which would increase their financial burden. The treatment of a relatively high rate of chronically ill members and the care required by disabled individuals brought additional costs to families, leading to a cycle of impoverishment. The average income of families in the targeted UPCs was lower than the average disposable income of the Phnom Penh population. There were, however, differences between the 12 UPCs. Generally, UPCs in the inner khans

¹⁸ Compared to the sample of UPCs studied in Municipality of Phnom Penh (2012) households in our sample had a similar number of people per household but more children on average (3.2 vs. 2 in MPP's study). The proportion of households who had a member with a disability were the same in the two samples. Households in our sample tended to earn higher income than in the MPP's study (8% had less than \$0.5 per day per person compared to 60% in MPP's sample) and a lower proportion were in debt (50% and 83% respectively).

¹⁹ Three households reported debts to the amount of \$10,000.

were better off than those in the outer khans²⁰ (average household monthly income in inner khans UPCs was \$306 compared to \$210 for those in outer khans). This was reflected in the physical appearance of the UPCs observed by the team. For example, Phum Nakta and Tmor San communities appeared the most disadvantaged communities with only a very narrow access road (unsuitable for emergency vehicles) and run down buildings. The average monthly incomes in these two UPCs were amongst the lowest (\$177 and \$168 respectively). By comparison, the average monthly income of Block Tampa households was the highest (\$510). The majority of households had debts. The lack of hard title meant they could not borrow from banks but had to rely on moneylenders, who generally charge higher interest rates.

4.4 Type of land the UPCs settle on and reasons for exclusion

Forty-four families (73%) had settled in the UPC prior to the 2001 *Land Law* (26 families [43%] between 1979 and 1991, 18 [30%] between 1992 and 2001) and 16 (27%) after 2001. All but one UPC were apparently located on what might be demarcated as public land, including footpaths, sides of roads to be widened, along railway lines, on wastewater canals, or on public land in villages.²¹ Over half the respondents (33/60) were aware that their property was built on public land, some (17/60) thought they were occupying private residential land, and several (10/60) did not know. The 17 households who said their properties were on private land said so because they had settled in the community long before the 1992 *Land Law* came in force, or because they had bought the property from previous occupiers and had soft titles or transfer papers endorsed by local authorities.

²⁰ Inner-khan communities (Chao Punheahok Community, Boeung Trabek Community, Plov Rotplerng Community, Block Tampa Community, Community 102, Community 347) and outer-khan communities (Phum Nakta Community, Cheak Community, Prek Ta Nu 2 Community, Tmor San Community, Teuk Thla 2 Community, Borey 100 Knong Community).

²¹ Block Tampa is the only UPC that is clearly not located on state land.

Consistent with their perception of the type of land they were occupying, half the respondents believed they had been excluded from the SLR because their property was on public land. The other half said they did not know the reason. Most of the village chiefs interviewed, some of whom also living in the excluded UPCs and therefore on untitled land, had little doubts that the main reason for exclusion was that the communities were on public land. Yet, a few did not appear to be aware of the reason for exclusion. Village chiefs had little or no say in the titling process and this is problematic because village chiefs are supposed to be the most direct link for administrative communication between authorities and villagers.

Block Tampa Community is different from the 11 other UPCs. While the community is built on the rooftop of large buildings, nothing indicates that it occupies property belonging to the state or private individuals. Each Block Tampa has 4 or 5 stories, each story being part of a different village. Flats on different stories have different owners. According to an official from Daun Penh Office of Land Management, Urban Planning, and Construction, Block Tampa 1 and 2 have been excluded because such properties do not fall under the jurisdiction of the SLR. Only blocks with more than one floor in the same village and with flats owned by the same owner can be titled under the SLR. Property occupiers in Block Tampa can obtain titles for their properties through sporadic registration, but it costs more and takes more time and effort.

Findings from this study suggest that the UPCs were excluded from SLR because all of them except Block Tampa were deemed to occupy state public land, which cannot be privately owned. They were excluded awaiting a further decision from the government, especially the Phnom Penh Municipality Governor. Table 5 summarizes the likely reasons for the UPCs' exclusion from the SLR process. Observations conducted in the UPCs overall confirm that the households were located on what is now defined as state public land. However, most of the households had settled on these plots before they were defined as such (only 27% of household had settled post-2001).

Table 5: Likely reasons for exclusion

Khan	UPC Name	Likely reason for exclusion
Chamkar Mon	Chao Punheahok Community	On footpath along an important street
	Boeung Trabek Community	On and around a main wastewater canal
Dangkor	Phum Nakta Community	Around village shrine, which is supposed to be public land
	Cheak Community	On waterway and a sizable lake
Daun Penh	Plov Rotplerng Community	Too close to a disused railway
	Block Tampa	Outside of SLR jurisdiction as each of Block Tampa's story belong to a different village, and flats on different stories are owned by different owners
Meanchey	Prek Ta Nu 2 Community	On the banks of the Mekong River or on land previously used as a market place and taxi station, that is, public land
	Tmor San Community	Around graves in a graveyard
Sen Sok	Teuk Thla 2 Community	On part of the road and footpath
	Borey 100 Knong Community	Too close to operational railway line
Toul Kork	Community 102	On footpath along an important road
	Community 347	On path of planned extension of road

4.5. People's knowledge about exclusion from SLR

Although ten of the 12 UPCs had been explicitly told that their community was excluded from the SLR, only half of the households had been informed of the official reasons for their exclusion. In fact none of the 60 participants had ever been consulted either by the local authorities or the SLR team regarding their community's exclusion. The decision to excise a specific zone in the village under the SLR process appears to have been taken solely by the SLR Administrative Committee following some discussion with the local authorities. Denied information, households could only speculate about the reasons for the exclusion and the likely outcome. The households and village authorities that were interviewed also seemed to ignore that "UPCs can make a request through their local authority to the Phnom Penh Governor who has final

authority over the registration process, asking for being included in the SLR process. If approved by the Governor, the SLR team will return and undergo the process” (FGD with MLMUPC officers).

The case of Block Tampa Communities illustrates how the lack of information maintains residents in limbo. They did not know why they had been excluded and what they could do to obtain a title for what they regarded as their property. This case is unique in our sample of 12 UPCs. However, the official justification, which was not communicated to them but to us by the authorities, is not that they occupy state land but that in the current legal framework the nature of their occupancy falls outside of the SLR procedure. They also did not know that they could get a title through sporadic titling.

Case Study 1²² shows the lack of awareness and understanding about exclusion not only among the excluded UPC residents but also the local authorities. The lack of information may also lead to misperception and mistrust of the local authorities.

Case Study 1: I have no idea why we are excluded

Ms. Champa, 40 years old, lives in Block Tampa Community. She sells goods at a market in Phnom Penh earning about \$30 a day to support her two children. In 2007 she bought a rooftop house at Block Tampa Community for about \$25,000 with sale documents certified by the local authority. She was aware that some of the house owners living in the lower stories had formal title for their properties, but none of the rooftop houses, including her own did.

Lack of knowledge of the SLR process and the fact that none of the community households have so far received formal titles lead to the perception by residents that their community was being excised from the SLR because it was considered a slum. Champa angrily remarked:

I have no idea why we are excluded from the SLR. We all thought that our community may be regarded as a slum, but most of us have soft titles. No one told us why we are not given formal titles. We have asked village and commune chiefs many times but they simply answer that we might be included in the next SLR round. ... Local authorities are not helpful and they have done nothing to help us getting formal titles.

²² To protect participants’ identity, all names in the case studies are aliases.

4.6 Confusion about what constitutes proof of possession

Nearly half the households (N=27, 45%) said they have evidence proving ownership of the land they occupy. But while 14 have some kind of soft titles, the 13 others only have their family book and some have ID cards. Family books include the current address, which is misconstrued by households as proof of ownership of “their property.” Family books are issued by the khan police for administrative purposes, they do not constitute legal proof of ownership and are not equivalent to a soft title. Soft titles refer to property sale documents, which are certified or witnessed by relevant local authorities, from village chief to provincial/municipal governor.

There are many reasons for the lack of legal proof of ownership. Original settlers may have occupied vacant land without official permission from local authorities, as prior to 1990 local authorities often did little to prevent people from settling on public land. Some have remained, some have sold their house, but the transfer of property was not certified. More recent settlers include poor villagers forced to sell their house and new couples moving out of the parental home, who started occupying vacant public land in the village. Finally, over the years, titles may have been lost or destroyed in fires, floods, or other circumstances.

4.7 Eviction plan

Many cases of forced eviction have been reported in Phnom Penh, but not in the past 24 months.²³ The residents, local authorities, officials from the PPDLMUPC, and NGOs that were interviewed all indicated that the government did not have any plan so far to forcibly evict any of the 12 selected UPCs. Village chiefs reported that although households have not been given official titles to their properties, they could remain while awaiting future decisions of the

²³ But STT (2014), based on their interviews, reported that at least 36 UPCs had received eviction notices in 2013.

government. Just over half our respondents believed that their eviction was unlikely at least in the near future.

In two of the communities, Teuk Thla and Prek Ta Nu 2, residents reported that unknown individuals had visited the community seeking to buy properties. They spoke of a rumor that this was a new strategy by the government to buy people out rather than forcefully evict them. We could not verify whether this information had some truth or if, in the absence of information, it was a way for excluded UPCs to retain some hope. Case Study 2 illustrates this process.

Case Study 2: New strategy, new hope

Mr. Sak, 36, has two children and works as a street seller. He inherited his house in Prek Ta Nu 2 Community from his parents who had lived there since 1979. The house had twice been damaged by fires, during which Mr. Sak had lost the soft title. He has a large debt because he took loans to repair the house. When asked how he felt about the exclusion, he said he was not worried because there were no current threats of eviction and he was able to run his business as usual. He also believes that the village chief is fully aware that his family had settled in the community decades ago, and therefore, are not illegal settlers. He seemed confident that if the community has to be relocated the government would offer him proper compensation:

We haven't heard of any government plan for eviction. If there was, it is likely that my family would be properly compensated. ... Currently there are people coming to the community to buy houses. We think it is the government's new tactic to buy out people's houses instead of evicting them. They have offered to buy my house but I did not agree on the price.

4.8 The impact of exclusion

The majority of respondents believed having a formal title had some important benefits including protection from eviction and the ability to obtain compensations, selling their property for a better price, access to low interest loans from banks, and ability to pass property to their children. All the

households we interviewed would have preferred to obtain a title; yet, one-third did not identify any negative impact of the exclusion from SLR. Those who shared this opinion did not believe there was any imminent risk of eviction and generally believed they would receive compensation should eviction occur, which seemed to reduce feelings of insecurity. Officials at the PPMLMUPC suggested that currently the government does not have any plan to evict, UPCs supposedly settled on public land. If there were any such plan, the officials added, the government would consider offering proper compensation to the evicted households and proper relocation sites would have been prepared in advance. Case Study 3 reflects some UPC dwellers' expectation of proper compensation should they be forced to relocate.

Case Study 3: I trust the government to think about us

Mr. Rom sits on a small, old wooden bed under a mango tree in a graveyard. In the early 1990s, Mr. Rom and his family built a hut of about 3 x 3 meters in a graveyard at Tmor San with the permission from the village chief. He works as a construction worker earning about \$5 a day to support the entire family, including 2 children. In recent months, his wife took one of the children to her homeland in Svay Rieng and has not yet come back. He believes they may not return because if they continue living with him, he would not be able to support them given his small and irregular earnings.

He, like the other 90 or so families living in the graveyard, has been excluded from the SLR. When asked what he thinks about not being given a title for his house, he replies with a smile:

We have been living in a graveyard and we don't expect to be given titles. I don't care if I get a title or not. This is the only home I have and I've never heard of any plan to evict us, but if it happens, I think the government will compensate us something.

Some people said a title was superfluous because most of the excluded UPC households in the sample already had access to public utilities, electricity, water, sewerage, and sometimes garbage collection. The families and their children had also access to health care and education. This being said, and apart from Chao Punheahok community, Block Tampa community and Community 102 that are located on main streets or in business areas, the level of infrastructure development, particularly road and sewer, is lower in the majority of the UPCs we visited compared to other parts of the village they belong to. People reported that because their communities were regarded as slums by local authorities, the latter made little effort to improve the existing infrastructure in these communities. Often households in the UPCs had to use their own resources to maintain roads, manage wastewater and garbage disposal. This was a major reason for people's feelings of resentment toward the local authorities and the government.

4.8.1 Fear and anxiety

Among those who perceived negative impacts in their exclusion and the lack of formal title, fear and anxiety caused by insecurity, the fear of eviction, and uncertainty for the future was the main concern as expressed by 48% of respondents. Women were significantly more likely to express fear and anxiety (58%) compared to men (30%) as Case Study 4 illustrates. A study of the impact of eviction on women showed that secure housing was particularly important for women, because it brought them security and independence; for men, secure housing was seen as a means to achieve wealth and status. Lack of secure housing undermines women's potential to gain employment, provide essentials for their family, and ensure their children's future. The stress of the uncertainty may also increase the risk of violence in the family (Strey Khmer, 2013). Although this was not statistically significant, residents who had settled post the 2001 *Land Law* were more fearful compared to earlier settlers (56% of late settlers mentioned feelings of fear compared to 36% of early settlers). In addition,

over half the respondents (53%) from outer khans expressed some fear compared to 30% of those living in inner khans. Finally we were surprised to find that people who believed they had a possession title²⁴ were in fact more fearful than those who reported not having a soft title (59% and 27% respectively).

Case Study 4: Socially excluded and insecure

Mrs. Bopha, 43, her husband and her son are residents in Cheak village, Dangkor district. She runs a small grocery shop and her husband is a full time motor-taxi driver. With a combined income of around \$12 per day, her family is better off than most of her neighbors with larger households. She bought her house a few years ago from her sister who had settled in the UPC decades ago.

Mrs. Bopha was resentful of local authorities for the exclusion of the UPC from SLR. While the exclusion had not affected her livelihood directly, she worried about the family's security because she feared that one day the community might be forced to move out. She added that some people whose properties had been titled were looking down on her excluded family and her neighbors in the UPC. For her the feeling of insecurity and rejection by titled villagers were the most damaging aspect of her social exclusion.

Related to feelings of anxiety, was the feeling of uncertainty and “living in limbo” expressed by six respondents (10%). For example, although they had the means, they felt hesitant about renovating their house. They also did not feel confident that they would have any property to pass on to their children. This was the worry of Mrs. Srey, in Case Study 5.

²⁴ This includes families with soft title but also those who thought the family book represented evidence of possession rights.

Case Study 5: A life in limbo

Mrs. Srey, 47, works for a small NGO and has 7 children. Two of them are frequently sick and two others have dropped out of school because the family could not afford the cost. In 1994, the family bought a small house at Plov Rotplerng Community located just a couple of meters away from the disused railway. Their house like others in the community does not have access to public sewerage and garbage collection. Poor sanitation is a big problem in the area. The family could not afford to pay the fees to connect to public water and electricity, and ended up resorting to a private supplier who charges 2,000R (\$0.5) for 1m³ of water and 1,400R (\$0.32) for 1KW of electricity, that is about double the usual public rates.

The income she and her husband generate is barely enough to provide for the children. In 2010, her children got so sick she took a loan from a NGO for \$1,200, which she spent on medical treatment and food for the family. Without a formal title, the family could not get a bank loan with reasonable interests, but one with a monthly interest rate of 3% or 36% annually. With an average daily income of \$10 for a family of nine, it will take a long time to fully repay the loan taken since 2010.

Her family and the 50 others living along the railway continue to live in limbo after their exclusion from SLR. It may only be a matter of time before all of them have to move about 35m away from the railway, which would not be possible for the family because their plot of land is only 3.5m x 10m. Mrs. Srey's only hope is that the government makes an acceptable offer when her family has to relocate and that no forced eviction would ever take place.

4.8.2 Socio-economic impact

Overall, most households reported that exclusion did not have any significant negative socio-economic impact. Only 11 (18%) mentioned some impact on their ability to earn an income, with no difference between men and women. Since most families in the excluded UPCs, apart from those at Chao Punheahok Community who run small businesses in front of their houses, work in low-paid jobs, having a formal title would make little difference in their daily life. However, residents of UPCs in inner khans were more likely to report a negative socio-economic impact than those in outer khans (23% and 13.3% respectively). This finding echoes the finding of a study by McGinn (2014) who

reported that displaced women whose livelihood was embedded in their former neighborhood were particularly affected by their forced relocation. Residents of UPCs in inner khans, for example those living in Block Tampa near the Central Market, were making a relatively good living compared to UPC residents from the periphery and benefited from their central location in the city.

Six households, mainly those running small businesses, complained that having no formal title affected their livelihood because they could not obtain large low-interest loans from banks or micro-finance institutions to invest in their business or renovate their house. In case of emergency, they also could not use the title as collateral for quick but sizable loans from private moneylenders who can charge up to 120% per annum in interests.²⁵ A female respondent remarked during a focus-group discussion:

... One day my son was seriously sick and needed to be hospitalized. We did not have money. I went to borrow money from a moneylender in the village. They asked for soft or formal title as collateral. I did not have either of them; for that reason I could only borrow 100,000R (\$25). We were in big trouble and had to take more loans from other lenders and relatives to pay for the hospital bills of my son.

4.8.3 Difficulty in selling their property

The lack of formal title also affected some families' ability to sell their property for a good price. Plots in areas considered as slums have a much lower value compared to places with better infrastructure and secure tenure. Potential buyers are reluctant to offer market price for a plot without a formal title, and sometimes no title at all. For this reason some families felt they were stuck in their current situation. Yet, a few respondents, including a village chief, who did not believe there were any risks of eviction, felt that having a formal title was superfluous. They even said that it was quicker and cheaper to sell a property with only a soft title, because the transfer process was less cumbersome and

²⁵ Those with soft titles can get bigger loans with lower interests than those charged by private money lenders but those with hard ownership titles can negotiate even lower interest rates.

cheaper without a sales tax, although they did not comment on the price they were likely to obtain.

4.8.4 Discrimination and social exclusion

Some UPC respondents reported that before the SLR was conducted all the villagers were in the same situation: they did not have formal titles and relationships between people living in the UPC and those living in other areas of the village were good. But this changed after exclusion from the SRL. First, some people in the UPC started to be concerned about eviction, something they did not worry about before. More importantly, eight UPC households (13% and mostly men) felt that after exclusion their titled neighbor started to look down on them. In the eyes of titled neighbors the UPC families had become unworthy “slum dwellers.” Prejudice and discrimination were developing. A female respondent in Teuk Thla 2 Community angrily said:

... I don't understand why my neighbors were given titles, and not us. Before that we all had good relationships. Now they got title and we don't. They now look down on us because they see us as slum dwellers residing on the path of the road. ... They said that because of our houses the government cannot expand the road, and they hate us for that.

Case Study 6 elaborates on what this respondent felt about the perception that a conflict of interest now existed between titled neighbors and UPC households, and why the latter do not see themselves as violators of the public interest but instead as victims of growing urban development around their community.

4.9 Efforts for inclusion

Most respondents said that they did nothing when they learned of the exclusion and have no advocacy plans for inclusion. Some had questioned the local authorities about the reasons for exclusion and if their communities would one day receive formal titles. The answer was that the government is thinking about it and perhaps they will be included in the next SLR round. But these people are not convinced and feel that this answer was made up by local authorities to keep the excluded quiet. The majority of those who had taken no

action despondently said it would have been pointless to do anything because the government would not take it into consideration. They also felt that doing something might have led to a violent reaction by local authorities, as it has been the case in Boeung Kak and Borei Keila Communities.

The fact that there is not yet any eminent threat of eviction and the belief among many that the government would offer proper compensations if relocation did happen also account for the present lack of people's action. However, it is also clear from the interviews that many excluded households were determined to fight against forced eviction.

Case Study 6: not violators of public interest but victims of development

Mr. Sok, 62, has 4 children. Three of them are living with him in an old and small house located on a roadside at Teuk Thla 2 Community. In the early 1980s, people began to settle on a plot of land, which had been a graveyard during the Khmer Republic, and in 1996, Mr. Sok bought a plot of land there.

In 2011, SLR started in the village, and for reasons unknown to him a group of 24 households, including his own, were excluded from the process. In fact, no one in the excluded community was given any justification for the decision. Families could only assume that they were excluded because their houses were built on the roadside.

The local authorities want to widen the road, but there is no space to move the houses away from the roadside. Mr. Sok questions the idea that the 24 houses should be seen as an obstacle to development because they are in the way of the widening of the road:

... Today, it appears that the houses are located on the roadside. Those who know the history of this community also know that we never encroached on the road. It is the road that encroached on our land. At the beginning, this road in front of our houses was only a footpath. As the traffic increased along the footpath, we made the road wider and gave away a part of our already small plots. Year after year, with the development of a shopping center and housing nearby, the road became wider (now about 4m) and now we are regarded as squatting on the road. ... In the end we are victims of development.

4.10 Expectations and Solutions

Most families had little hope that one day they would be given formal titles for their property, either because they believed that they had settled on public land or simply because they were taking for granted that they were living in slums that cannot be titled. A few, especially those with soft titles living in Block Tampa Community have some hope that one day they can turn the soft possession title into a formal ownership one. In any case, they said they would continue to live in their current place until they could sell the property for a reasonable price, receive formal titles, or the government makes an acceptable offer for their relocation.

About half of the UPCs families would like to receive formal titles to be able to decide how to manage their property in the future. The other half hopes that they will receive proper compensation if they have to relocate. Most of the latter would prefer monetary compensation and some a compensation package that includes a plot of land/house and some money. They would like the relocation sites to be equipped with basic public utilities and infrastructures, and also located close to the city, which is where most of them can make an income.

Officials at PPDLMUPC and NGOs said that the government currently gives priority to on-site redevelopment of existing UPCs and tries avoiding forced evictions. According to the PPDLMUPC, the Phnom Penh governor is considering giving formal titles to some excluded UPCs that are organized and have good enough infrastructures. As a case in point, Toul Sleng Community is now included in the SLR process after many years of being excluded. The PPDLMUPC officials also added that organized UPCs, where their existence does not affect public interests, could make a request through local authorities to the Phnom Penh governor for the inclusion of the communities in the SLR process. It may take a long time before the governor would approve the request because of the need for the government to do a proper study of it and to consult with relevant agencies.

An official from GIZ indicated that his organization has been working with the MLMUPC to pilot an inclusion project aiming to assist with the organization of excluded UPCs so they can meet the criteria for inclusion in the next SLR round. The NGO STT is running similar programs, so it is possible that some of the UPCs in the sample may receive titles in the future.

V- DISCUSSION, CONCLUSION AND RECOMMENDATIONS



V. DISCUSSION, CONCLUSION AND RECOMMENDATIONS

5.1 Discussion and conclusion

The SLR program has been occurring in Cambodia since 2003 in an effort to improve tenure security particularly for poor households. While the program has been seen as mostly successful in rural areas, in Phnom Penh, many poor communities have been excluded from SLR despite evidence of possession rights and without official explanations for the exclusion. Success has mainly been measured in terms of the number of titles issued, but there has been little investigation of the social and economic impact of titling. This study is one of the first attempts at examining the impact of exclusion from the SLR on urban poor households. It focuses on 12 UPCs in Phnom Penh that have been excluded from SLR.

Like previous studies of SLR, this study found that publicly accessible data on the adjudication process, particularly the extent of and legal justification for exclusions were lacking. Officials were often reluctant to talk about specific cases. Ten of the selected 12 UPCs had been explicitly told that they were being excluded from SLR but only half had been officially told why. In 11 UPCs, the likely reason for exclusion was that the properties were located on state public land. Communities were also not told what was likely to happen in the future, leaving them in limbo regarding their future. Even village chiefs seemed to have little information. This lack of information led to misperception and the mistrust of authorities.

The lack of clarity was not just about the reasons for exclusion, but more generally about the SLR. For example, there was confusion among respondents about their rights of occupancy and what constitutes evidence of ownership. Some UPC households thought that they had been excluded because their community was considered a slum, but in the absence of official information they could only speculate. There is clearly a need for public information on the

process of SLR, what constitutes acceptable evidence of possession, and steps UPCs can take to improve the likelihood they will receive a title (e.g, getting organized, upgrading their houses).

While it appeared there was no imminent risk of eviction for any of the UPCs in the study sample, half the respondents, but more often women than men, expressed fear and anxiety about their situation. Recent settlers, particularly those post-2001, were also more fearful than earlier settlers, and, surprisingly, those who had a soft title compared to those who did not. The situation of late settlers is of course more precarious because they cannot invoke the 2001 land law to claim possession rights. Those who believe they have a title may be anxious about the validity of their title; they may also have invested more in their property believing it was secure, and thus may be more fearful to lose it in case a formal title is denied to them.

Other consequences of the exclusion identified by our respondents included the inability to access low interest loans from bank to invest in business, and not being able to sell their property for a good price. Some respondents expressed the feeling of being stuck in the community where they were living in limbo. The lack of formal title and tenancy security took away agency over their life and led to feeling of disempowerment. A worrying consequence reported by several participants was being discriminated against and socially excluded by their titled neighbor. Exclusion of specific communities within villages has the potential to create rifts between previously homogenous neighborhoods and threaten social cohesion. While female respondents reported feelings of anxiety and fear about their situation, male respondents were more likely to point out their feeling of being the victims of discrimination.

Finally, the excluded UPCs were generally socially and economically seriously disadvantaged. Access to public amenities and services was limited. Given the associated health risks this was particularly problematic for sanitation and waste management. Most of the UPCs residents earn barely enough to feed their families, and could not afford upgrading their houses or their communities.

The exclusion made their already precarious situation worse because it increased uncertainty for the future. Although respondents did not report any immediate economic consequences of the exclusion, in some cases it seemed that immediate steps could be taken to improve their situation. For example, some households were excluded from SLR because they were living along a disused railway line. If the government has no plan to redevelop the railway, the land, which has lost its public interest use, could be reclassified as private state land and the families given a title if they can show evidence of their possession rights.

5.2 Recommendations

Knowing the problem

1- Map and publicize the outcome of SLR in Phnom Penh including: 1) which areas have been adjudicated to date and the types and number of titles issued in each district, commune and village in these adjudicated areas; 2) in each adjudicated area, places that have been excluded from SLR and the reasons and legal justifications for the exclusion (articles in *Land Law* and decrees); 3) which areas have not yet been selected for adjudication and when they will be selected; and 4) which areas will not be selected for adjudication and the reasons and legal justifications for the decision (articles in *Land Law* and decrees).

2- Map and publicize the status of all the lands in Phnom Penh as state public, state private, or private lands, and including ELCs and SLCs, as well the master plan for development in Phnom Penh.

Clarity and transparency – Ministry & Municipality of Phnom Penh

3- Clearly define and publicize which types of documents and issuance period constitute a legal proof of possession rights.

4- Fully inform and involve village chiefs in titling and exclusion issues in their respective areas and provide clear and authorized information to occupants to prevent rumors and false hope, and foster agreeable resolutions.

Dealing with exclusions from SLR

5- In all areas which have not been selected for adjudication or have been excluded during adjudication, public meetings should be held and include the authorities who made the decision, and the residents of the excluded areas and their representatives (e.g, NGOs, legal advisors). During these meetings relevant articles of the *Land Law* should be explained and action plans ensuring that agreed measures (e.g, upgrading or relocation with proper compensations) to protect occupants' rights to housing, basic infrastructures and services, and livelihood opportunities discussed.

6- In all previously excluded areas where residents can show that they meet the legal requirements of possession as set out in articles 29, 30 and 31 of the 2001 *Land Law*, the SLR process should be conducted again.

7- Occupants who have been excluded from SLR because of infrastructure upgrade in their area after their occupancy (e.g widening of roads) should be regarded as encroached upon by state or private urban development and not as squatters encroaching upon such development. SLR should return to these areas as per Recommendation 6 and steps should be taken as in Recommendation 8 to find alternatives agreeable to the occupants (e.g, in Community 347 the road could be widened on the other side rather than on the side of the community, and in the case of communities where such options are not possible occupants should be compensated and/or relocated close by).

8- In areas where occupants have been excluded from SLR because they are deemed to occupy state public lands but such lands have lost their public interest use (e.g, around the disused railway line in Plov Rotplerng community and around the disused market and taxi station in Prek Ta Nu Community), the lands, following article 16 of the *Land Law*, should be re-categorized as state private lands, and the SLR process should be conducted again.

Dealing with urban poor communities

9- Clearly define what constitutes a UPC and conduct a census of UPCs in Phnom Penh with their location and land status (i.e., specifying which ones are considered to be on public land and falling under Circular 03). Using the survey instruments published in the annex of Circular 03, systematically identify and publish the demographic composition, current conditions, and needs of all UPCs in term of infrastructure and services, and include them in commune development plans.

10- Prioritize infrastructure development in UPCs without access to public electricity, potable water, drainage and sewerage systems, and garbage collection. Mean test households and transparently waive or subsidize connection and service fees accordingly. Ensure that service development includes easy access to schools and health services, and support families with school-age children so the latter do not drop out of school because of poverty.

11- With the help of NGOs, UPC should be encouraged to improve their organization – e.g, develop saving groups – design development plans, work out what they need to do to be titled, and advocate to government and civil society for their basic needs and rights.

12- Excluded UPCs need to make a request to the Phnom Penh Governor asking to be titled. NGOs such as GIZ can assist UPC with such requests.

13- If the relocation of a UPC cannot be avoided, a relocation plan needs to be carefully prepared in consultation with UPC households and their representatives (NGOs, legal advisors) and include adequate compensations. The plan and the amount of compensation should be finalized and agreed upon before moving the UPC from their current location.

14- To prevent the spread of UPCs, avoid dispute between residents and authorities, and avoid potential eviction and relocation, new illegal settlements on public land should be monitored and action taken in collaboration with the new settlers and their representatives.

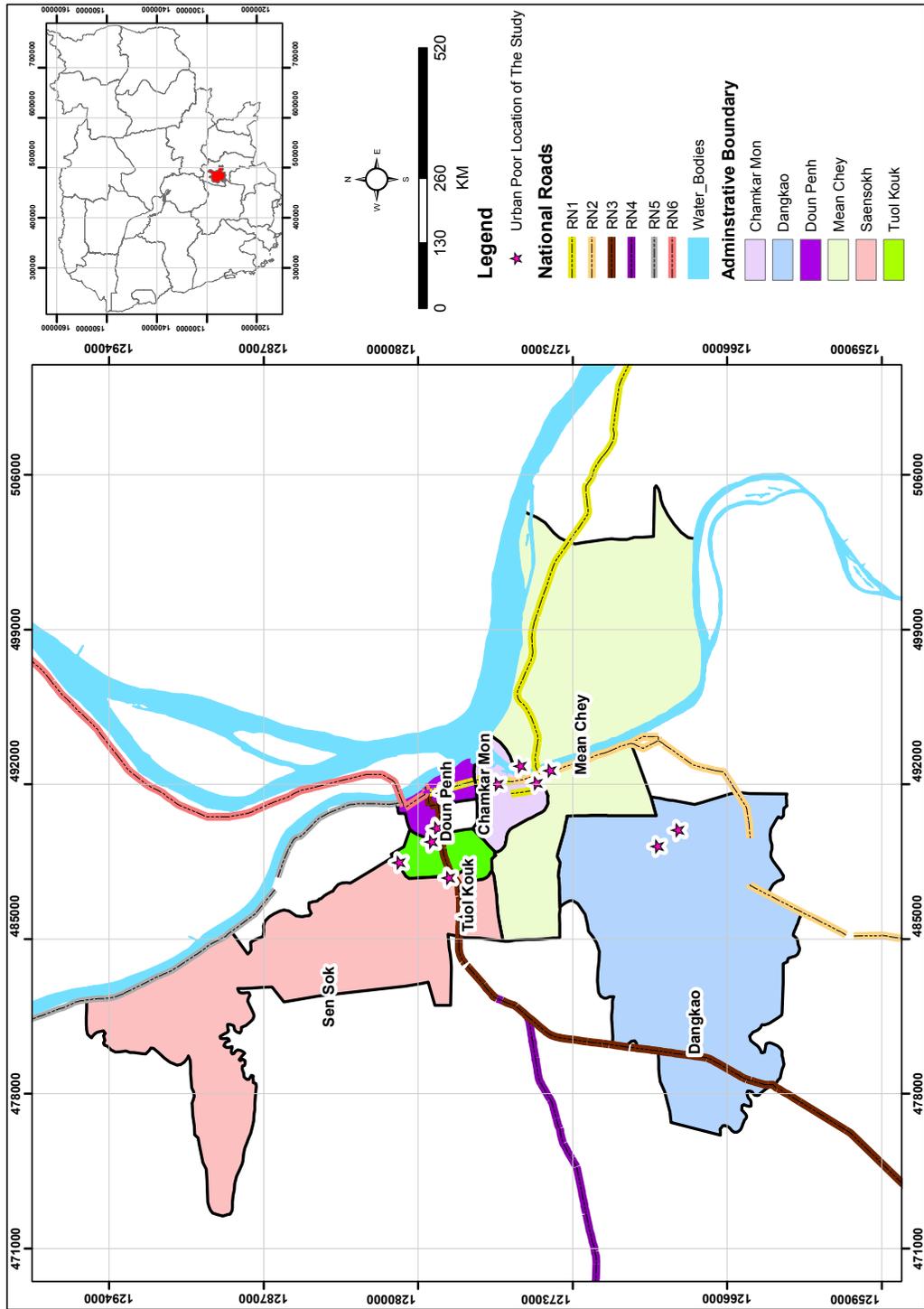
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APPENDICES

APPENDIX A: LOCATION MAPS OF SELECTED UPCS



Appendix B: Questionnaires used in this study

SSI Guide for Households

- Note:**
- Household (HH) means all people living under the same roof
 - Key HH member (husband or wife) to be interviewed
 - Only residence owners to be interviewed (not those renting a place)
 - For each Urban Poor Community (UPC), half of the participants should be female.

Village: _____ Sangkat: _____ Khan: _____
 Name of UPC: _____ Settled in the area since: _____

Head of household

Sex: M/F Age: _____ yrs Level of education _____
 Marital status: i) single ii) married iii) widowed iv) divorced v) separated

Household profile

No	Question	Total	Male/boy
1	# of HH members		
2	# of HH members with permanent disability		
3	# of HH members with chronic disease		
4	# of children you have		
5	# of children in burden		
6	# of school-aged children having dropped out of school		
a. Reason for school dropout:			

Livelihood

7. Who is breadwinner in the HH?
8. HH's sources of income (key occupations):
 - a. Primary source of income
 - b. Secondary source of income
9. Averaged daily income of the HH? \$
10. Three main expenses of the HH?
 - a.
 - b.
 - c.

11. Three most valuable assets the HH has?
 - a.
 - b.
 - c.
12. Is your family currently in debt?
 - a. If so, how much?
 - b. to whom?
 - c. Since when?
 - d. for what?
 - e. What is the monthly interest rate?
13. Has your HH access to public sewerage, electricity, water, garbage collection?
 - a. If not, why?
 - b. How much do you pay for 1m³ of water? 1kw of electricity?
 - c. How do you manage the garbage?
14. Three common occupations of people in this community?
 - a.
 - b.
 - c.
15. How do you compare the livelihood of your HH before and after exclusion? Explore.

Settlement and tenure security:

16. What is the status of the land your HH has settled on (state, private, collective)?
 - a. How do you know?
17. Does your family have any document proving ownership to the current settlement?
 - a. a. If yes, what is it?
 - b. If no, how had your family settled here in the first place?
18. Do you have formal title for your settlement?
 - a. If yes, since when and how did you get it?
 - b. If no, why not?
19. Any idea why your HH/community is being excluded from SLR?
 - a. Since when was the HH/community excluded?
 - b. What was your HH/community reaction to being excluded?
20. What do you/community think about being excluded?
 - a. What has your family/community been doing or will do to advocate for inclusion?
 - b. If action had been taken, what was the result?
 - c. b. Is there any NGO or institution assisting your HH/community activities?
21. Is a formal title important for your HH? Why?
22. What has been the negative impact of exclusion on the socio-economic activities of ...?

- a. The community?
 - b. Yourself?
 - c. Your spouse?
 - d. Your children?
23. What is being planned for this community (eviction, development, or...)?
- a. Have your family been consulted on the plan? Explore.
24. Have your family received any eviction notice?
- a. If so, formal or informal?
 - b. Since when and from who?
 - c. What were the formal and informal reasons given?
 - d. What was the reaction of your HH/community?
 - e. Any compensation proposal being made if eviction seems realistic?
If so, how much?

What is your opinion on the compensation package? Is there any special compensation for women head of household and disabled family?

25. Any hope that one day the HH would receive a formal title? Why?
26. What is the contingency plan of your HH (remain here, moving away, or ...)?
Explore.

Solutions/Recommendations:

27. What is your suggestion to the government concerning the exclusion?
28. What could be the alternatives to exclusion?

KII Guide for Community Representatives/ Village Chiefs

Village: Sangkat:

Khan:Sex: M/F Position:

Settled/working in the area since:

UPC Profile:

16. % of HHs in the commune/village known to have formal titles?
 - a. Why the rest don't yet have a formal title?
17. # of areas considered to be UPC in the commune?

UPC Name	# HH	# People	# Children
a.			
b.			

18. Why are those areas considered UPCs?
19. Has SLR been conducted in those UPCs?
 - a. If yes, since when?
 - b. Did all UPCs and their HHs receive a formal title? If not, why not?
 - c. If no SLR, why? Explore.
20. % or # of HHs in a particular UPC who had been excluded from SLR?
Reason?
21. Three main income generation activities of UPC HHs?
22. General financial status of the UPC HHs?
23. Three main income generation activities of excluded HHs?
24. General financial status of the excluded HHs?

Settlement and tenure security:

25. % of UPC HHs having legal proof of their settlement?
26. % of excluded HHs having legal proof of their settlement?
27. What is the status of the land on which UPC HHs and excluded HHs settled on (state, private, collective land)?
28. Why are UPC HHs excluded from SLR? Since when?
 - a. How do you know?
 - b. Role and power of commune council/village chief in SLR?

29. What is being planned for the UPCs (eviction, development, or...) or excluded HHs?
 - a. Has commune council/ village chief been consulted on the plan? Explore.
30. Negative impacts of exclusion on the socio-economic activities of ...?
 - a. the UPC b. excluded HHs c. women and children in UPC
31. What has the commune council/village chief been doing or will do about such exclusion?
 - a. If action was taken, what have been the results?
 - b. What is the expected result if action would be taken to ensure inclusion?

Solutions/Recommendations:

32. What is your suggestion to the government concerning the UPC/excluded HHs?
33. What can the commune council / village chief do for inclusion?
34. What could be the alternatives to exclusion?

KII Guide for (I)NGOs, UN Agencies

Sex: M/F Tel: _____
Position: _____ Agency: _____

Exclusion

1. Any zoning map or master plan depicting excluded UPCs from SLR in the past, present, and/or future that you know of?
 - a. What is the government's possible plan for the excluded UPCs?
2. How such plan was developed?
3. What type of land status (state, private, collective land) do most of the excluded HHs or UPCs settle on?
 - a. Negative impacts of exclusion on the socio-economic activities of the excluded HHs/UPCs (women and children in particular)?
4. What has your agency been doing or will do for inclusion?
5. If action was taken, what have been the results or will be the result?
6. What are the key issues concerning SLR, especially those leading to exclusion?

Solutions/Recommendations:

7. Any alternatives to exclusion? What is your suggestion to the government, local authorities, and/or the excluded HHs/UPCs concerning the exclusion?

FGD Guide for MLMUPC Officials

General:

Sex: M/F Tel: _____

Position: _____ Agency: _____

Exclusion

1. % or # of HHs in PP or Khan known to have formal titles?
2. # of UPCs in PP or Khan?
3. % or # of UPCs currently excluded from SLR?
 - a. Reasons for exclusion?
4. Any zoning map or master plan depicting excluded UPCs from SLR in the past, present, and/or future?
5. Which agency is mainly in charge of demarcating/zoning for SLR?
6. What is the government's possible plan for the excluded UPCs?
 - a. How such plan was developed?
7. What type of land status (state, private, collective land) do most of the excluded HHs or UPCs settle on?
8. Negative impacts of exclusion on the socio-economic activities of the excluded HHs/UPCs (women and children in particular)?
9. What has your agency been doing or will do for inclusion?
 - a. If action was taken, what have been the results or will be the result?

Solutions/Recommendations

10. Any alternatives to exclusion?
11. What is your suggestion to the gov't, local authorities, and/or the excluded HHs/UPCs concerning the exclusion?
12. How often does exclusion lead to forced eviction? Reason? Have there been special considerations on women and children prior to forced eviction of an excluded community? Explore:



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