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Study



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A Kingdom for an Airport

Effects of international and private investment on the livelihood of Cambodia's urban poor communities

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Picture 1 - The new airport zone encroaches upon lakes, rice fields, and more than 2,000 community households

Executive Summary

The development of the Techo International Airport in Kandal stands as a testament to Cambodia's economic gamble. Upon completion, the airport is projected to accommodate more than 30 million passengers per year, serving as a key objective to increase tourism and trade in the region. This infrastructure project is emblematic of Cambodia's strategic investments aimed at achieving high-income country status by the year 2050, reflecting the nation's continuous ascent into unfettered urban growth.

In the wake of the global pandemic, Cambodia is undergoing a significant attempt at economic recovery and transition. The new government, which came into power in August 2023, is focusing on revitalizing

strategic sectors, such as real estate and urban development, which, over the last decade, has often been characterised by shortfalls in urban planning, financial malpractice, and investment withdrawals.

As of August 2024, inter-ministerial collaboration is underway to adjust key legislation, including a revisiting of the recent 2021 law on investment, and the re-drafting of the 2001 land law. These legislative revisions have been prompted by persistent shortcomings in land registration, widespread land disputes, and issues of governance that have historically impeded equitable development.

The purpose of this study is to offer actionable recommendations to enhance the living conditions of

Cambodia's urban poor. As the government actively seeks to position itself as an attractive recipient to various forms of foreign and private investment, it is crucial to implement reforms aimed at resolving land disputes, reduce debt burdens, and overhaul the existing, often unjust practices surrounding eviction, relocation, and inequitable compensation. The study also highlights the significant environmental repercussions stemming from governmental policies that compromise natural habitats such as lakes and coastal regions.

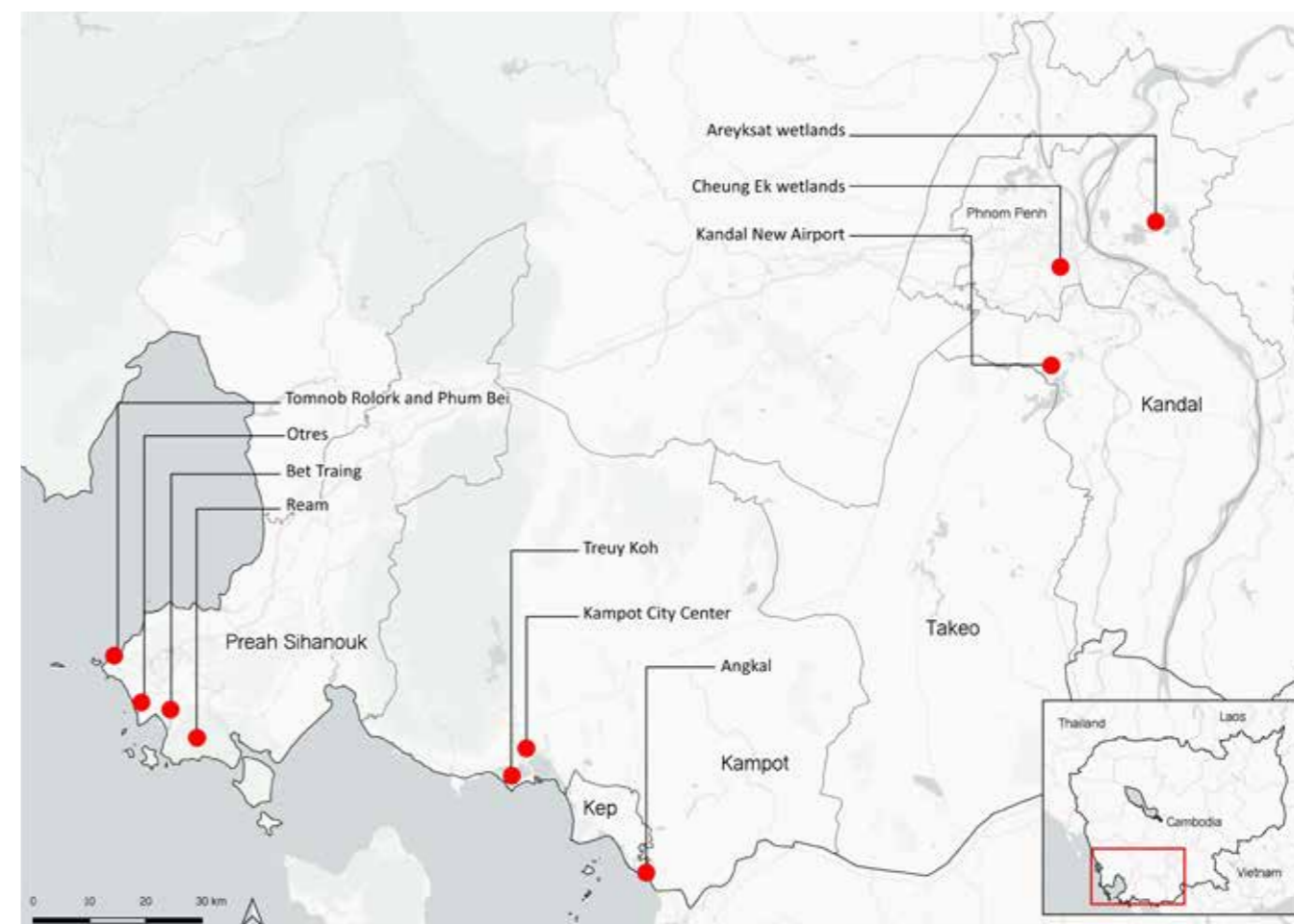
Abbreviations

ADB	Asian Development Bank
CDC	Council for the Development of Cambodia
CIB	Cambodian Investment Board
FDI	Foreign Direct Investment
FGD	Focus Group Discussion
ICCPR	International Covenant on Civil and Political Rights
IDP	Industrial Development Policy
LICADHO	Cambodian League for the Defense and Promotion of Human Rights
LoI	Law on Investment
MLMUPC	Ministry of Land Management, Urban Planning, and Construction
Mol	Ministry of Interior
NSDP	National Strategic Development Plan
ODA	Overseas Development Assistance
RGC	Royal Government of Cambodia
SEZ	Special Economic Zone
SEZA	Special Economic Zone Administration
SLR	Systemic Land Registration
STT	Sahmakum Teang Tnaut
UNDP	United Nations Development Programme

Introduction

Private and foreign investments are having a significant impact on Cambodia's urban poor, manifesting in both direct and indirect consequences.

The selected case studies cover four provinces and three cities:



Map 1 - Zones of interest and case studies included in this report.

In Phnom Penh and Kandal, the development of the Cheung Ek wetlands and ING city is leading to community evictions and recurrent flooding, an outcome of the lakes being filled and the construction of flood mitigation canals. The building of the Kandal New Airport has led to violence, threats, and concerns over unfair compensation for the surrounding communities.

Another area affected is the Areyksat wetlands, where riverside encroachment and the planned construction of a new bridge are causing distress among communities worried about potential eviction.

The last urban poor communities of Kampot city centre, by Treuy Koh bridge, are on the brink of eviction to make way for tourist river beaches. Phum Doun Taok, a Cham fishing village, is also facing eviction and a decrease in access to the shore as the area is developed for tourism. The fishing communities of Angkal are also anticipating the construction of the Prek Funan canal, which has already started to drive speculation and raise concerns about displacement.

Sihanoukville's urban poor are facing precarious housing conditions due to planned and ongoing development. The Bay of Lights coastal land reclamation project, and the privatization of Sihanoukville's beaches, are preventing local communities from accessing their land and coastal areas. In the relocation sites of Borey Chneas Chneas and O Ta Sek, residents are dealing with violence and increasing frustration due to economic exclusion. Land conflicts, court cases, and the planned development of Ream city have also become a source of anxiety for the inhabitants of Ream and O Oknha Heng. The communities of Tomnob Rolork, Phum Bei, and Bet Traing are facing eviction, a lack of essential services, and financial precarity.

It is important to note that due to the wide scope of this research, the case studies chosen by researchers are cases that are presently going through critical and urgent scenarios of vulnerability that all require further in-depth study, as well as advocacy from the part of communities and civil society.¹

¹ Some case studies included in this report are contentious areas of development that have already undergone decades of advocacy to secure land and housing rights, as organised communities, unions, and in partnership with civil society.

Picture 2 - Cheung Ek Lake infilling, February 2024



Methodology

This report adopts a cross-disciplinary approach. Methods used include desktop legal review and analysis, on-site investigations, the dissemination of a cluster-sampling survey, focus group discussions with communities, consultations with NGOs, academics, real estate practitioners, and the government.

Preliminary Analysis

An examination was undertaken by researchers, consultants, with the help of local NGOs, regarding private investment and land disputes currently impacting local communities. The research team selected around 10 case study areas.

The logic for selecting locations on a national scale was to attempt to uncover and identify emerging dynamics across Cambodia as the country enters a new phase of urbanisation - characterized by increased pressures on tenure and tenure security, particularly in secondary and peripheral cities.

Interview Process

Once target areas were identified, the research team undertook an initial informal baseline survey in December 2023. This laid the groundwork for a more structured community interview process, conducted from January 2024 to February 2024, spanning five weeks and encompassing 377 interviews (individual household representatives and Focus Group Discussions). All respondents were briefed on the goals of the project and gave consent prior to their participation. The duration of interviews ranged from 5 minutes to one hour, with the average discussion lasting approximately 20 minutes. Respondents' phone numbers were collected, allowing the research team to regularly collect updates as the research went on. The research team went to re-visit all case studies in May and June 2024 for an update on all cases and to take up-to-date pictures used in this report. The research team conducted a further 30 interviews with industry professionals, NGOs, academics, and public and private sector workers.

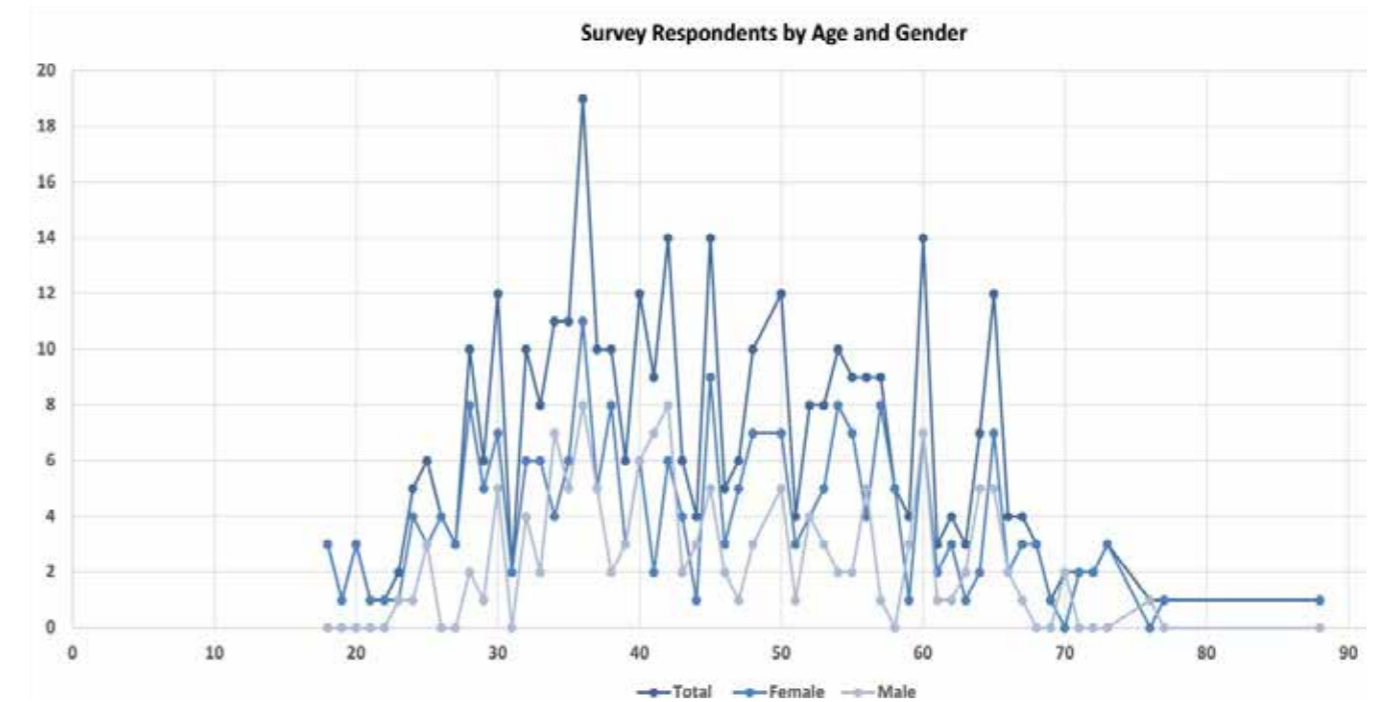


Figure 1 - Total 377 survey respondents, age and gender

Community respondents

The demographic composition of the respondents predominantly consists of working age adults, mostly spanning 28 to 65 years of age (see Figure 1). Females represent approximately 60% of the participants in the survey and discussions.

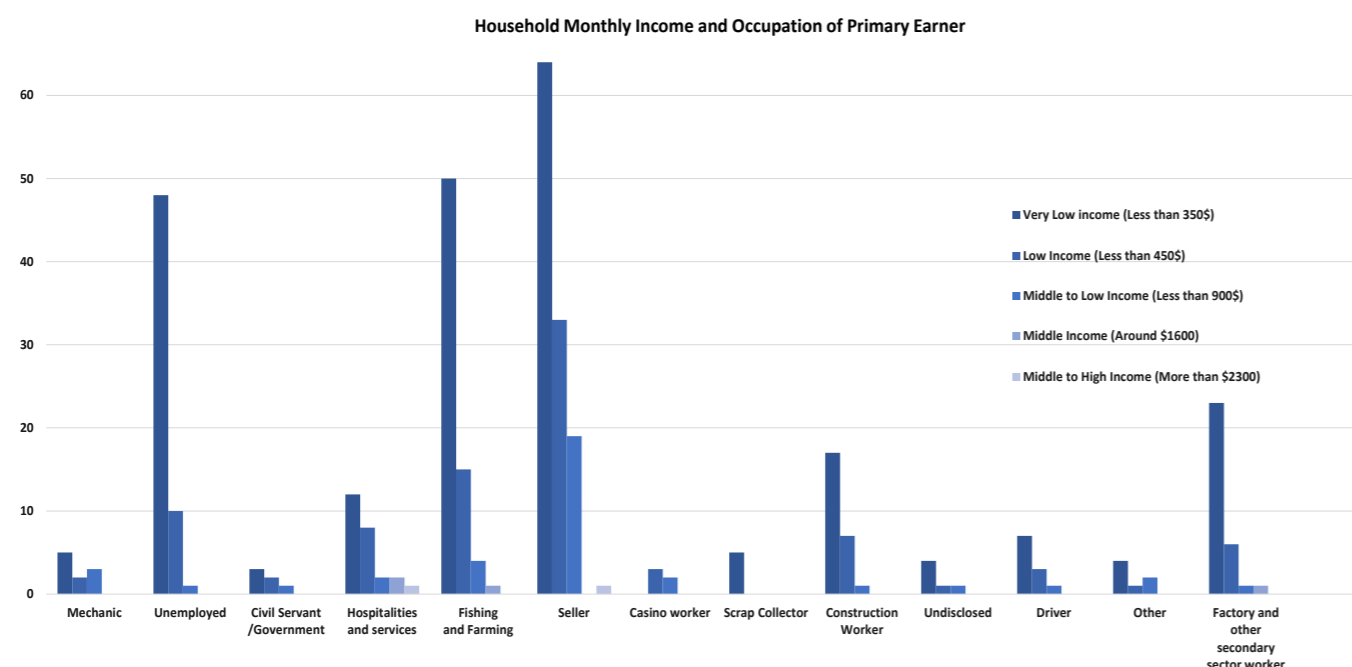


Figure 2 - Profession and monthly household income categorisation of 377 total survey respondents

A significant portion of the respondents fall within the lowest income tier², with most households earning under \$350 monthly, (see Figure 2). Although this table does not specify the number of individuals per household, the survey aims to provide the reader with an overview of the financial situation on the ground – by detailing the employment of the primary income earner in each household. The data does indicate high levels of financial precarity across all areas covered in this report, underscoring the urgency of addressing socioeconomic inclusion across Cambodia.

Limitations:

The extensive geographical range of the study posed logistical constraints, resulting in the exclusion of certain case studies from the final report. Researchers involved in this study will continue to monitor all

cases beyond this report's timeframe, as continuous monitoring is required. Some real estate groups and development agencies were unresponsive and unwilling to answer calls or questions despite numerous attempts.

Obtaining a clear and precise account of household number per community and per zone of interest is always difficult in Cambodia, due to a lack of access to consistent government registry and records. Household numbers were collected during the interview process and cross checked with NGO and media reports, the government's household census, and observations on the ground. Given the complexities and potential discrepancies in data sources, it is advised that the household numbers for each community and area be approached with caution.

² Income tiers were roughly tiered and based on the Asia Floor Wage Alliance Foundation system (AFWA) <https://asia.floorwage.org/>

Regulatory Framework

This research primarily examines pressing housing issues and challenges faced by communities, which are indicative of a broader spectrum of difficulties encompassing job insecurity, mounting debt, and the absence of essential services. There is a noticeable disconnect between the government's development initiatives and the situation experienced by grassroots communities, today in 2024. Despite a framework of comprehensive roadmaps, guidelines, and legislative documents aimed at inclusive development, urban poor communities continue to grapple with urgent challenges. These include inadequate housing, a general lack of infrastructure but also inconsistent coverage by the Systemic Land Registration (SLR) and ID Poor (social security) services. To understand the multifaceted impacts of private and foreign investment on these communities, it is important to consider Cambodia's development objectives, strategic approaches, and legal regulations. A nuanced understanding of this framework is required for assessing how various aspects of development intersect with the lived experiences of the population in affected areas.

Cambodia's Development Strategy and Objectives

Cambodia's 2023 Pentagonal Strategy³ leans on the models espoused by the previous four rectangular strategies⁴, which all serve to provide the Government with some guidance pertaining to social and economic matters in Cambodia. The policy's five pillars revolve around growth, employment, equity, efficiency, and sustainability (see Figure 3), and observe five key priorities for the country: People, roads, water, electricity, and technology. The Pentagonal strategy policy is compounded by the National Strategic Development Plan (NSDP) – a policy document that is updated every four years.

The NSDP is overseen by the Ministry of Planning who goes about setting up inter-ministerial committees and technical working groups with Non-Governmental Organisations (NGOs) and development partners like the United Nations Development Programme (UNDP) to collect suggestions and recommendations for the cross-sectoral plan. This process aims to assist Cambodia's ascension into its 2050 high-income country vision – as NSDP guidelines then leak into various Ministries' policy frameworks. Good governance is a central element of Cambodia's development programme and is expounded in both the NSDP and the Pentagonal Strategy. Good governance entails 'self-reflection, showering, scrubbing, treatment, and surgery.'⁵ In other words, the government is adamant to extend its mandate for the long-term, and civil society and legal advisors must work with existing legal parameters and power structures to better the situation for vulnerable communities.

³ Pentagonal Strategy – Phase I. Ministry of Economy and Finance. 2023.

⁴ Cambodia's Rectangular Strategy is the country's socio-economic policy framework and has been used as a cross-stakeholder guideline between 2004 to 2023.

⁵ Pentagonal Strategy – Phase I. Ministry of Economy and Finance. 2023. (Page 4)

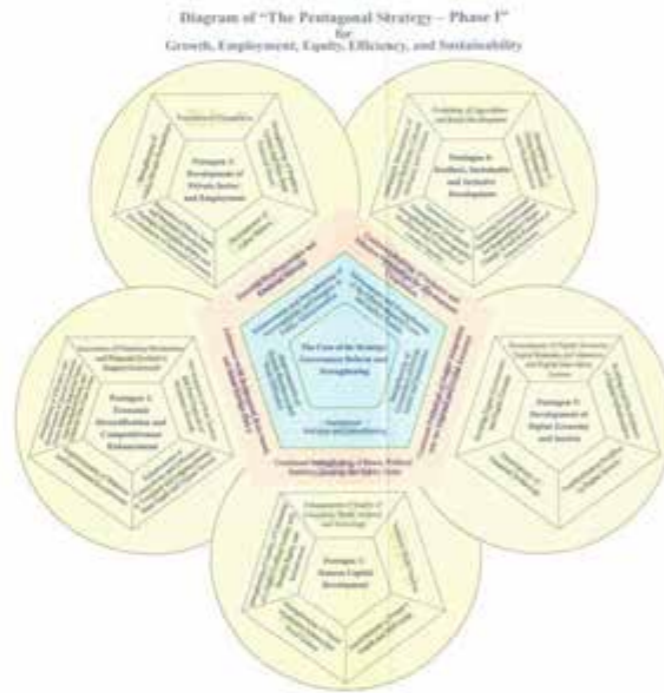


Figure 3 - Pentagonal Strategy Phase I. Source: The Ministry of Economy and Finance. (2023)

The preceding NSDP framework for the period of 2019-2023 charted out a detailed roadmap with ambitious goals, such as achieving universal service coverage for water supply and sanitation by the year 2025. This plan also included provisions for enhancing the management of solid waste. These objectives, while commendable, may not fully account for the complex socio-economic and infrastructural challenges unique to Cambodia, raising questions about their feasibility and the practicality of their implementation within the proposed timeframes. As this research later highlights, the lack of access to clean water for poor communities, notably from the state, is still a fundamental issue.

The Industrial Development Policy (IDP) is Cambodia's strategic framework aimed at modernizing Cambodia's industrial backbone through the years 2015 to 2025. The policy sets out to transform Cambodia's industries from labour-intensive to skill based – another concept nestled in the 2050 high-income country status vision. The IDP promotes the notion of economic diversification to upgrade Cambodia's industrial structure which, for a long time, has been dominated by the garment

industry. Special Economic Zones (SEZs) are a key tool used by the government to attract various forms of investment in industrial sectors. Finally, the policy also incorporates the concept of green industries, promoting environmental sustainability and the efficient use of resources to ensure that industrial growth does not come at the expense of the environment.

The guidelines listed above must be analysed when assessing Cambodia's development and can be useful advocacy tools to hold the government accountable.

Let's invest in Cambodia

Since the early 1990s, Cambodia's journey towards a liberal market economy has gradually magnetized Foreign Direct Investment (FDI), reshaping its economic landscape. The influx of foreign capital has introduced technology, financial resources, and infrastructure. The Cambodian government instituted the Law on Investment (LoI) in 1994, providing frameworks and incentives to investors.

The 2021 update on the LoI further entrenches Cambodia's liberal environment for investment, offering extensive investment guarantees and allowing foreign companies to have full ownership of their ventures, except for land which is constitutionally restricted⁶. Private

investment is overseen by the Council for the Development of Cambodia (CDC) and led by the Prime Minister through the Cambodian Investment Board (CIB). The CDC serves to streamline investment processes, articulating tax and accounting advantages to private stakeholders, in coordination with other ministries, especially the Ministry of Finance and the Council of Ministers.

Picture 3 - Cheung Ek Wetlands, 2023



⁶ Joint ventures can be formed without ownership limits, although foreign land ownership is limited to 49%, as per the Law on Investment, 2021.



Figure 4 - CDC Endorses 22 New Investment Projects in April 2024. Source: Council for the Development of Cambodia

In April 2024, the CDC approved 22 investment projects with a value of \$309 million, in industrial sectors, across the country (See figure 4). China is contributing 98.02%, Cambodia 1.03%, and India 0.95% to the total investment. The primary contributors to FDI in Cambodia are the Greater China region and ASEAN countries. It's important to acknowledge, however, that the approval of investments does not necessarily guarantee their actual execution – despite due diligence from institutions like the CDC. There can be instances where projects are not fully implemented as planned. A recurring issue in Cambodia's real estate sector is the withdrawal of investments or investors, a trend that is further explored later in this report.

While the tapestry of foreign investment in Cambodia often paints a picture of economic optimism and possibilities, it is necessary to examine this narrative through the lens of human rights, particularly concerning the contentious issues of housing, land, and eviction.

The juncture between investment, land, and housing rights

Adequate housing

Cambodia has ratified international human rights treaties that encompass the right to adequate housing. Adequate housing has been established as a fundamental component of the right to an adequate standard of living, as set forth in the 1948 Universal Declaration of Human Rights and further enshrined in the 1966 International Covenant on Economic, Social, and Cultural Rights (ICCPR).

The Cambodian government has legal obligations to provide adequate housing to all Cambodians. Adequate housing, according to the United Nations Office of the High Commissioner for Human Rights, is housing that has legal security of tenure; availability of services, materials, facilities, and infrastructure; affordability; habitability; accessibility; location allowing access to other aspects of adequate housing, especially opportunities for employment; and cultural adequacy⁷.

Cambodia's ratification of five fundamental conventions that recognise the right to adequate housing is an important legal protection against evictions without proper remedy⁸. The Cambodian government has a duty to protect residents from infringements on their right to adequate housing, including protection against increased vulnerability to natural disasters like flooding, climate-change related disasters as well as preventing forced evictions or any other incidents that would undermine their right to housing⁹. The RGC is responsible for ensuring that its own agents abstain from engaging in involuntary relocations of communities¹⁰. Furthermore, the protection against 'arbitrary or unlawful interference' with one's household is guaranteed by Article 17.1 of the International Covenant on Civil and Political Rights (ICCPR) from 1966, reinforcing the government's mandate to uphold and respect the sanctity and security of personal homes.

Cambodia's Land law

The 2001 Land Law is a significant part of Cambodia's regulatory framework. It addresses various aspects of land ownership and management. The Land Law states that land ownership is indisputable only when it has been officially registered in the cadastral index and land registry. The Ministry of Land Management, Urban Planning, and Construction (MLMUPC), in collaboration with the Ministry of Interior (MoI), is responsible for land management, urban planning, conflict resolution over unregistered land, as well as land registration and titling processes.

For land possession to be legally recognized, residents must have been settled before the law's enactment in August 2001 and meet certain criteria, notably continuous and publicly known possession of such land. Residents have the right to convert land into land that is theirs, through the Systematic Registration Process or through individual title application (sometimes referred to as sporadic registration). Obstacles often arise, such as residents' inability to demonstrate continuous possession not having their family book, ID cards, or other documentation.

The 2001 Land Law delineates three main categories of land.

- State Land, which is divided into two sub-categories:

State Public Land comprises land held by the state that serve the public interest in some capacity. Examples include roads, railways, lakes, coastal areas, and government buildings.

State Private Land refers to land that does not serve a public interest and can therefore be leased or sold. Unlike state public land, which remains under the ownership of the state, state private land may be transferred to non-state entities. Private lands of the state are not managed by a centralized public entity - which is usually the case in other countries.

- Private Land: This category encompasses land that is owned or held by individuals, or non-state entities.
- Collective Land: This includes land that falls under the communal ownership of indigenous groups or held by monastic institutions (such as Buddhist pagodas).

⁷ UN Office of the High Commissioner for Human Rights (OHCHR), Fact Sheet No. 21, The Human Right to Adequate Housing. November 2009, Fact Sheet No. 21/Rev.1.
⁸ International Covenant on Economic, Cultural and Social Rights (1966), Article 11; The Convention on the Elimination of All Forms of Racial Discrimination (1969), Article 5(e) (iii); The Convention relating to the Status of Refugees (1951) Article 25 (1); The Convention on the Elimination of All Forms of Discrimination Against Women (1979), Article 14(2); The Convention on the Rights of the Child (1989) Article 27(3); International Convention On the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), Article 43(1); The Convention on the rights of persons with disabilities (2008), Article 28(1).
⁹ Ibid.
¹⁰ Committee on Economic, Social and Cultural Rights, 'General comment No. 7: The right to adequate housing (Article 11 (1) of the Covenant): Forced evictions' (1997), para 8.

Regarding land ownership records, the 2001 Land Law specifies that the definitive proof of land ownership is the issuance of a land title certificate:

- **Hard Title:** This is a formal land ownership certificate that is recorded and dispensed by the Ministry of Land Management, Urban Planning and Construction (MLMUPC) at the national level. As a nationally acknowledged legal document, a hard title solidly establishes the holder's ownership rights over the land.

In contrast, there are other documents that, while commonly used to demonstrate land ownership, do not carry the same legal weight as a hard title:

- **Soft Title:** This is derived from land transfer documents, which include officially witnessed contracts, receipts, and other records that have been registered at the local district or commune administrative levels. A soft title serves as an acknowledgement of an individual's right to occupy the land but is subordinate to the legal authority of a hard title.

Land titles and soft titles are a crucial component that allows communities to realise their right to adequate housing across Cambodia. Titles are necessary documents for claiming compensation in the event of relocation or eviction. Land titling documentation is especially crucial for urban poor communities and settlements residing in informal dwellings and in areas earmarked for development. This research focuses on settlers in and around contentious development areas, notably urban poor settlements, and uses definitions outlined below.

Urban poor settlement

An urban poor settlement is characterized as a collective of at least ten neighbouring households living in conditions that are strikingly substandard. These households typically reside in structures that are noticeably deteriorating or shabbily constructed, and the layout of their homes often lacks a coherent ground plan. Furthermore, these settlements are identified by certain deficiencies that align with UN Habitat's criteria for slums. To be classified as an urban poor settlement, these groups of ten or more families

must be missing one or more of the following essential living conditions:

Sturdy and Permanent Housing: The structures should be capable of withstanding harsh weather and provide long-term durability to ensure the safety and health of the inhabitants.

Adequate Living Space: The living conditions should not be overcrowded; ideally, no more than three individuals should share a single room to ensure comfort and privacy.

Reliable Access to Clean Water: Residents should have the ability to obtain safe drinking water easily and affordably, and in sufficient quantities for their daily needs.

Proper Sanitation Facilities: There should be access to satisfactory sanitation solutions, such as private or communal toilets that are shared among a reasonable number of people to maintain hygiene and prevent disease.

Legal Security of Tenure: The inhabitants should have guaranteed occupancy rights that protect them from arbitrary evictions, contributing to their sense of stability and security.

The criteria for defining an urban poor settlement have been consistently used in other surveys, such as Sahmakum Teang Tnaut's 2023 Phnom Penh Survey¹¹. These definitions are vital in identifying and addressing the living conditions of the urban poor, with the aim of improving their quality of life and integrating them into the broader urban fabric.

Eviction, Relocation, and Tenure (In)Security

The advancement of land titling in Cambodia has experienced significant delays. In 2023, the Minister of Land Management announced that over 97% of the country's seven million land plots had been granted through the system¹² and assured the country that full completion was imminent within the same year. Despite these assurances, challenges persisted, and the government is now calling on its development partners to help finalize the process.

In February 2024, the MLMUPC's Department of Planning has been advocating for an agreement with the European Union to secure \$100 million for technical assistance to help complete Cambodia's Systemic Land Registration¹³. The government has also requested Japan's Aerospace Exploration Agency (JAXA)¹⁴ to provide satellite imagery that would bolster the government's efforts with regards to land registration, and housing. This comes after almost 10 million dollars were poured into Cambodia's SLR in 2023 by JICA¹⁵, in another effort to help with the registration process.

In March 2024, the Ministry of Interior and the MLMUPC issued a letter¹⁶ to Cambodia's provincial governors leaning on the Pentagon Strategy's emphasis on land reforms, urging for better efficacy in implementing the SLR (See Figure 5). It must be noted however, that even if the government manages to issue formalized land titles to everyone - there is no guarantee that land remains formalized once bought or sold. When a plot of land is bought, the new owner must undergo a process of transition to formalize the new ownership. As of today, there is no guarantee that this happens. This is another issue that requires further study.



Picture 4 - Prek Takong 6om endures regular flooding due to nearby developments, 2023

¹¹ THE PHNOM PENH SURVEY IN 2023: A Study on Urban Settlements in Phnom Penh. STT, 2023.

¹² THE PHNOM PENH SURVEY IN 2023: A Study on Urban Settlements in Phnom Penh. STT, 2023.

¹³ Over 97% of 7M Land Title Registration Complete as PM urges to Complete 100% by 2023. Construction & Property, 2023. <https://construction-property.com/over-97-of-7m-land-title-registration-complete-as-pm-urges-to-complete100-by-2023/>

¹⁴ Cambodia proposes the European Union to examine the possibility of cooperating on land registration. MLMUPC, 2024. <https://mlmupc.gov.kh/2024/02/13/5906/>

¹⁵ Japan grants \$9.7 million towards land registration programme. Phnom Penh Post, 2023. <https://www.phnompenhpost.com/national/japan-grants-97-million-towards-land-registration-programme>

¹⁶ Ministry coordinates land management. Phnom Penh Post, 2024. <https://www.phnompenhpost.com/national/ministry-coordinates-land-mgmt>



Figure 5 - Letter from the Ministry of Interior, titled 'Letter requesting co-operation and facilitation from provincial and Capital governors to support with the effective process of land registration' March 2024

The reasons behind the government's considerable setbacks to completing the Systematic Land Registration process remain ambiguous, especially given the significant technological and financial support it has received. This research underscores a concerning trend: most of the households yet to be registered in the SLR are among Cambodia's urban poor¹⁷. There is a discernible link between the lack of registration for these communities and the inequitable compensation they receive upon eviction. This disparity frequently stems from the absence of formal land ownership rights¹⁸ in areas designated for development.

Unregistered communities are often the most vulnerable to displacement and may find themselves at a disadvantage in negotiating fair compensation, as their informal status weakens their legal standing. This research highlights that the SLR system may inadvertently contribute to the marginalization of the urban poor, particularly when their land is targeted for investment projects. The findings call for a more inclusive approach to land registration that equitably recognizes the rights of all residents, particularly those in underprivileged communities, and safeguards them against the adverse effects of displacement.

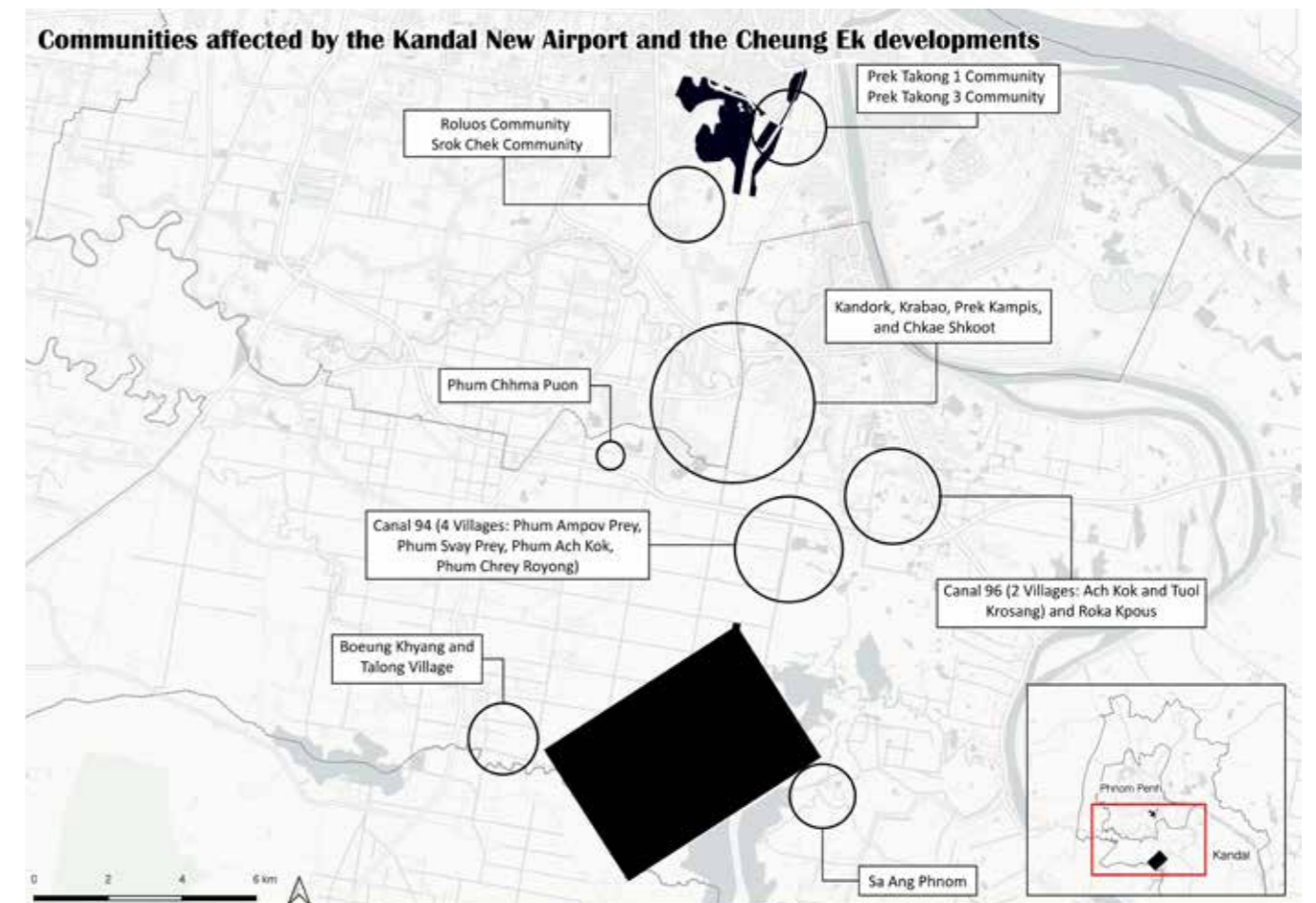
Eviction and relocation

A range of regulatory frameworks, including the Law on Expropriation and guidelines set forth in Circulars 03 and 06, are in place to govern the provision of compensation packages to affected communities. These mechanisms establish the legal principles and procedures for compensating individuals and communities subjected to land expropriation. Detailed analyses of these laws and their practical implications are extensively covered in other specialized reports.

The challenge now lies in the balance between seizing the socio-economic benefits of foreign and private investment and mitigating adverse effects, such as displacement and the destruction of the environment.

Investments in real estate, infrastructure, and other large-scale projects must be scrutinized through the prism of the above human and environmental rights obligations and government policy. The influx of capital must be coupled with strict adherence to the rule of law, where displacement and compensation are not merely transactional but are carried out with the full participation and consent of the affected communities.

Phnom Penh and Kandal



Map 2 - Communities affected by development. Source: LICADHO/ STT

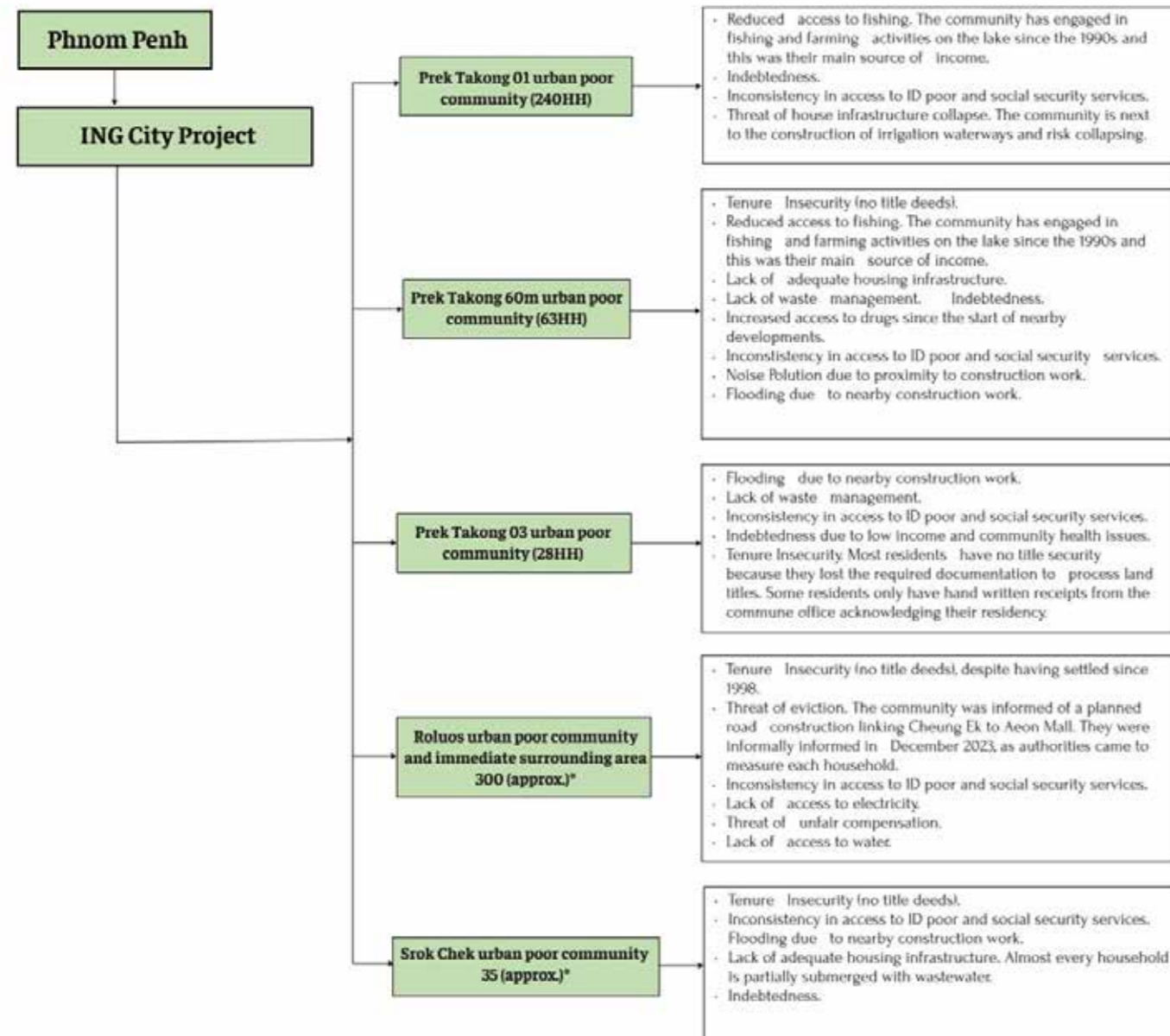
Chkae Shkoot, or the 'rabid dog' community is overrun with crystal meth. 'It's like a fish market. They start selling it at four, and the whole community partakes.'¹⁹ Chkae Shkoot community is located on the peripheral western side of Ta Khmao between two multi-million-dollar investment zones; the New Kandal Airport and the ING city development zone. Most residents have been living there for more than 20 years, and the community members still have no land title deeds. In February 2024, children are left unsupervised, while teenagers and adults sell methamphetamine directly from their homes to other residents and passers-by. Chkae Shkoot is symbolic of the capital's peripheral urban poor communities – lacking security, investment, and inclusion into the socio-economic fabric of the city.

¹⁷ This is a trend that has been analysed by experts for more than a decade. For instance, see NGO Forum's report dating back to 2015. NGO Forum, 2015. <http://ngoforum.org.kh/files/027173dc028985963f79a1484b14f69-Exclusion-of-the-Urban-Poor-Communities-from-the-SLR-in-PP-Eng.pdf>

¹⁸ The government's rationale for why certain communities are ineligible for SLR often hinges on the postulate that households or communities are situated on public state land. However, it is important to note that land can be defined as 'public land' a long time after the community settled, and processes to define land as public state land are often unclear and non-transparent. This is why every land dispute must be analysed on a case-by-case basis.

¹⁹ Interview with community resident, February 2024

Cheung Ek wetlands and ING city – Communities are facing eviction, and recurrent flooding, due to the filling of the lakes and the construction of flood mitigation canals



Picture 5 - Cheung Ek Lake infilling, February 2024

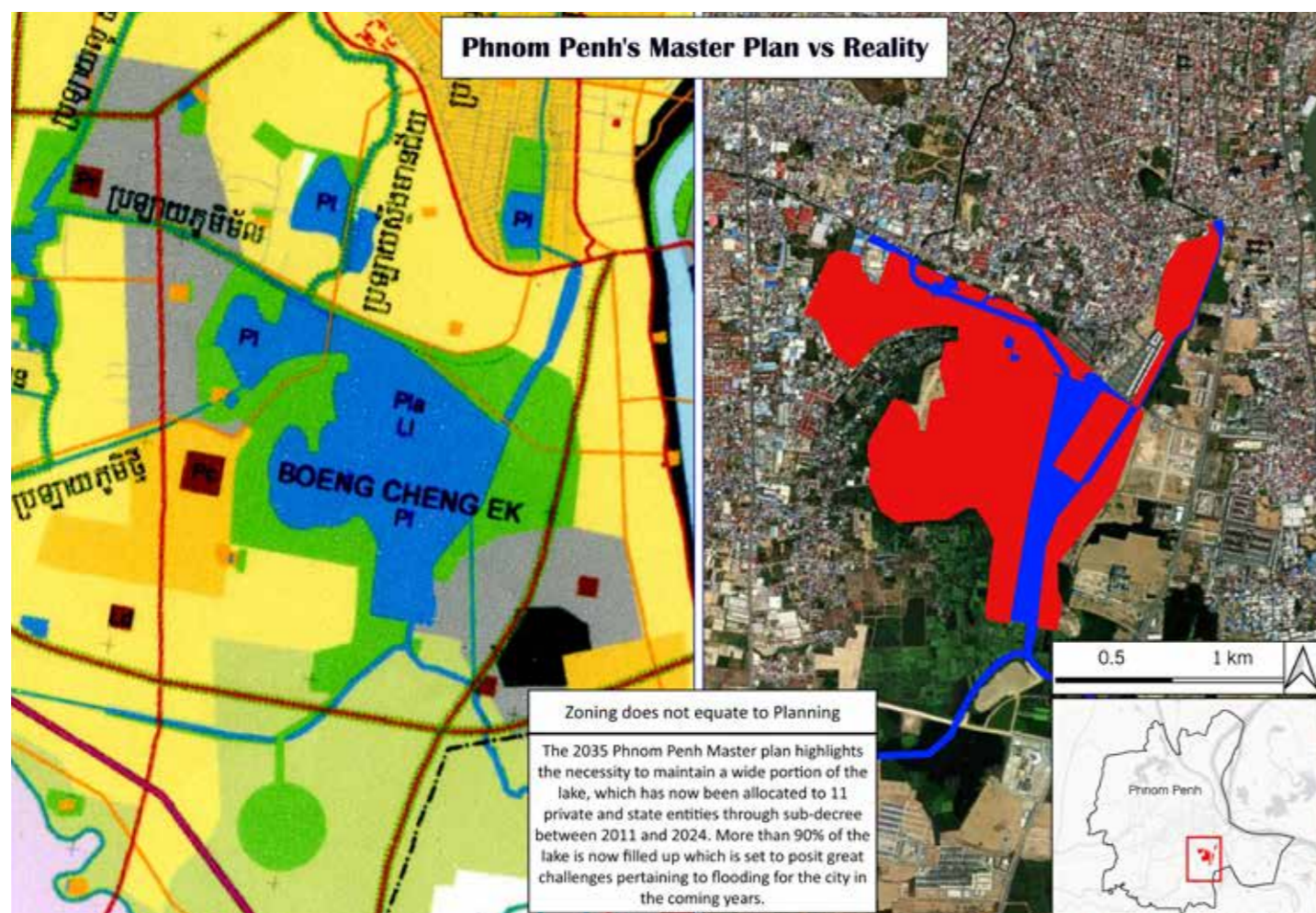
The vast natural wetland that is Boeung Cheung Ek, located to the south of the Phnom Penh agglomeration, used to serve multiple purposes. Before development, the wetlands covered more than 1,500 hectares and functioned as a 147 square kilometre reservoir, capable of storing almost 70% of the city's flood and wastewater²⁰. The wetlands used to be a place where traditional methods of lakeside agriculture and fishing were practiced by more than 1,000 households. In 2018, an STT report, leaning on the findings from a study conducted by the Mayor of Paris and the Municipality of Phnom Penh²¹, claimed the lake, if left undeveloped, held

the natural capacity to purify the city's wastewater. Numerous species of fish, birds, and water crops gave the lake its purifying characteristics as a biodiverse reservoir. The Municipality of Phnom Penh's approved recommendation to maintain at least 480 hectares²² of the lake's surface to mitigate Phnom Penh's flooding levels, have long been ignored or forgotten, as the lake is already almost entirely filled (see map 3).

²⁰ Ville de Paris and Municipality of Phnom Penh, Livre Phnom Penh, Extensions et Mutations (2018)

²¹ Ibid.

²² Ibid.



Map 3 - Phnom Penh Master Plan and land cuts. Source: LICADHO/ STT 2024

Ing Bun Hoaw's ING City Holdings Co., a subsidiary of AZ group of companies, is a multi-million investment project that encompasses more than 2,600 hectares, covering most of the wetland's area²³. The venture signifies the loss of 90% of the lake's surface area, and the apparition of luxury real estate villas, condos, and high-end vehicle show rooms, on the filled-up lake. Agreements were made between the Government, ING city, and development partners such as JICA for ensuring the construction of canals, and at least three wastewater treatment facilities.

²³ The filling of the lake is still ongoing at the time of writing



Picture 6 - Prek Takong 60 m

STT's 2018 report noted 'forced eviction is a very real possibility for the hundreds of families that live within the wetlands area.'²⁴ Today, eviction is becoming a reality as the residents of one of the lakeside communities, Roluos community, have been given an informal eviction notice in December 2023. Authorities approached the community in December announcing plans to build and expand a road linking AEON Mall to the west side of the wetlands. During focus group discussions with members of the Roluos community, residents claimed to have been given very minute details concerning the planned road construction and now remain highly concerned about their impending eviction, set to happen in 2025 at the earliest, and 2027 at the latest, according to community

²⁴ Smoke on the Water. Sahnmakum Teang Tnaut, 2018

²⁵ Interview with community members, February 2024

²⁶ Interview with community members, February 2024

testimony. Relocation plans have not been presented to the community²⁵. More than 300 inhabitants reside in Roluos and the immediate surrounding of the community, which is within the confines of the ING City development project. Residents have not received any communication from a representative of ING Holdings, or governmental entities regarding resettlement plans or the development intentions for the area. Rather than an eviction notice, households have each been given a piece of paper highlighting the number of members in each household and plot size (see figure 6).

A Roluos community member voiced their concern: 'We're worried we might be moved to a remote suburb without basic utilities like water or electricity. We have no idea how we'll cope if that happens.'²⁶



Picture 7 – Members of the Roluos Community have been reliant on lakeside agriculture for many years, 2024.

Picture 8 - A hole being dug by authorities, with the intention of mitigating Phnom Penh's floods during the upcoming rainy season, Prek Takong 1, May 2024

The community has been living on the land since 1998 and hope to receive fair compensation as required by law.²⁷

Another lakeside community, Prek Takong 1, are less concerned about eviction²⁸ and more worried about the structural integrity of their homes due to the construction activities linked to the canal upgrading sites. Authorities are excavating a large area, 36 meters deep and 19 hectares across (see picture 8), as a flood mitigation measure during the upcoming rainy seasons.



Figure 6 – One of many documents issued by local authorities to Roluos Community in December 2023, measuring the household size.

A resident stated, ‘I’m afraid my house will collapse while I’m asleep. What will I do if that happens; who will assist me?’²⁹ During another visit in May 2024, the house in question has already started sinking into the mud pit (see picture 9). Residents claim they have not been approached by any authority about any kind of compensation in the event the house does collapse.

²⁷ Article 8 of Cambodia’s 2010 Law on Expropriation: ‘The state shall buy any part of the immovable property remaining after the expropriation for a fair and just price as proposed by the immovable property’s owner and/or the rightful owner who cannot live near the project or cannot build a house or cannot practice other businesses as a result of the expropriation.’

²⁸ Prek Takong 1 is the only community in this report having already received land titles, providing them with a fairer degree of security in the event of relocation.

²⁹ Interview with community members, February 2024



Picture 9 - Community home in Prek Takong 1, slowly sinking into the mud, by the pit, May 2024.

Picture 10 - Temporary water diversion canals in Prek Takong 1, May 2024.

In March 2023, authorities presented the Prek Takong 1 community with a plan to excavate the pit shown above. To facilitate this, they needed to dig channels to divert and drain water away from the pit throughout the excavation process.

Consequently, authorities leased land from the community to create these channels, enabling them to proceed with the excavation process (see picture 10).

Households impacted by this were promised that the project would be done in six months, during which they would receive \$300 monthly as compensation³⁰. Surpassing the six-month mark, the project (as of June 2024) is still incomplete, the excavation isn't finished, and families are facing uncertainty. They have not received further compensation and the community is concerned about their homes being affected by the ongoing developments.

The excavation is part of a wider government-led flood mitigation project, constructing a canal that is 57 kilometres long, 100 metres wide, and 7 metres deep to channel away floodwaters from Ta Khmao and Phnom Penh. The project is expected to be completed by 2028³¹. JICA³² is providing technical assistance for the construction of the flood mitigation canals.

³⁰ This incident has been covered by local media. See Camboja, 2024 <https://cambojanews.com/prek-takong-villagers-fear-losing-land-following-expiration-of-a-land-lease-contract>

³¹ Sub-decree no.262 on the modification of Cheung Ek lake and canals in Mean Chey and Dangkor districts, Phnom Penh capital city, and Takmao district, Kandal province; Sub-decree No. 142 on the modification of the area of Cheung Ek lake and canal located in Khan Meanchey and Khan Dangkae, Phnom Penh, and Ta Khmau town, Kandal province.

³² The Japanese development agency has been heavily involved with the government by helping build the canals around Cheung Ek, and wastewater treatment plants – as an attempt to mitigate the consequences of filling the Boeung Tumpun lake.

Overall trends

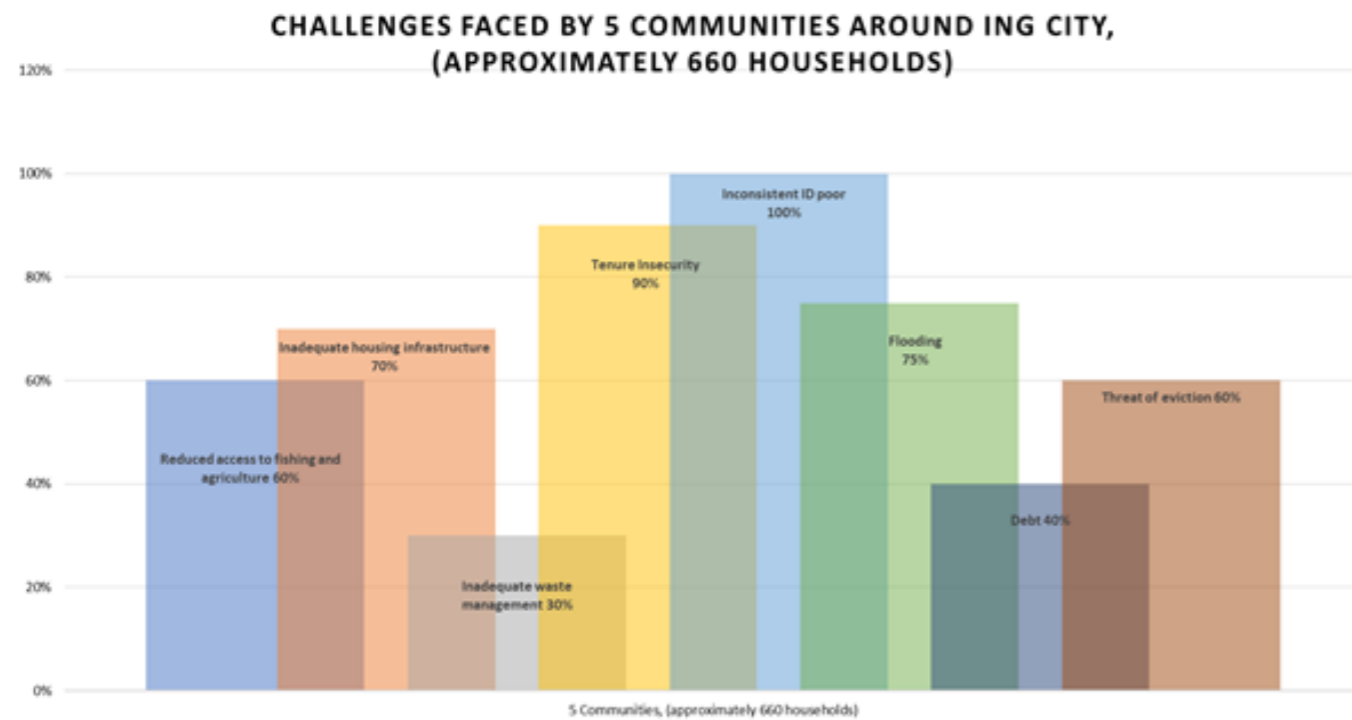


Figure 7 - Overall challenges faced by communities around Cheung Ek/ ING City

Communities around the ING project zone face challenges spanning from inadequate housing conditions, persistent flooding, and infrastructural shortcomings.

Another issue that emerged during FGDs is the inadequacy of waste disposal and drainage systems, which are often interlinked, exacerbating the problem of flooding in these communities. This situation not only poses health risks but also undermines their quality of life.

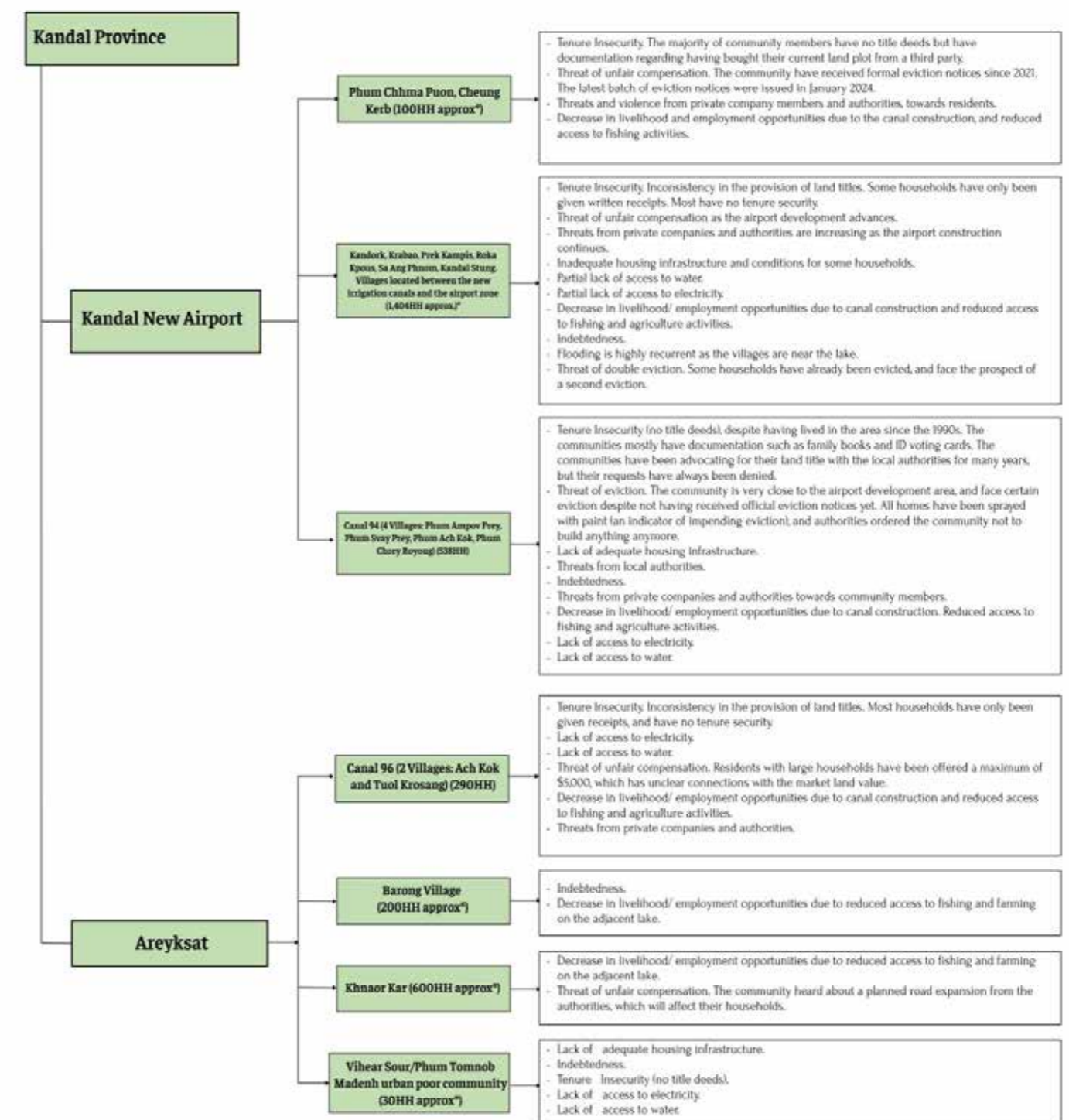
The communities also expressed frustration with the inconsistent application of the ID poor system³³, which is intended to provide support to Cambodia's most vulnerable populations. This inconsistency has left many without the assistance they need, notably in relation to healthcare.

Economic hardships were also highlighted by more than half of interviewees, particularly in relation to job security. This is largely attributed to the infilling of the lake, which has significantly reduced their ability to engage in fishing and lakeside agriculture; two key sources of livelihood that have traditionally sustained these communities.

These compounded issues underscore the need for a comprehensive approach to community development within the ING project zone, addressing the long-term stability of the affected residents. For instance, members of the Roluos community must be engaged in discussions with authorities in the lead-up to a resolution.

³³ Inconsistent access to ID Poor refers to some community members having access to the social security system and some others not having access despite being eligible. More research on this has been done by STT in 2022. STT, December 2022. <https://teangtnaut.org/en/the-identification-of-poor-household-program-id-poor-card-on-demand-for-poor-communities-in-phnom-penh/>

Kandal New Airport – Communities living around the airport construction site are facing violence, threats, and the prospect of unfair compensation



In 2017, the Cambodian Government sanctioned the construction of a new airport in Kandal province, 30 kilometres south of Phnom Penh, designed to handle over 30 million passengers annually by 2050, a figure that significantly surpasses the capacity of the capital's existing airport. The project encompasses around 2,600 hectares, which includes the airport, and surrounding mixed-use real estate, adjacent, and impinging on Boeung Cheung Loung Lake. The Overseas Cambodia Investment Corporation (OCIC) and the State Secretariat of Civil Aviation (SSCA) formed a joint venture³⁴, the Cambodia Airport Investment Co., Ltd (CAIC), to oversee the project.

OCIC contracted Chinese companies³⁵ to build the airport, while the financing structure has changed overtime. OCIC signed a financing cooperation

framework agreement with the China Development Bank in 2018³⁶, however the agreement never fully materialised. In 2021, the Prime Minister stepped in³⁷ encouraging the Cambodian public and private sector to purchase guaranteed bonds from CAIC³⁸, in a concerted effort to cover the \$1.5 billion total cost for the airport's investment. The airport is to obtain class IV certification: the airport surface area must abide by certain international norms, notably no habitat within a delineated radius³⁹.

Between 2021 and 2024, local financial institutions⁴⁰ rushed in to purchase bonds from the CAIC, which is not listed on Cambodia's Securities Exchange (CSX)⁴¹. According to the Phnom Penh Post, the CSX regulator allowed the CAIC to sell bonds privately⁴².

Sa Ang Phnom

The community of Sa Ang Phnom is currently facing a difficult situation with regards to land title security. Comprised of over 50 families who have resided in the area for a decade or more, the residents find themselves in a complicated legal situation. Despite possessing documentation such as family books and voting cards, the community has not been provided with a clear explanation of their legal rights concerning their claim to land. Instead, they have received an informal directive from local authorities instructing them not to undertake any more construction.



Picture 11 - The new airport zone in Kandal encroaches upon lakes, rice fields, over 12 communities encompassing 2,000 community households



Picture 12 - Sa Ang Phnom, located a few hundred metres from the Kandal New Airport

³⁴ OCIC owns 90% of CAIC, while SSCA owns 10%.

³⁵ Notably, subsidiaries of Metallurgical Corporation China (MCC) and China State Construction and Engineering Corporation, both state-owned Chinese construction companies.

³⁶ List of documents to be signed during the Official Visit of H.E. Li Keqiang, As of 10 January 2018 Premier of State Council of the People's Republic of China to Cambodia on 11 January 2018, Ministry of Economy and Finance, 2018. <https://mfaic.gov.kh/files/uploads/RBVFkFPQG98P/eng.pdf>

³⁷ PM calls on local firms to buy CAIC bonds to raise funds for new airport, Phnom Penh Post, 2021. <https://www.phnompenhpost.com/business/pm-calls-local-firms-buy-caic-bonds-raise-funds-new-airport>

³⁸ The bonds issued by the CAIC offer an annual interest rate, also known as a coupon rate, of 5.5%. This means that investors who purchase these bonds will receive an interest payment equivalent to 5.5% of the bond's face value each year until the bond reaches its maturity date.

³⁹ IATA, World Class Airports <https://www.iata.org/contentassets/d1d4d535bf1c4ba695f43e9beff8294f/world-class-airports---best-practice.pdf>; FAA regulations https://www.faa.gov/airports/airport_safety/part139_cert/classes-of-airports#top

⁴⁰ Investors include Prince Bank Ltd, ABA Bank, Chip Mong Commercial Bank Plc, Asia-Pacific Development Bank, Alpha Commercial Bank Plc, Foreign Trade Bank of Cambodia, CPBank, Cathay United Bank, First Commercial Bank, Mega International Commercial Bank, Taiwan Cooperative Bank, Union Commercial Bank, Hattha Bank, AMK Microfinance Institution Plc, Cambodia Post Bank Plc, Wing Bank Plc, ACLEDA Bank, Prudential, the National Social Security Fund, Sovannaphum Life Assurance Plc, and the Credit Guarantee Corporation of Cambodia.

⁴¹ Registration on the CSX is generally required for public limited companies or those that intend to go public by issuing securities, such as bonds, to the public. As per the Prakas on the Conditions for Banking and Financial Institutions for Application to be Listed on The Cambodia Securities Exchange, The National Bank of Cambodia. 2017.

⁴² PM calls on local firms to buy CAIC bonds to raise funds for new airport, Phnom Penh Post, 2021. <https://www.phnompenhpost.com/business/pm-calls-local-firms-buy-caic-bonds-raise-funds-new-airport>



Picture 13 - Truck importing sand into the airport construction area, by Sa Ang Phnom, June 2024.

Picture 14 - Canal being built on the peripheries of the airport, June 2024

The villagers have yet to be engaged in the process of Systematic Land Registration (SLR), which would formalize their land claims. As construction for the new airport progresses, there is a growing concern that their window of opportunity is closing, lowering their hopes for achieving the security that comes with land ownership. In June 2024, Sa Ang Phnom residents informed the researchers that the ongoing construction of a new irrigation canal⁴³ near their airport is causing concern. They have not been informed about the duration of the construction or how it might impact their housing situation (See Picture 14).

It is crucial for the authorities to recognize the right to adequate housing of communities like Sa Ang Phnom. The community's longstanding connection to the land and the documentation they hold should be the basis for a fair and transparent legal process to establish their land titles, despite being nestled between the canal and the airport.

Chhma Puon

Located along the Prek Thnaot river, the residents of the Chhma Puon community and village have resisted displacement since receiving their first formal eviction notice in 2019 (see figure 8). The latest eviction notice was given to them in January 2024 (see figure 9). Their reluctance to vacate the area stems from the lack of adequate compensation offered by the government, which is tied to the unresolved legal status of their land tenure. Chhma Puon residents, many of whom have called this place home for over half a decade and earn their livelihoods as street vendors, feel deeply rooted in the community.

Upon initially settling in the area, the residents engaged in transactions with other villagers to acquire their plots of land, with receipts as proof of purchase⁴⁴. Without formalized land titles, their occupancy remains unrecognized by legal standards, complicating any potential for receiving appropriate compensation.

The predicament faced by the community highlights the need for a just and equitable resolution that acknowledges the years of occupation and investment made by these residents. It is essential for the governing bodies to consider the tangible connections and contributions that these individuals have made to the area and to devise a compensation scheme that respects their rights and supports their transition - if eviction is to happen.

⁴³ HE Minister Tho Chetha Inspects the Progress of North Ralaing Chrey Canal Maintenance Project and Phnom Penh Southwest Drainage Project in Kampong Speu Province. MOWRAM, 2024. <https://mowram.gov.kh/news/732>

⁴⁴ Residents do not have any other proof of residence or land ownership beyond receipts.

Picture 15 - Chhma Puon/ Prochum Ang, along Ta Hor canal

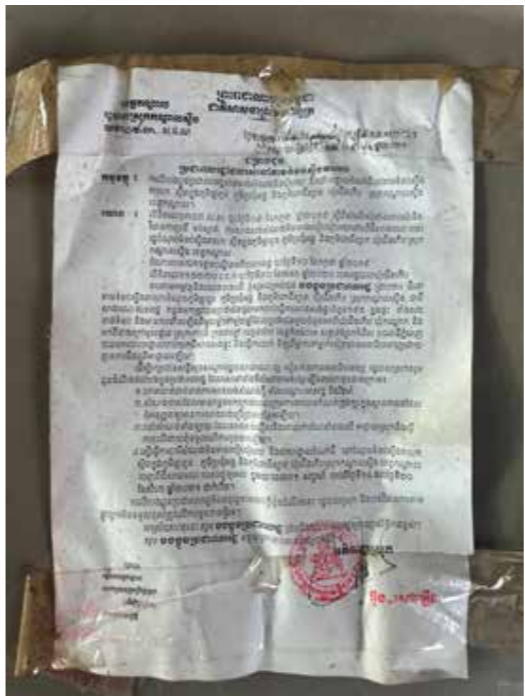


Figure 8 – First formal eviction letter issued in 2019 by the local authorities, to communities around Ta Hor Canal (Phum Chhma Puon).

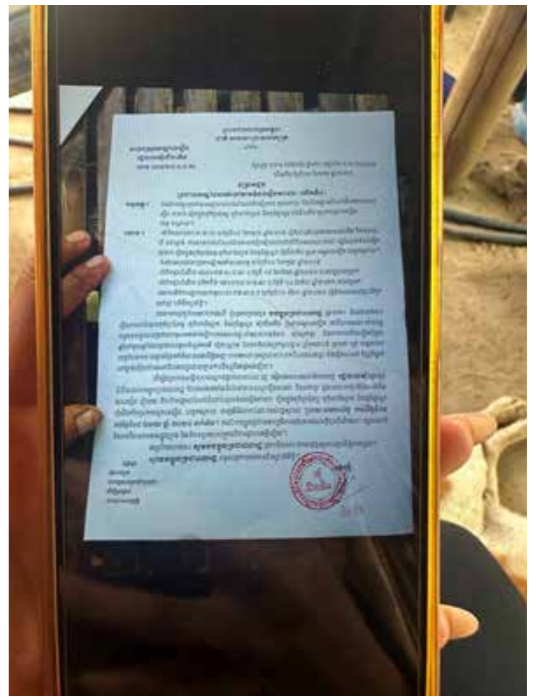


Figure 9 – Fourth formal eviction notice dated January 2024, issued by the local authorities to communities around Ta Hor Canal (Phum Chhma Puon).

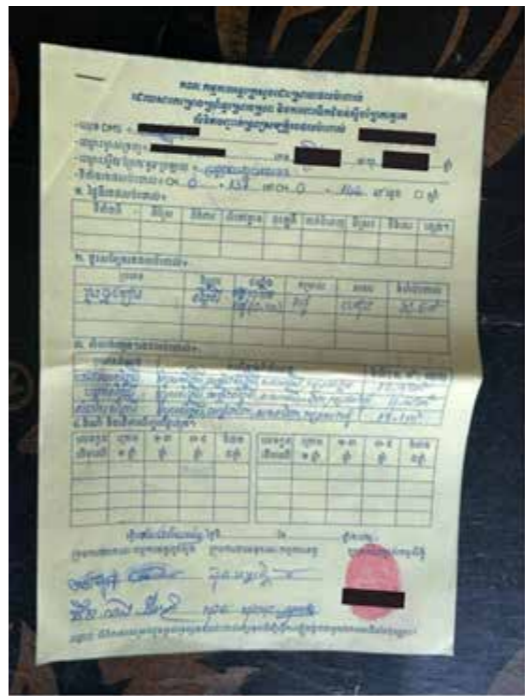


Figure 10 – Formal measurement receipt stating households in Canal 3 and will be affected by the construction of the irrigation canal, dated 2023.

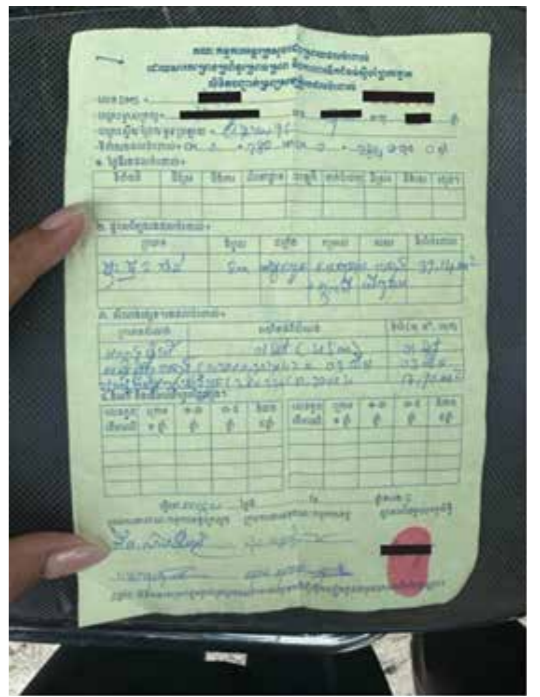


Figure 11 – Formal measurement receipt stating households in Canal 96 will be affected by the construction of the irrigation canal, dated 2023.

Canal 96 and Canal 3

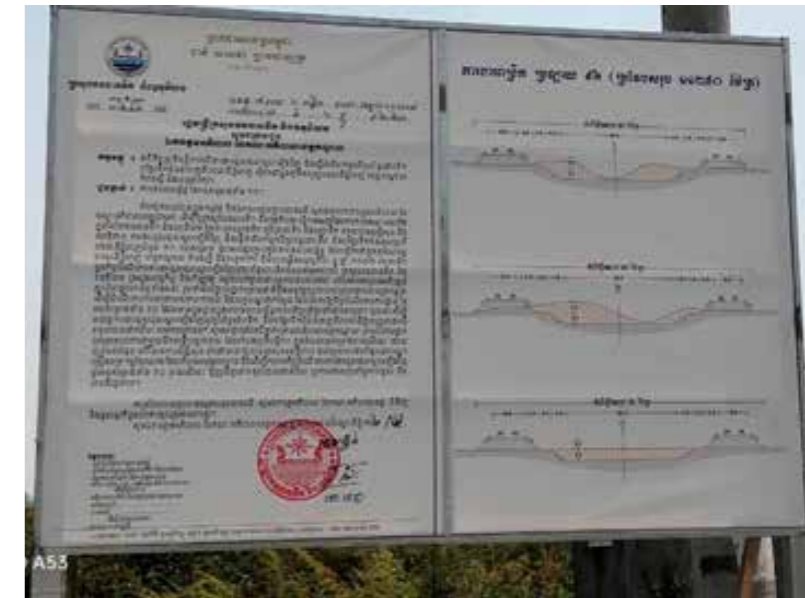
Canal 96 and Canal 3, located to the north of the airport development zone, lie adjacent to the Prek Thnaot canal. The deputy chief of Canal 96 recounted to the researchers an incident concerning the neighbouring village, Prek Holek. The development company, in conjunction with local authorities, arrived with excavators, allegedly ordering the villagers to pay for the service of demolishing their own homes.

In an attempt at compensation, residents were offered \$2,000 for the loss of their homes. A portion of this already insufficient amount had to be allocated to cover the costs of the excavators used in the demolition process. This situation not only highlights the stark financial inadequacy of compensation but also the emotional and economic toll such actions have taken on the residents, who were left with having to fund the destruction of their own homes.

The events at Prek Holek underscore the need for a more humane and considerate approach to development, one that fully compensates individuals for their losses and avoids placing additional financial burdens on those already facing displacement.

Canal 3 and 96, due to their proximity to the canal being developed in conjunction with the airport, are facing mounting pressure from authorities in an effort to conceive a solution. Authorities measured each household and have already provided community members with a receipt (see figures 10 and 11). Meanwhile, residents are still fully committed to advocating for their right to adequate housing.

The canal development plan, set up and displayed in the community (see picture 17), outlines an irrigation system, engineered to alleviate flooding concerns across several provinces, including Phnom Penh, Kandal, Kampong Speu, and Takeo. This infrastructure project started its implementation phase in December 2023 and is executed in collaboration with the Ministry of Economy and Finance aiming to enhance regional water management capabilities.



Picture 17 - The Ministry of Water Resources and Meteorology (MOWRAM) set up a placard displaying the development plans which will affect Canal 96 and Canal 3, among other communities

Picture 16 - Canal 96 residents during the interview process in 2024



Picture 18 - Prek Thnaot Canal is currently being developed, February 2024.



Canal 94

For over two decades, residents around Canal 94 have established their homes and lives on what is classified as state land. They have never been engaged by SLR officials, leaving them without any formal tenure security. The area, which encompasses four villages on both sides of Prek Thnaot canal and is home to more

than 538 community members, face constant vigilance from patrols allegedly employed by the development company, hindering any attempts at improving or upgrading their housing.

Picture 19 - Canal 94, community households are adjacent to the airport development zone.



The sense of being under continual surveillance has instilled a pervasive fear among the residents regarding the threat of forced eviction. In response to this existential uncertainty, the community has come together to organize an advocacy group to secure land titles. The communities are actively negotiating with ministry-level authorities to avoid relocation, especially to areas far from their current homes.

The Canal 94 community's advocacy is testament to their determination to preserve the life they have built. None of the residents wish to leave and the lack of transparency regarding compensation aggravates their anxiety. Their appeal is clear: they seek assurance that they can remain close to their current location, which for around 20 years, has been their community and their home.

Unfair compensation

Residents living around the Kandal airport development zone share common concerns, primarily regarding eviction and the prospect of receiving insufficient compensation. The average compensation offered is about \$5,000 per household according to FGDs and media reports. With an estimated 2,000 households facing eviction — a figure that assumes all households are compensated, despite some claims of receiving no compensation — the total compensation cost would be \$10 million. When compared to the airport's total investment of \$1.5 billion, community compensation represents 0.06% of the overall airport investment budget.

Picture 20 - School in Canal 94 is derelict, June 2024



Overall trends

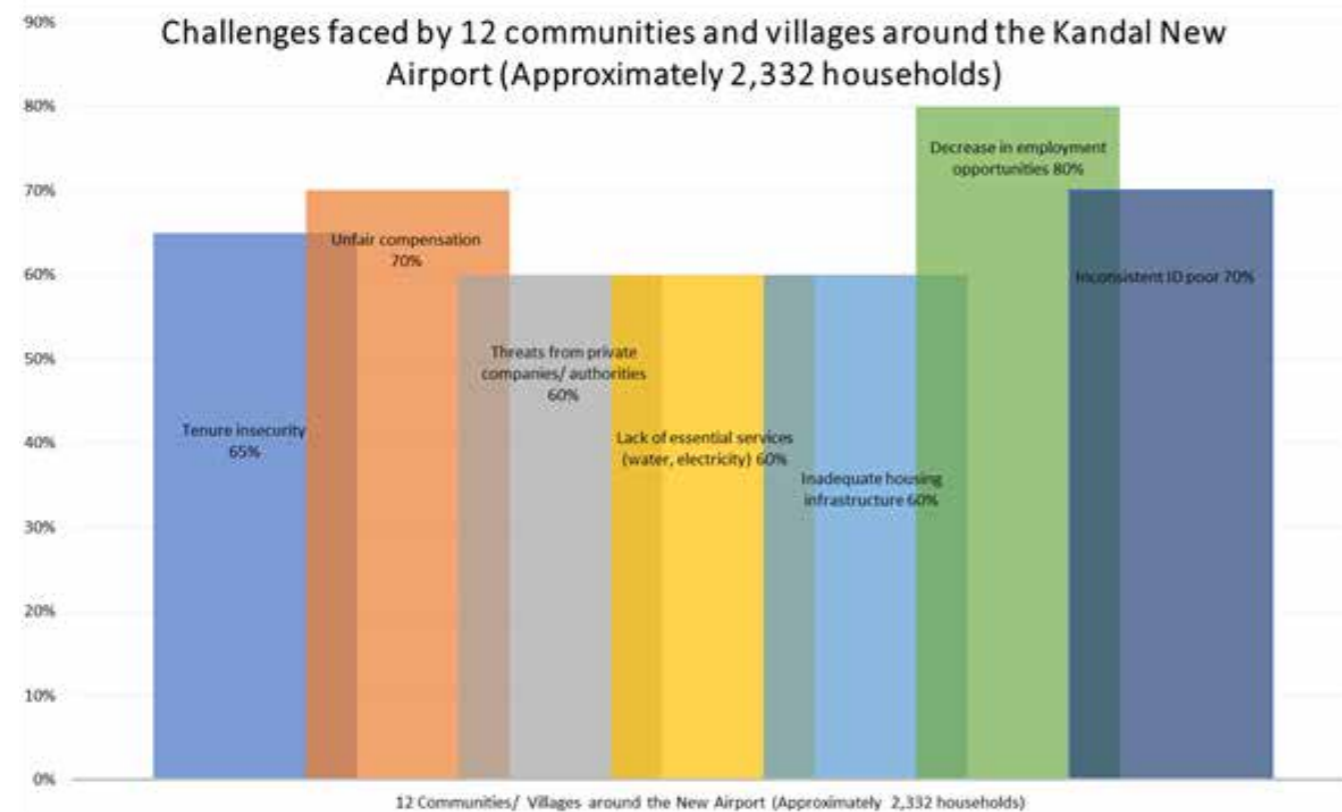


Figure 12 - Challenges faced by 12 communities and villages around the new airport

The communities surrounding the airport are grappling with many issues. Despite a significant number of residents possessing valid land claims backed by documentation, over 65% still find themselves without secure tenure or land titles.

80% of the airport communities have observed a downturn in work opportunities, attributing this to the encroachment upon and depletion of local water bodies like rivers, lakes, and canals. This environmental degradation directly impacts those reliant on these ecosystems for their livelihoods.

Approximately 60% of the residents reported substandard housing conditions, coupled with an absence of basic amenities such as running water and electricity⁴⁵.

The provision of social services including ID poor is inconsistent, further disadvantaging residents. This inconsistency often ties back to the broader issue of their uncertain legal status regarding housing, as the lack of recognized land tenure can impede access to such social security systems.

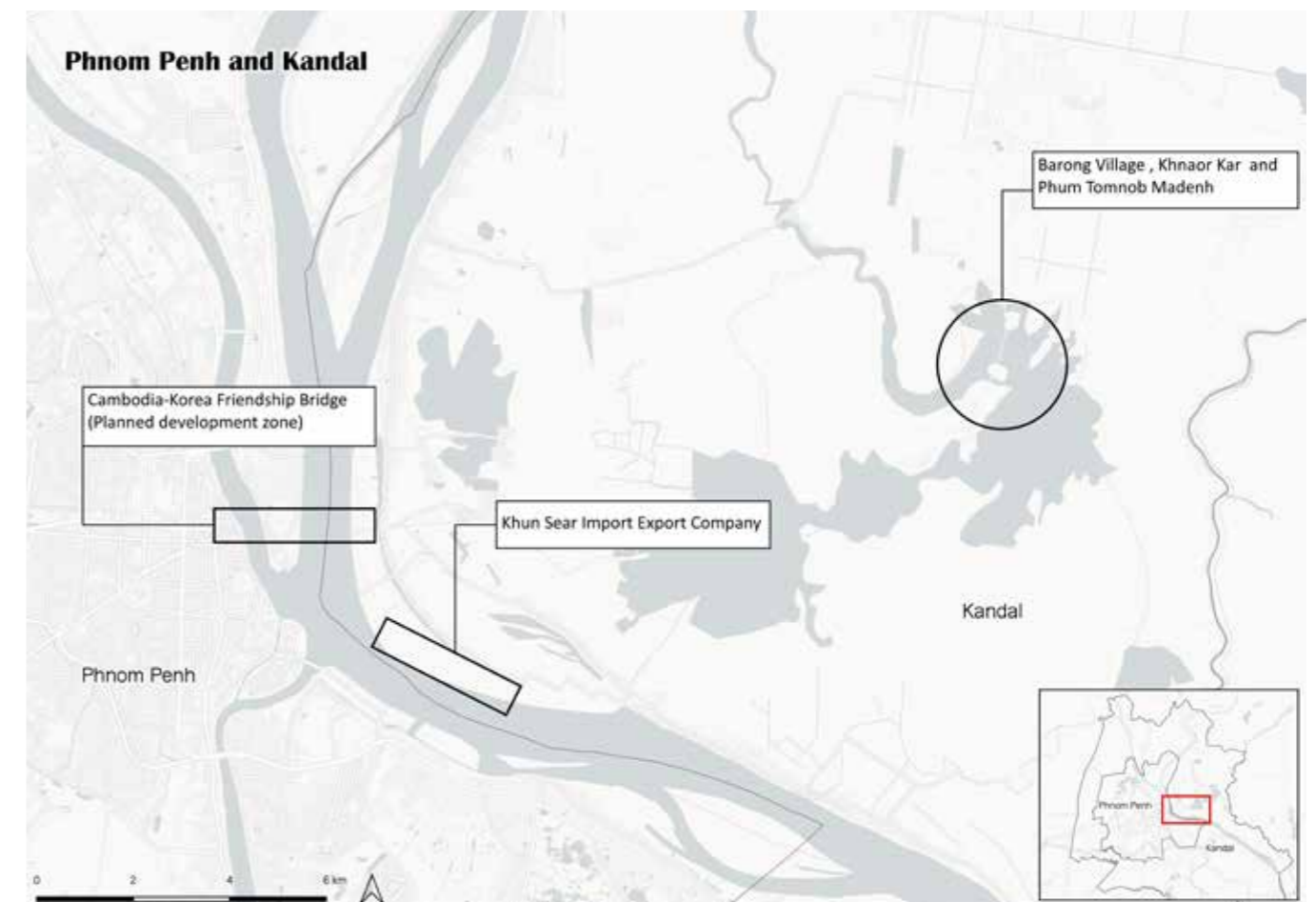
Moreover, the presence of authorities in the area has become a source of intimidation, with patrols frequently reported and instances of violence used to suppress any form of community advocacy or protest.

⁴⁵ During the Focus Group Discussions, telephone services were not available in the area. Community members also claimed that authorities severed services to make life more difficult for residents.

Areyksat wetlands – Riverside encroachment, and the planned construction of a new bridge, installing fear and worry for communities concerned about possible eviction

The planned construction of a Korean-funded bridge⁴⁶, linking Phnom Penh to Areyksat is set to bring in investment to the area. The bridge construction is

expected to begin in 2024⁴⁷, leading to speculation regarding planned developments on the Kandal side of the river.



Map 4 - Phnom Penh and villages in the Areyksat wetlands, in Kandal

⁴⁶ Spanning a total length of 3,549 meters, including the bridge and its access road, this structure will serve as a conduit over the Tonle Sap and Mekong Rivers. The bridge will measure 2,375 meters in length, with Bridge 1 stretching 1,205 meters across the Tonle Sap River and Bridge 2 extending 1,170 meters over the Mekong River. Source: SUSTINAT GREEN COMPANY

⁴⁷ Korea Friendship Bridge from Phnom Penh to Areyksat confirmed. Harbor Property, 2022. <https://www.harbor-property.com/news/detail/845/cambodiakorea-friendship-bridge-from-phnom-penh-to-arey-ksat-confirmed>



Map 5 - Cambodia-Republic of Korea Friendship Bridge project. Source: SUSTINAT GREEN COMPANY 2024.



Picture 21 - Sarika Kav Village, stands a few hundred metres East of the Areyksat riverside development zone (Khun Sear Import Export)

The Cambodia-Republic of Korea Friendship Bridge Project is led by a Korean state company alongside a consortium of private and public companies and institutions⁴⁸, notably Cambodia's Ministry of Public Works and Transports. In 2024 the Korean-led consortium has started conducting social and environmental impact assessments prior to their project implementation⁴⁹. Such initiatives are welcome; however, it is too early to discuss outcomes as the study is still underway.

The villages in the vicinity of the Khun Sear Import Export development zone⁵⁰, including Sarika Kav, are facing irregularities in access to land titles. Most of the residents are unaware about the impending development plans that the government has in store for the area, particularly regarding the proposals for river sand filling and alterations to the wetlands.

This lack of awareness and information about local development initiatives is a cause for concern among the inhabitants, as it directly impacts their land rights and environmental stability.

In Barong and Khnaor Kar villages, the discontent among villagers stems from the ongoing partial filling of Veal Somnab Lake, disrupting their traditional fishing activities. The predicament revolves around the lake having been designated as state property through sub-decree⁵¹. Approximately 4 to 5 years ago, the government urged villagers to relinquish land which had been provided to them since 1985 with a promised compensation of \$24,000 per hectare, to make way for development. Despite this agreement, the land has not been developed as initially claimed by the government, and, in the interim, the community has not been able to use it for agriculture nor fishing.

In the aftermath of the economic upswing around 2018-2019, the government effectively sought to reclaim the land, as the community was told the land was being sold off to developers. Disparities emerged in compensation distribution, with some families receiving partial payments and others still awaiting compensation to this day.

An additional cause for concern arises from the proposed expansion of roads in the area to a width of 30 meters, fueling apprehensions about potential displacement within the communities. Advocacy for land and housing rights has been ongoing since 2016, with communities appealing to the government to exclude them from the geographical scope of the Veal Somnab sub-decree⁵². However, progress in dispute resolution appears stagnant, and as of 2024, numerous communities remain awaiting compensation, uninformed about the impending developments in their area.

The case of Barong and Khnaor Kar exemplifies the local authorities' mismanagement and miscommunication. Although the government may have had plans, these were not shared with the communities, leaving them in limbo. As a result, the communities are still unable to use large portions of nearby land for agricultural purposes, complicating their livelihoods.

⁴⁸ These include Korea's Economic Development Co-operation Fund (EDCF), Sustinat Green, Yooshin Engineering corporation, and Gaia Consultant Inc.

⁴⁹ Human rights NGOs have taken part in these discussions as representatives of civil society.

⁵⁰ Khun Sear's company clears way for Areyksat satellite city. Cambodia, 2021. <https://cambodianews.com/khun-sears-company-clears-way-for-arey-ksat-satellite-city/>

⁵¹ Sub-decree no 236, on the modification of the Veal Samnab lake system with an area of 4815 hectares, located in Kandal province, to state public property. ODC, 2020. https://data.opendevdevelopmentcambodia.net/en/laws_record/sub-decree-no-236-on-the-modification-of-veal-samnab-lake-system-with-area-of-4815-hectares-located

⁵² Communities pleaded directly to the then Prime Minister to keep 80 hectares of their land. Facebook Video, SRW, 2020. <https://web.facebook.com/watch/?v=568526843822191>

Picture 22 - Veal Somnab lake, February 2024



Tomnob Madenh

Tomnob Madenh is an urban poor settlement that consists of approximately 30 households. The community has resided by the northeastern parts of Areyksat wetlands for more than two decades. Despite their extended

tenure, the government has yet to provide any formal land title deeds to the community. Situated by an aged dam, the residents are highly concerned about imminent eviction, particularly with the city's expansion gradually encroaching upon the Areyksat region.

Overall trends

Challenges faced by 2 Villages and 1 Urban Poor Community in Areyksat Wetlands (Approximately 830 households)

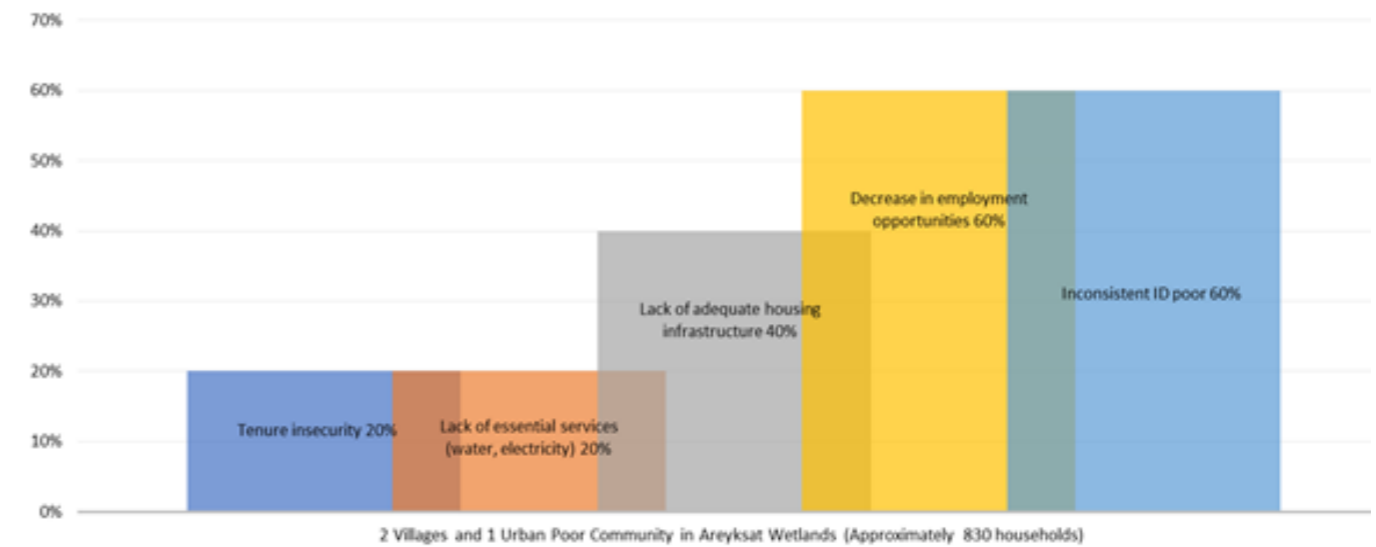


Figure 13 - Challenges faced by 2 villages and 1 urban poor community in Areyksat wetlands

Areyksat is on the brink of an ambiguous future due to the absence of clearly communicated government development plans. The wetlands are witnessing a rapid turnover as parcels are swiftly acquired by investors and developers. Prominent real estate groups, including Peng Huoth, 7NG, and Khun Sear Import Export, have already begun making inroads into the area, signalling a shift in land use and ownership dynamics.

This development activity is casting uncertainty over the local communities, whose livelihoods are inextricably linked to lakeside agriculture and rice farming. With the encroachment of developers on these agricultural lands, residents are left to wonder about the sustainability of their traditional ways of life and how they might adapt in the face of impending urbanisation.

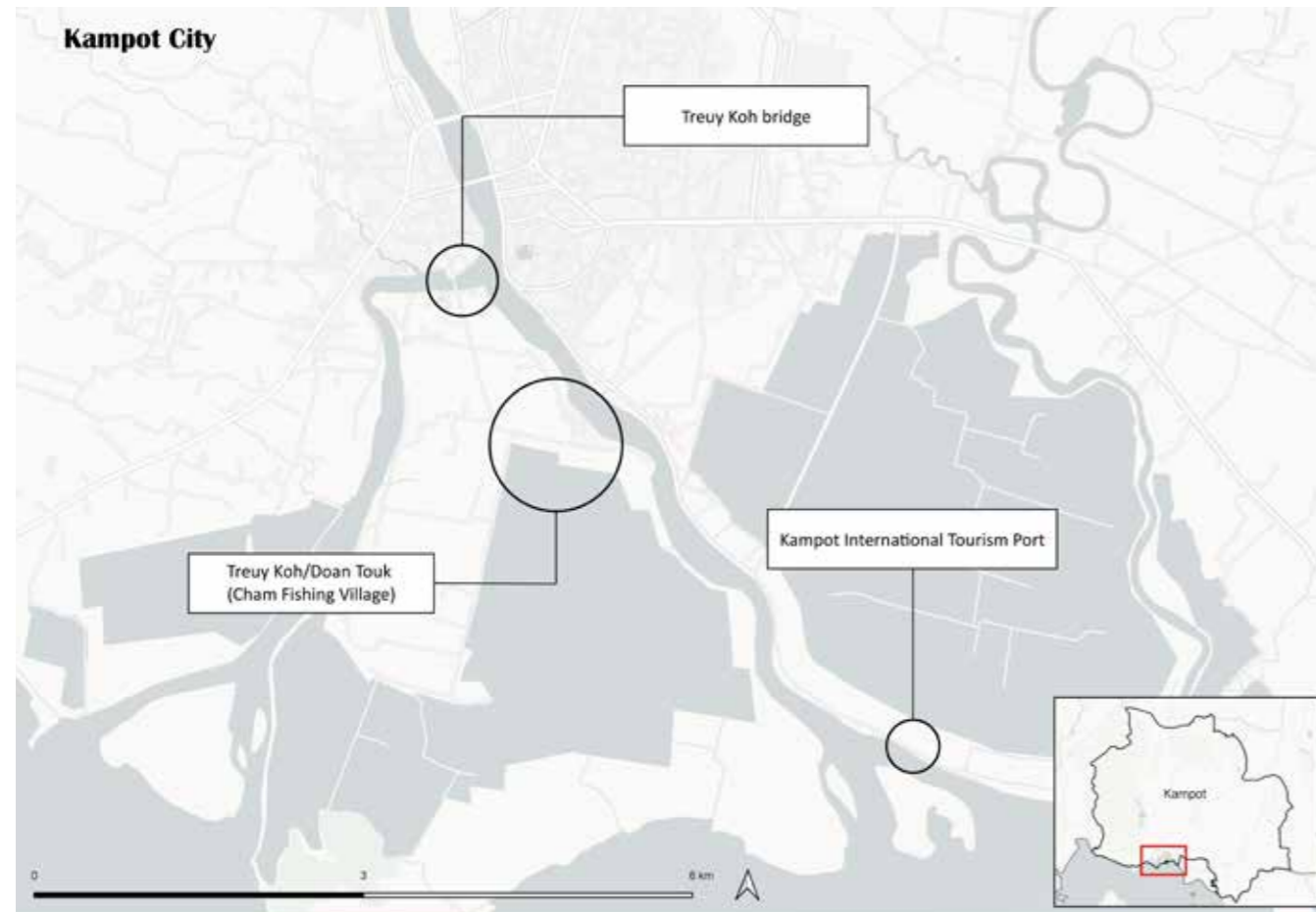
Kampot Province

Kampot's Land Use Master Plan 2030 aims to attract foreign investment to boost the tourism sector⁵³. In 2023, the tourism port in Phum Chum Kriel was partially completed. The port entrance was built, but dredging the sand to accommodate large boats remains to be done. This port is expected to enhance the appeal of both Kampot and Kep provinces by integrating them into the coastal travel circuit, as the government hopes to attract more foreign investment.

Local real estate practitioners have indicated that authorities are positioning Kampot for mass tourism in Cambodia. One local real estate agent emphasized, 'Bungalows alone cannot accommodate our vision for Kampot: we envision hundreds of tourists arriving by

cruise ship and staying in individual hotels or resorts simultaneously.'⁵⁴

In 2023, the local fish market was transformed into a Starbucks. As of June 2024, the Ministry of Land Management, Urban Planning, and Construction has focused its attention on Kampot, with plans to improve the situation of poor communities and social land concessions in the province⁵⁵. Such initiatives should be encouraged but also closely monitored by civil society, as Kampot is poised to receive substantial private and foreign investment in resorts and luxury real estate over the next few years – something which could come at odds with the government's plan to integrate and support the urban poor.

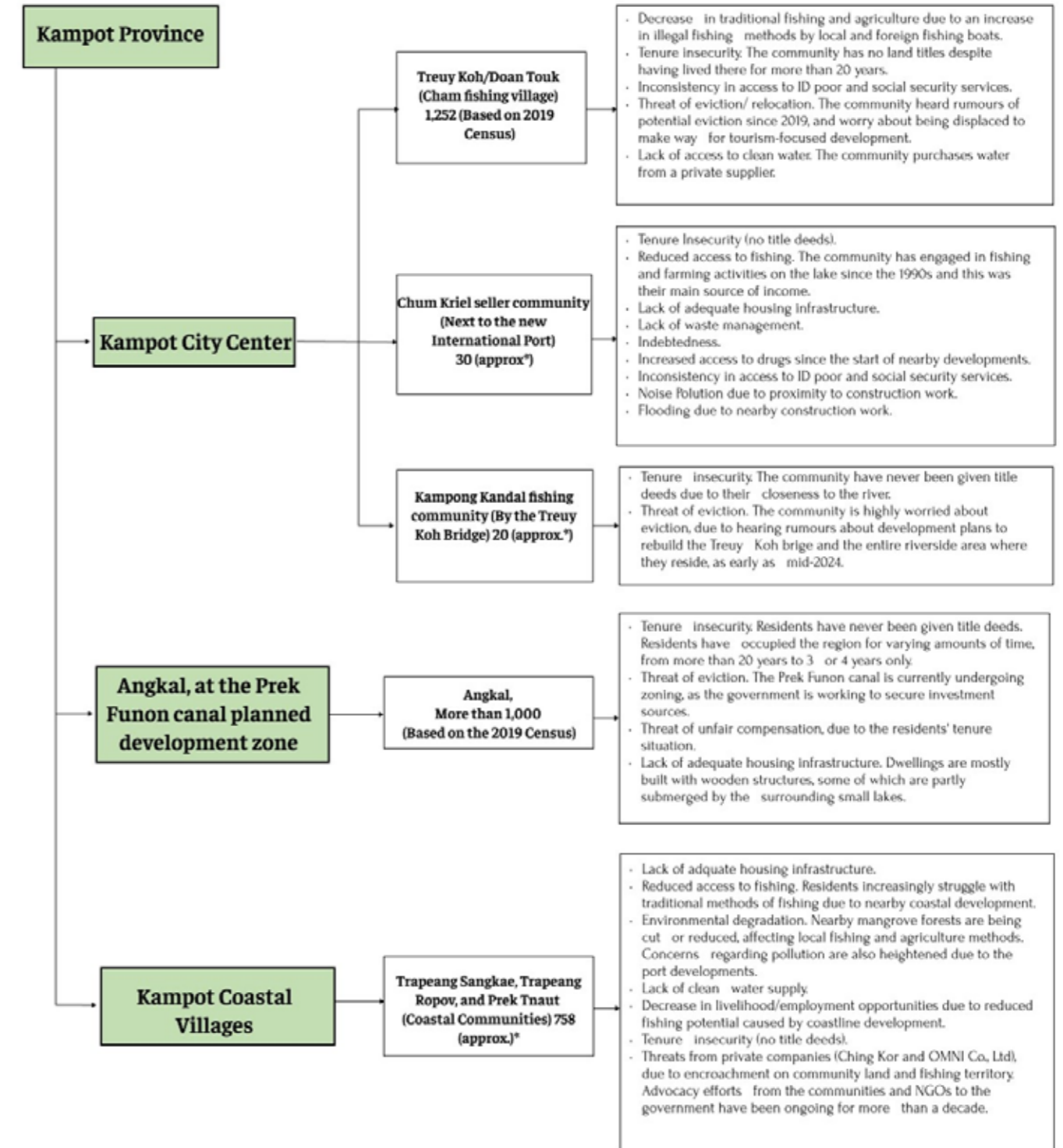


Map 6 - Kampot City

⁵³ Kampot city land use master plan for 2030 vision. ODC, 2018 <https://data.opendatacambodia.net/dataset/map-of-kampot-city-land-use-master-plan-2030-vision>

⁵⁴ Interview with local real estate practitioners, February 2024.

⁵⁵ Leaders of the Ministry of Land Management, Urban Planning and Construction instruct the working group to carefully examine the applications for social land concessions for housing and family farming in Stung Treng and Kampot provinces. MLMUPC, 2024. <https://mlmupc.gov.kh/2024/06/13/9452/>



Picture 23 - Communities in Phum Kampong Kandal face imminent eviction. February 2024



Treuy Koh bridge communities – The last urban poor communities of Kampot city centre face eviction to make way for tourist river beaches

The communities residing on the southern side of the Treuy Koh bridge have sustained themselves through fishing, deeply intertwining their way of life with the rivers and nearby coastline. Around 20 families have established their homes in this area for over 18 years. Despite their longstanding presence, these communities have never been officially recognized through the SLR process, leaving them vulnerable.

As Kampot undergoes a transformation driven by gentrification, these communities are confronted with the threat of eviction. The government's ambition to develop the riverside beach area directly conflicts with the location of their homes. The community was

announced their eviction is to occur in March 2024, however, as of July 2024 the community is still apprehending the negotiation process with authorities. On the northern side of Treuy Koh bridge, a group of households is grappling with similar concerns about their future. The government's sand-filling activities near their riverside residences (see picture 24), which have been their homes for over a decade, are jeopardizing their traditional livelihoods. Unlike their counterparts across the bridge, this community has obtained soft titles and have been able to secure some financial compensation – notably as one of the households has already been destroyed.

Picture 24 - Communities on the Thvi side of the Treuy Koh bridge face relocation but have soft titles. February 2024



Phoum Doun Taok – A Cham fishing village facing eviction and diminishing access to the shore to make way for tourist river beaches



Picture 25 - Doun Taok, in Treuy Koh, where community residents are concerned about eviction, February 2024

According to the 2019 population census, the Treuy Koh area is home to over 1,200 households. Of these, approximately 500 are situated along the riverside, forming one of Kampot city's remaining fishing villages — a community whose way of life is now at risk due to potential displacement.

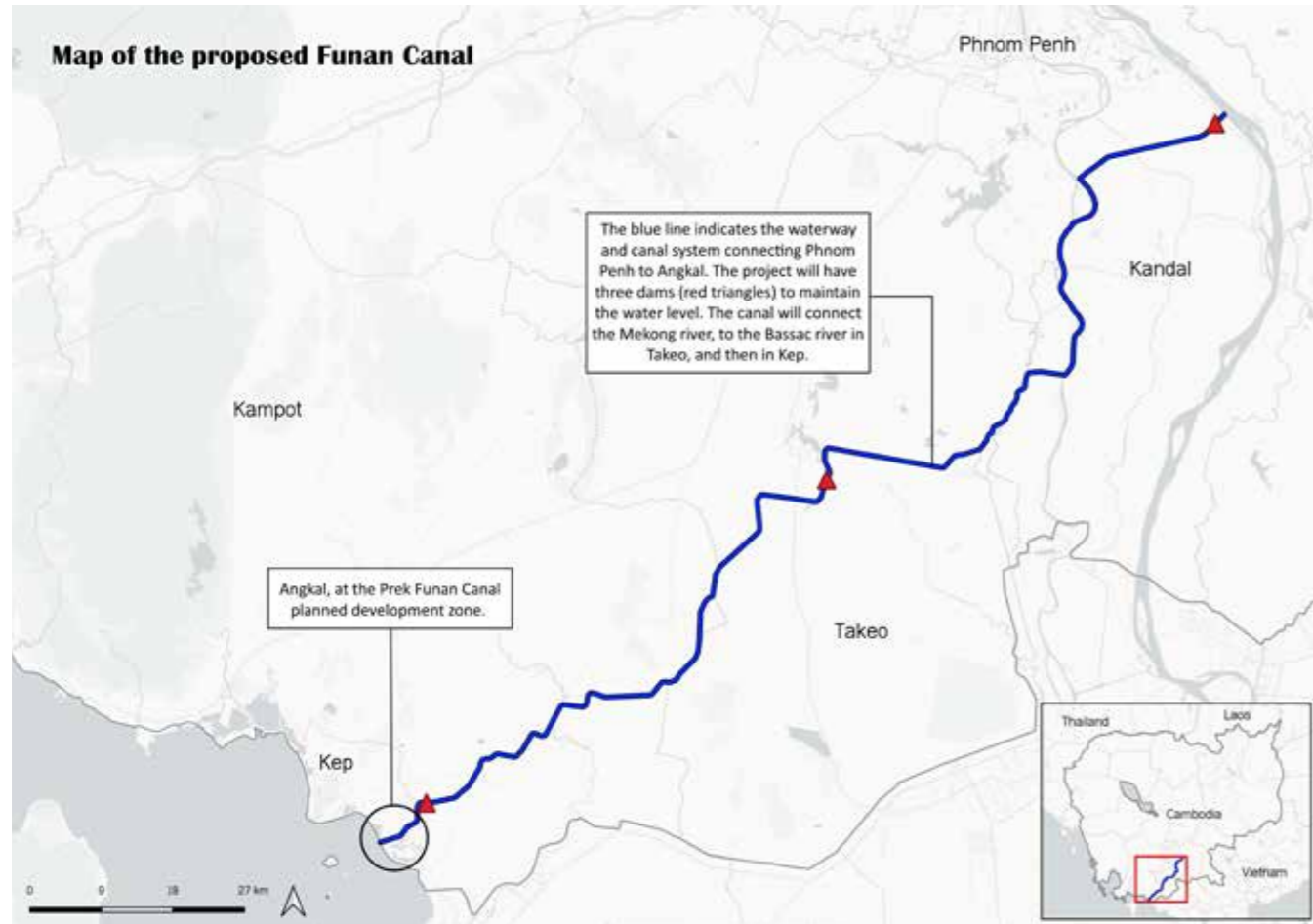
Just across the river, the landscape of commerce and tourism is rapidly changing. Plots of land are being sold mostly for resort development, with some already on the verge of completion. This stark contrast underscores the impending transformation that the

community of Treuy Koh may soon experience. The residents were informally advised of the possibility of eviction back in 2019, but since then, they have been left in a state of limbo, without further communication or clarity regarding their status. The lack of updates adds to the list of concerns felt among the community members, as they await concrete information regarding their homes and livelihoods.

'We only wish to preserve our water, protect our fish and sustain our communities.'⁵⁶

⁵⁶ Interview with Treuy Koh resident, February 2024.

Angkal – The imminent construction of the Prek Funan canal and the imminent eviction of a fishing community



Map 7 - Angkal and the Prek Funan Canal. Source: LICADHO/ STT, 2024.

Angkal is home to more than 1,000 households according to the 2019 population census. Around 500 households are currently residing in Angkal along the coastline (as circled in map 7). Almost all households are dilapidated makeshift wooden structures with some zinc roofing. Some dwellings are partially submerged in small lakes. All residents lack any form of land title deeds. The planned construction of the Prek Funan canal is instilling a deep sense of worry for the community, as they comprehend having to move

soon as the authorities have already started planning and zoning⁵⁷.

According to the Prime Minister, the canal's construction is planned to start in August 2024⁵⁸. The groundbreaking ceremony occurred on the 5th August, and Cambodia was granted a national holiday. Residents from Kampt to Kandal have not been approached by authorities regarding the project's potential impact on households⁵⁹. The 1.7\$ billion project will

cover 180kms, and experts are increasingly concerned about effects on biodiversity, floodplain modification, and potential alteration to the Mekong river's flow patterns⁶⁰.

In interviews with the researchers in January and May 2024, local fishermen in Angkal expressed concerns about speculators buying up land near their homes.

By May, researchers observed a notable change: plots of land were being marked with poles, indicating that acquisitions were underway. Although the exact intentions behind this land rush are still unclear, it strongly

suggests that Angkal is on the verge of significant transformation. This influx of investment over the next few years means that those overseeing development must be cautious about potential negative social and environmental impacts.

Amid concerns over community displacement, the Ministry of Economy and Finance plans to establish a committee to monitor impacts on residents near the development zone. The government must prioritize the principle of free, prior, and informed consent, ensuring communities are actively engaged in negotiations before construction begins.



Picture 27 - Communities in Angkal face financial precarity and inadequate housing infrastructure

⁵⁷Transport Minister: Funan Techo Canal Project to Begin Construction in Late 2024. Khmer Times, 2024. <https://www.khmertimeskh.com/501425184/transport-minister-funan-techo-canal-project-to-begin-construction-in-late-2024/>

⁵⁸Funan Techo Canal Construction Begins in August, Canal Residents Clueless on Compensation. Camboja. May, 2024. <https://cambojanews.com/funan-techo-canal-construction-begin-in-august-canal-residents-clueless-on-compensation/>

⁵⁹According to a May 7th official Cambodia People's Party Facebook page post, the project will have significant impacts on local communities and land use, affecting 1,585 houses, 1,498 hectares of village land, and 29,000 hectares of farmland. (Note that there are many fake CPP Facebook pages, and it is difficult to verify all content coming out of the government social media).

⁶⁰Research from the Stimson Center elucidates that as a party to the 1995 Mekong Agreement, the Cambodian Mekong Committee needs to make sure it abides to the Mekong-River Commission's mandate, notably by designating the canal as a project directly impacting the mainstream flow of the Mekong, to prevent diplomatic hiccups with Mekong countries. Impacts of Cambodia's Funan Techo Canal and Implications for Mekong Cooperation. Stimson Center. May 2024. <https://www.stimson.org/2024/impacts-of-cambodias-funan-techo-canal-and-implications-for-mekong-cooperation/>

Overall trends

Challenges faced by Urban Poor Communities and Villages in Kampot city and Province (Approximately 3,000 households)

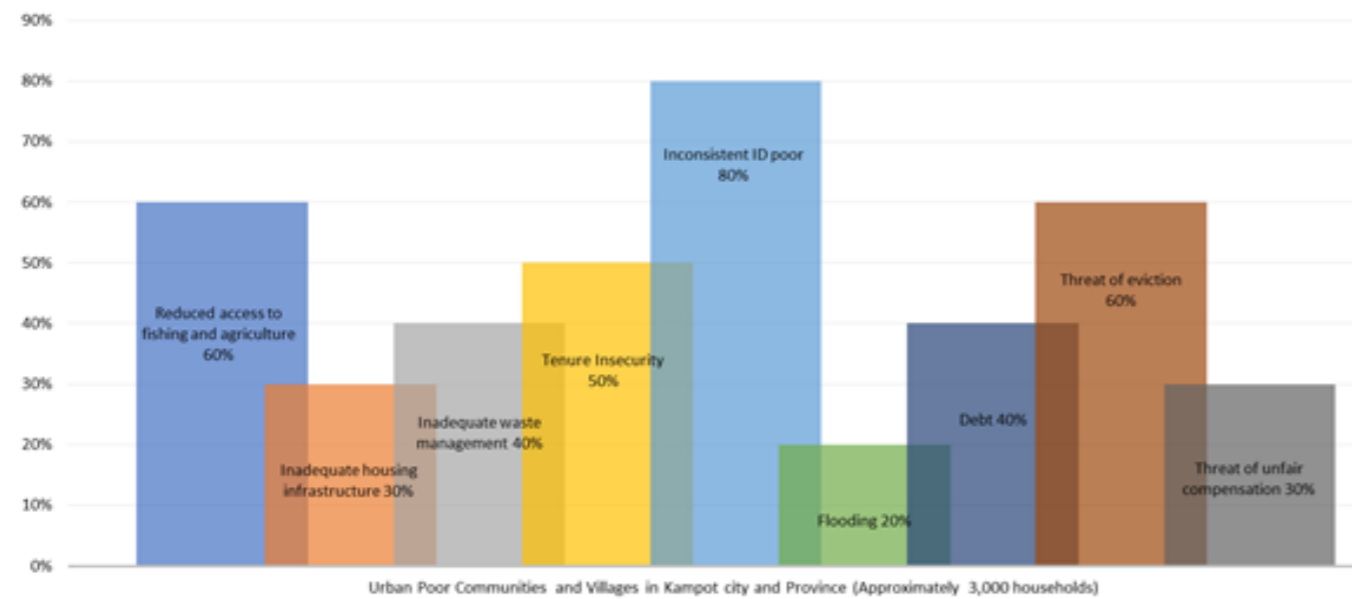


Figure 14 - Challenges faced by urban poor communities and villages in Kampot city and province

The communities of Kampot are navigating a situation still fraught with concern. The notion of eviction looms as the city undergoes a process of gentrification, and the riverside areas become increasingly privatized, notably to make way for tourism-oriented resorts.

In Angkal, the anxiety is particularly palpable as residents face the potential threat of displacement. This fear is compounded by the absence of any form of tenure security. The community will have to confront the reality of having no legal claim to their home, as the area is already starting to feel the influx of speculative practices.

As with most case study areas covered by this report, survey results for Kampot indicate a high level of ID poor inconsistencies (no-access and unawareness).



Picture 28 - A bridge in Angkal is submerged by the waterway

Sihanoukville City

The contemporary landscape of Sihanoukville is marked by the relentless displacement of the urban poor, who are being driven out due to economic forces and mounting pressures from real estate and land speculation⁶¹. Many inhabitants today were drawn to Sihanoukville by the real estate boom in 2018, with financial aspirations. Some of these communities now find themselves living on private state land or on the peripheries of private land concessions. While a few may have informal agreements with landowners permitting temporary residency, others have no such agreement, living with the constant awareness and fear that they could be displaced at any moment.

Sihanoukville experienced a real estate boom in 2017-18, fuelled by a surge in Chinese investment, online gambling, and anticipated growth in Chinese tourism. This led to a sharp increase in land and property values, along with real estate speculation. The ban on online gambling and subsequent crackdown by China on these activities, coupled with the COVID-19 pandemic, caused a market implosion. Many buildings were left vacant, and rapidly deteriorating⁶².

Sihanoukville city's peripheral communes, such as Bet Traing, are set for significant transformation. In January 2024, a consortium of both local and international developers announced another ambitious real estate project: 'Sihanoukville Royal Heritage Village' project, a planned luxury tourism investment of \$1.8 billion over 200 hectares⁶³.

This announcement aligns with the government's recent implementation of the Special Investment Promotion Program (see figure 15), which includes efforts to revive 362 buildings left incomplete due to investment shortfalls during and after the pandemic. The 'Invest in Preah Sihanouk Province 2024' campaign reflects a strategic push to fuel economic development across industrial, tourism, and investment sectors

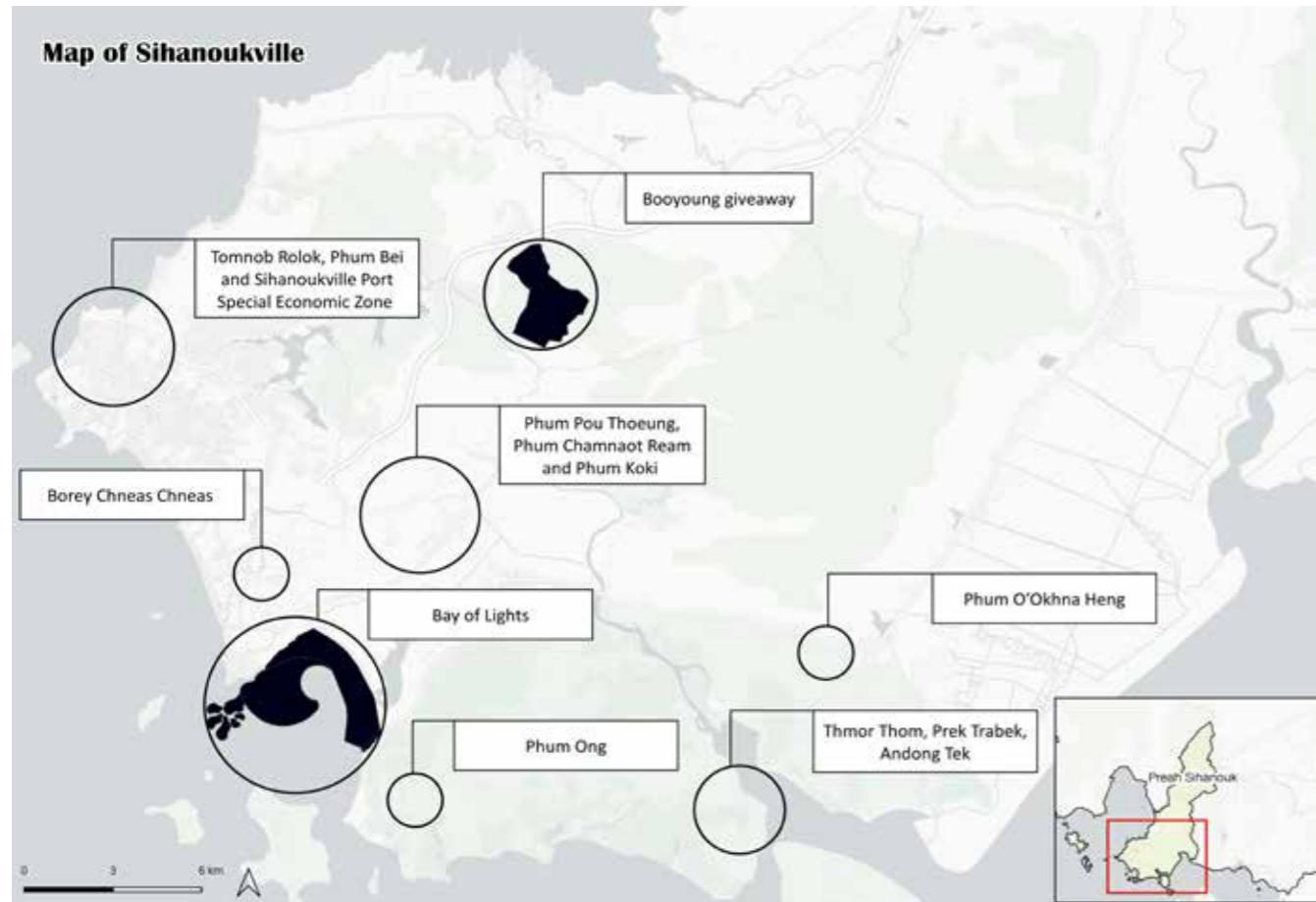
within the province. In January 2024, the Prime Minister announced a list of measures to attract FDI in the hopes of securing more than one billion dollars' worth of investments⁶⁴.



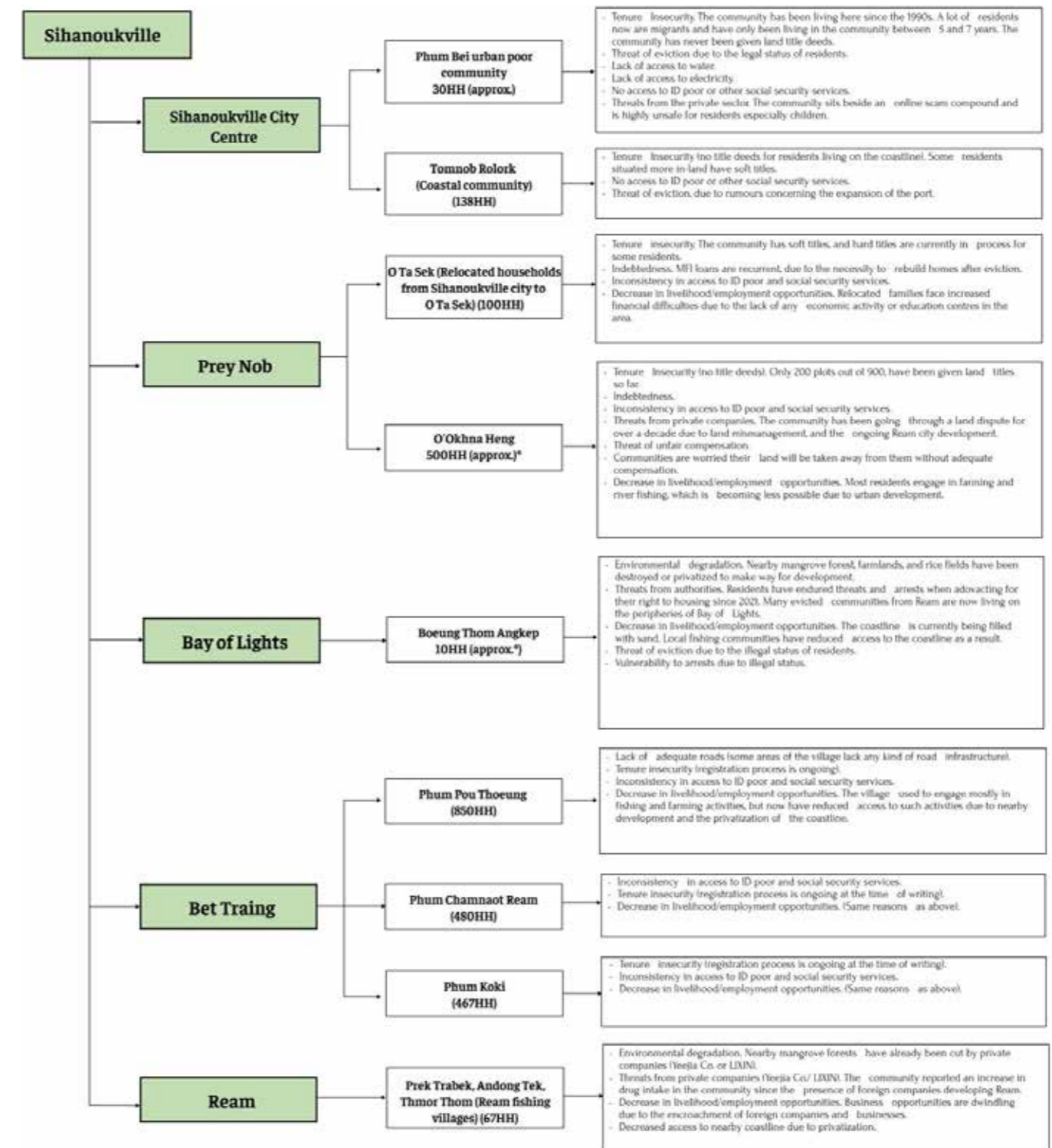
Figure 15 - Letter from the Cambodia's Chamber of Commerce of Sihanoukville Province sent to the Ministry of Economy of Finance, requesting a resolution for any building that lacks investment in Sihanoukville. July 2022.

⁶¹ Violence and the making of land subalternity in Sihanoukville, Cambodia. Fauveaud, 2021. https://www.jssj.org/wp-content/uploads/2023/12/jssj_18_fauveaud_en.pdf
⁶² SIHANOUKVILLE. A HUB OF ENVIRONMENTAL CRIME CONVERGENCE. Global Initiative, 2022. https://globalinitiative.net/wp-content/uploads/2022/09/GI-TOC-report_Sihanoukville_For-upload.pdf
⁶³ \$1.8 billion tourism development plan slated for Sihanoukville. Khmer Times, 2024. <https://www.khmertimeskh.com/501423441/1-8-billion-tourism-development-plan-slated-for-sihanoukville/>
⁶⁴ Letter to create a working group for establishing the investment promotion of Sihanoukville. Economic Social, and Cultural Council, January 2024. https://www.ecosocc.gov.kh/images/regulations/1707186763_សំបុត្រស្តីពីស្រុក_27_2024.pdf

Several urban poor communities are scattered in the eastern side and peripheral areas of the city, lacking fundamental utilities such as water and electricity, as well as any form of secure land tenure. The city's 150-plus casinos benefit from uninterrupted access to essential services and connectivity, highlighting a severe disparity in the distribution of resources and infrastructure.



Map 8 - Map of Sihanoukville. Source: LICADHO/ STT 2024





Picture 29 - Workers leaving the Sihanoukville Special Economic Zone at 5pm on a Friday, in February 2024

Borey Chneas Chneas and O Ta Sek – Violence and frustration in Sihanoukville’s relocation sites



Picture 30 - Communities in and around Borey Chneas Chneas lack crucial infrastructure, such as roads, January 2024

Borey Chneas Chneas and O Ta Sek in Sihanoukville epitomize the distressing aftermath of aggressive land grabs and forced evictions, a result of speculative real estate dealings and collaborations between local authorities and foreign investors. These areas now serve as resettlement zones mainly for those who once lived by Otres beach and Koki village, prior to their displacement.

The Borey Chneas Chneas relocation site⁶⁵, is situated on a hill where luxury real estate and condominiums are planned. Evictees who previously resided in Otres market, (some of whom had been there since 1993), found themselves allocated to parcels of land on this hillside without proper documentation, only holding provisional titles to 10m by 20m plots. During interviews, residents recounted a harrowing eviction process marked by intimidation and pressure to vacate. Community members also recount inconsistent compensation: communities with personal proximity to authorities often managed to secure higher financial packages.

The relocation process has also been worsened by insufficient infrastructure. For a period, the resettlement site lacked even the most basic amenities like running water and electricity, with only partially constructed roads. Many residents have had to take out loans to build their homes and pay for utilities themselves. The ground level area, known as Village 18, is particularly difficult to walk through due to the absence of roads (see picture 30), complicating daily life for those trying to maintain livelihoods, such as food vendors having to commute daily to the city centre⁶⁶.

The atmosphere in Borey Chneas Chneas is filled with tension. Residents live with a pervasive fear, reluctant to voice their concerns due to the presence of company staff who patrol the site, seemingly to silence any dissent. Reports of violent incidents between residents and company staff, including loss of life⁶⁷, have only heightened the community’s sense of insecurity and unease. This intimidation, combined with the difficult living conditions and the struggle for recognition and fair treatment, underscores the profound challenges facing resettled communities in Sihanoukville.

⁶⁵ The site is developed by Oknha Rathanak Sombath’s Fu Hai Investment Company.

⁶⁶ Village 18 constitutes a grouping of households that was part of the first wave of evictions. Initially, the area counted 18 households, now there are more than 45 households.

⁶⁷ During interviews, various residents recall finding deceased bodies in their neighbourhoods over the last few years

Tomnob Rolork, Poum Bei, Bet Traing villages – Sihanoukville’s urban poor communities and peripheral villages facing eviction, lack of services, and financial precarity



Picture 31 - Residents in Koki have started the SLR process in January 2024 and are now awaiting to be granted hard titles.

Bet Traing

Bet Traing is a commune, comprising of three villages — Koki, Phum Chamnaot Ream, and Phum Pou Thoeang — each facing its own set of challenges. In Koki village, the government’s land registration campaign has made strides, with several residents securing hard titles for their properties as recently as January 2024 (see picture 31), a significant step towards land ownership formalization. The construction of roads around Koki, spurred by the adjacent Bay of Lights development, signals infrastructural advancement. Yet, many residents, especially on the periphery, still live without access to state water and electricity.

Phum Chamnaot Ream, with its history of being a fishing community, has seen its character alter drastically due to the nearby coastal reclamation projects such as the

Bay of Lights and Ream city developments. Fishermen from the village have mostly given up on fishing, and access to the coast is now restricted due to privatization, compelling villagers to seek new means of livelihood⁶⁸.

Phum Pou Thoeang, frequently affected by flooding, faces infrastructural deficiencies, particularly the roads. Despite these challenges, its proximity to the Sihanoukville Special Economic Zone provides employment for many villagers, either directly in the over 170 factories⁶⁹ or indirectly through home renting to migrant workers. FGDs with factory workers indicated positive perspectives with regards to factories being able to provide long-term employment. Many interviewees claimed this is the kind of investment that they would like to see more of.

⁶⁸ According to interviews, new means of livelihoods either revolve around factory work, or expanding homes to offer one or two rooms for rental, for temporary factory workers.
⁶⁹ The 11.13 km² Special Economic Zone withholds mostly Chinese factories principally producing textiles, garments, luggage, leather goods, and wood products. So far, the area has more than 170 enterprises but is set to accommodate more than 300 enterprises in the future, with the aim of employing 80,000 to 100,000 workers. Sihanoukville Special Economic Zone in Cambodia, 2024. <http://www.ssez.com/en/company.asp?lone=3>



Picture 32 - Phum Bei urban poor settlement in February 2024

Phum Bei

Phum Bei, (see picture 32) an urban poor community within Sihanoukville city centre, starkly contrasts with the surrounding urban area. It is located a few hundred metres from the Snake Island bridge. Some residents have called this community home since 1996, while others have arrived more recently, each seeking refuge in a place that lacks even the most fundamental utilities. Without any land tenure security, residents suffer from

the constant threat of eviction. Adding to this struggle, the multi-story building complex adjacent to the community has been taken over by a Chinese online scam business. This adds layers of security concerns for the community, as these buildings often set the scene for violence and suicides. Local NGO M'lop Trapaing provides some relief by offering educational opportunities to children in the community.

Tomnob Rolork

The Tomnob Rolork fishing village, situated beside the new port and the Japanese Economic Zone, is bustling with migrant workers seeking jobs in fishing trawlers. Most residents rent rooms and houses for about \$50 per month, and the community's tenure situation is complex. Homes along the coastline and over the

water on stilts are still unregistered, hinting at a possible government-led development project, while those along the roadside have gone through recent registration, with receipts as proof of purchase, or soft titles. Amidst rumours of the new port upgrade, the residents live in uncertainty, as it is still unclear whether the port will be developed and expanded.



Picture 33 - Tomnob Rolork, Sihanoukville. 2023

Picture 34 - Waste landfill in the Booyoung development area, polluting the air with toxic fumes near Stung Hav. January 2024.



Smoked out in Stung Hav

Within an area allegedly being developed by Booyoung company⁷⁰ in Stung Hav, squatter communities are contending with the environmental consequences of a landfill that started escalating in January 2024 (see picture 34). The landfill's expansive reach has raised concerns and questions about the decision process regarding its location. According to interviewed residents, there is a local belief that the authorities have strategically selected this site for the landfill to get settlers to move away.

This approach, the community suspects, is a method to circumvent the need for formal eviction processes and the associated compensation payments that would typically be required for relocating established residents. The lack of clear accountability for the landfill's placement only adds to the residents' unease and the tension within the area, as they face the environmental and social repercussions of living adjacent to a growing waste disposal site.

⁷⁰ South Korea's Booyoung seeking investment opportunities in infrastructure and transport in Cambodia. Khmer Times, 2023. <https://www.khmer-timeskh.com/501248855/south-koreas-booyoung-seeking-investment-opportunities-in-infrastructure-and-transport-in-cambodia/>

The Bay of Lights – Coastal land reclamation in Sihanoukville

The March 2024 Annual Investment Meeting congress in Abu Dhabi, saw the presence of representatives from Prince's Bay of Lights⁷¹ coastal reclamation project. The Bay of Lights is a \$16 billion coastal development venture, planned by a Singaporean firm⁷² and overseen by the Canopy Sands Development Company, a member of the Prince Holding Group. At the time of writing, the country's first USGA-certified coastal golf course is under construction, on what was once a local village's

fishing area⁷³. The 18-hole golf course, earmarked for completion in 2027, will serve as a sponge for foreign investors wishing to contribute to Sihanoukville's relentless coastal reclamation.

Picture 35 - The Bay of Lights sand filling, as of January 2024.



⁷¹ Canopy Sands Development Co., Ltd. the Bay of Lights developers are listed as exhibitors in the 2024 AIM meeting website. <https://aimcongress.com/exhibitors-2024>

⁷² Prince Group Unveils Sustainable Development Masterplan by Surbana Jurong for Ream City in Sihanoukville. Surbana Jurong, 2023 <https://surbanajurong.com/resources/news/prince-group-unveils-sustainable-development-masterplan-by-surbana-jurong-for-ream-city-in-sihanoukville/>

⁷³ After Lake Gifted to Powerful Couple, Current Residents Face Upheaval. VOD, 2020. <https://vodenglish.news/after-lake-gifted-to-powerful-couple-current-residents-face-upheaval/>

Today, numerous families reside in the peripheral areas adjacent to the Bay of Lights project, a predicament precipitated by forceful evictions and the destruction of their homes, that occurred for the most part prior to 2021. Researchers conversed with a group of about 10 squatters who recounted their displacement from Phum Ong, Ream, in 2017. These individuals were compelled to accept modest compensation and relocation to desolate plots of land, devoid of economic opportunities. They now strive to maintain their livelihood through fishing, yet the sand filling operations in the area are depleting marine resources such as crabs and fish, exacerbating their already precarious living conditions.

Directly across from the Bay of Lights, a community of fishermen, comprising 50 to 60 families, have built their homes in 2019 on the shoreline, overlooking the sand infilling. The majority are former inhabitants of Phum Ong Krav, in Ream, who have also witnessed the destruction of their homes. These families were instructed to relocate to O Channa⁷⁴, where they were offered small plots measuring 5 by 20 meters, along with a compensation of \$1,000. While much of the community had to agree to this arrangement, one individual who resisted the move was left without any compensation. Amidst the negotiation phase in 2019, four community representatives were arrested and held in temporary detention, highlighting the nature of the relocation process.

Picture 36 - Communities in Sihanoukville, engaging in fishing near Ream, 2023.



⁷⁴ Sometimes written O Cham Na.

Ream and O Oknha Heng – Land conflicts, court cases, and the planned development of Ream city

Ream

Lixin Group, one of Ream’s most prominent real estate developer was granted 2,377 hectares⁷⁵ in 2007. The Lixin Group’s concession, today, is largely undeveloped, and inaccessible due to guarded boundary lines. On the 14th of March 2024, Lixin Group’s Facebook page posted an ambitious AI generated image (see figure 16), potentially in the hope to attract investment to the region. Displaying images of perceived urban modernity is a recurrent strategy used by developers in Cambodia to attract investment, despite not being in line with real plans⁷⁶.

Ream is situated on the south-eastern side of Sihanoukville and is slated for numerous real estate development projects, foreign and locally funded. Some have been approved and ongoing for more than a decade, while others

have only recently been given the green lights. Yeejia⁷⁷, another of Ream’s large coastal tourism development was approved almost 20 years ago. It was reportedly cancelled by Royal Decree in 2010, and then re-started. The Yeejia area covers the southern end of Ream and part of the adjacent island.

Between Ream and the Bay of Lights, lies the Platinum Coast luxury real estate development project, a joint-venture between Chinese-owned company Honchen and Lixin Group. Presently, two hotels that form part of the emerging Ream City have been completed. In conversation, the hotel manager expressed confidence in the project’s completion within the next decade. ‘We are looking for investments. Would you like to buy a condo?’⁷⁸

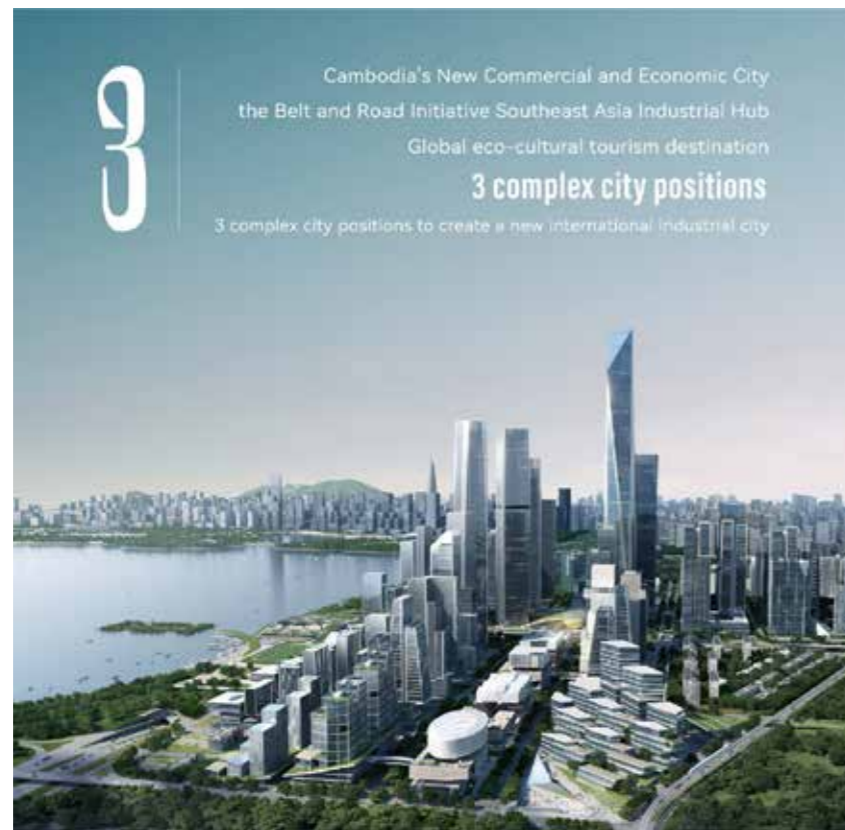


Figure 16 - Cambodia's New Commercial and Economic City. Source: SNC's Facebook Page, 2024.

The vision for Ream City from Platinum Coast’s point of view⁷⁹ is quixotic, with plans for a collection of boreys, villas, and resorts outlined in the project’s blueprint. Amidst these ambitious developments, local communities situated within the boundaries of this proposed expansion are engaged in a struggle to retain their land and homes. These residents are determined to preserve what remains of their rights to land and housing and wish to maintain their way of life against the backdrop of the looming construction projects.

The concessions granted to Yeejia, Lixin, and Platinum Coast have become the source of frustration for the indigenous fishing communities and long-standing residents of the area.

In the villages of Prek Trabek, Andong Tek, and Thmor Thom, 67 families have endured protracted disputes with Yeejia. Although the severity of these disputes has lessened over time, the communities remain entangled in ongoing challenges. The infringement of

local developments has restricted residents’ access to their coastline, as is evident in places like Prince Island where even locals are subject to entry fees. Moreover, a troubling drug problem has surfaced in the wake of Yeejia’s operations in Ream, with community elders lamenting the increased exposure of narcotics to the younger generation since the presence of foreign companies⁸⁰.

The daily lives of these residents have been significantly altered. Conducting business has become more challenging for locals as foreign corporations have set up their own enterprises within the bounds of the national park, encroaching upon the economic opportunities that were once available to the community.



Picture 37 - Development plans as part of Platinum Coast, as pictured on the walls of Platinum Coast hotel, 2024.

⁷⁵ Cambodia’s Concessions. LICADHO, 2023. https://www.licadho-cambodia.org/land_concessions/

⁷⁶ Interview with real estate expert, January 2024.

⁷⁷ The leading company behind the project is Yeejia Tourism Development Co Ltd., a subsidiary of Unite International Cambodia Co Ltd.

⁷⁸ Interview with Platinum Coast hotel manager, January 2024.

⁷⁹ Development plans differ and overlap when comparing Platinum Coast, Yeejia, and Lixin. It is very difficult for anyone to decipher concrete development plans, especially as developers’ vision often contradicts the Sihanoukville Master Plan.

⁸⁰ Interview with local communities.



Picture 38 - Mangroves along Prek Trabek village in Ream are at risk due to development plans. February 2024

On the other side of Ream, near the Samathi Pagoda, a rush for land has occurred in recent years and local Oknhas have started razing trees and forest to make way for luxury resorts, once again in the hope of profiting from a supposed tourism boom in the next decade or so. In January 2024, an elderly lady living near the Samathi Pagoda is concerned about the prospect of her home being poached or destroyed by

authorities if she leaves the premises even for a few minutes. 'I need to stay here always. I ask my grandson or family members to do the grocery shopping for me. I am afraid that if I leave my home, even for a short period of time, it will not be there when I come back.'⁸¹

⁸¹ Interview with community member, January 2024.

O'Oknha Heng

On the mainland across Ream, O'Oknha Heng is a commune experiencing land conflict grievances, the repercussion of a two-decade old incident⁸², involving a 1993 Taiwanese land deal and ensuing chaos regarding ownership of the land.

O'Oknha Heng falls within the confines of the development of Ream city, as the area is set to be developed for the construction of a road, linking the south-eastern side of the province to the western side of Ream.

The road from the village is being expanded 12 metres to provide a better connection from the area to Ream. Three villages from O'Oknha Heng until O Ta Pang will be affected⁸³. In total, 4 communes will be poached, and become part of Ream city. Residents of O'Oknha Heng are frustrated from the situation, claiming authorities do not allow them to develop or expand their homes, as the land is not theirs. There have been a few reported incidents of violence over the last few years; the residents only wish to be granted land titles. So far, 200 out of 900 land titles have been granted to the community – and the authorities are refusing to provide anymore – hinting at the idea that a lot of these households are on the way of the development plans.

⁸² Probe launched into land row involving 500 families. Phnom Penh Post, 2020. <https://www.phnompenhpost.com/national-post-depth/probe-launched-land-row-involving-500-families>

⁸³ Angdong Thmor, Oh Trojeak Jet and Bat Kteas.

Overall trends

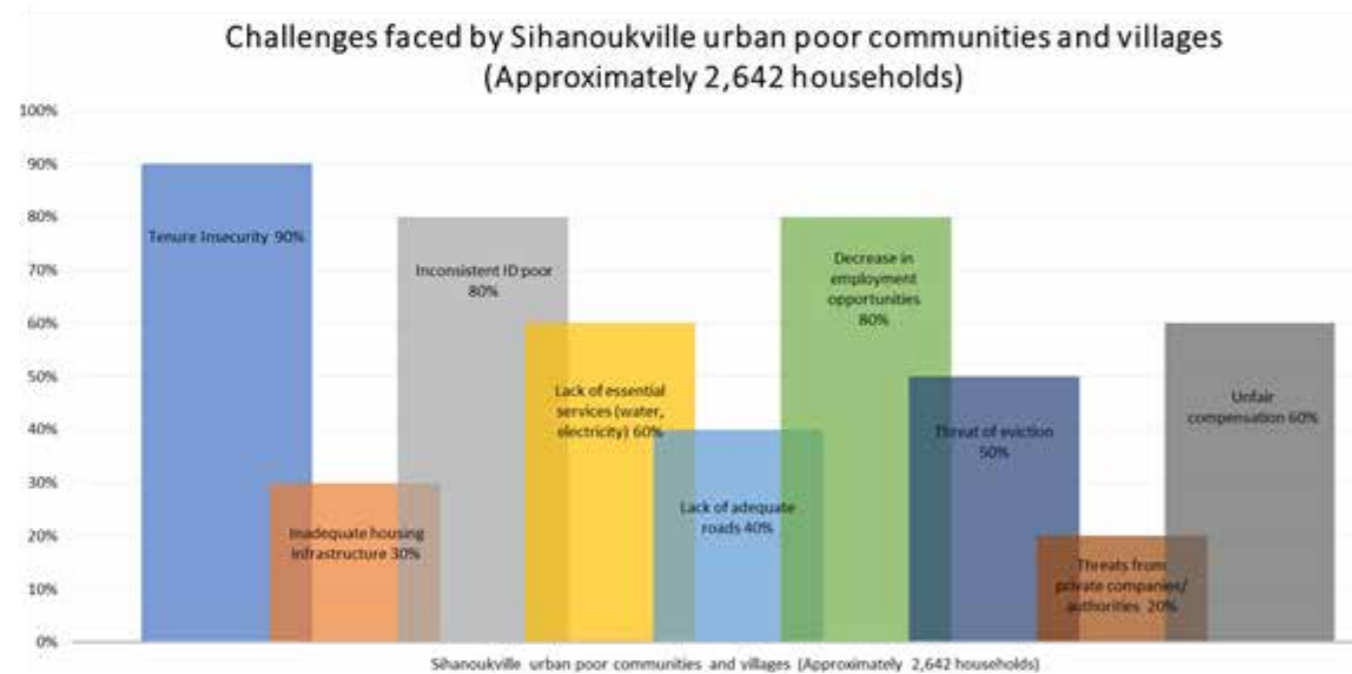


Figure 17 - Challenges faced by Sihanoukville urban poor communities and villages

Sihanoukville is currently under considerable pressure to improve land tenure security throughout its communes. It is imperative that the surge in investment and infrastructure projects does not occur at the cost of resident communities' livelihoods, regardless of whether they have inhabited the area for an extended period or are deemed squatters. In recent years, many residents have moved to Sihanoukville, especially during and after the real estate boom of 2017-2018. This influx has created a surge in settlers seeking affordable housing. Many of these settlers reside on land they do not own but have been permitted to live on for a low fee by the landowners. As the government proceeds with its plans for the city's renewal, it is crucial that the needs of the urban poor are prioritized.

Communities on the outskirts of the city continue to contend with subpar housing and a shortage of fundamental infrastructure, such as adequate roadways, and most notably, connections to essential utilities like water and electricity. 60% of the urban poor in Sihanoukville are deprived of access to municipal water supplies. This is a clear indication that the surge of investments in recent years have not been directed enough towards residents, who wish for job and housing security, and inclusion into the economic life of the city.

Conclusion

General perceptions across Phnom Penh, Kandal, Kampot, and Sihanoukville

Part of the survey was designed to capture the prevailing concerns regarding local urban development among respondents. One of the survey's questions was 'are you aware of the master plan in your region?'⁶⁷ This

question aimed to measure the level of community knowledge and understanding of the potential impacts that development projects might have on their lives and on their right to adequate housing.

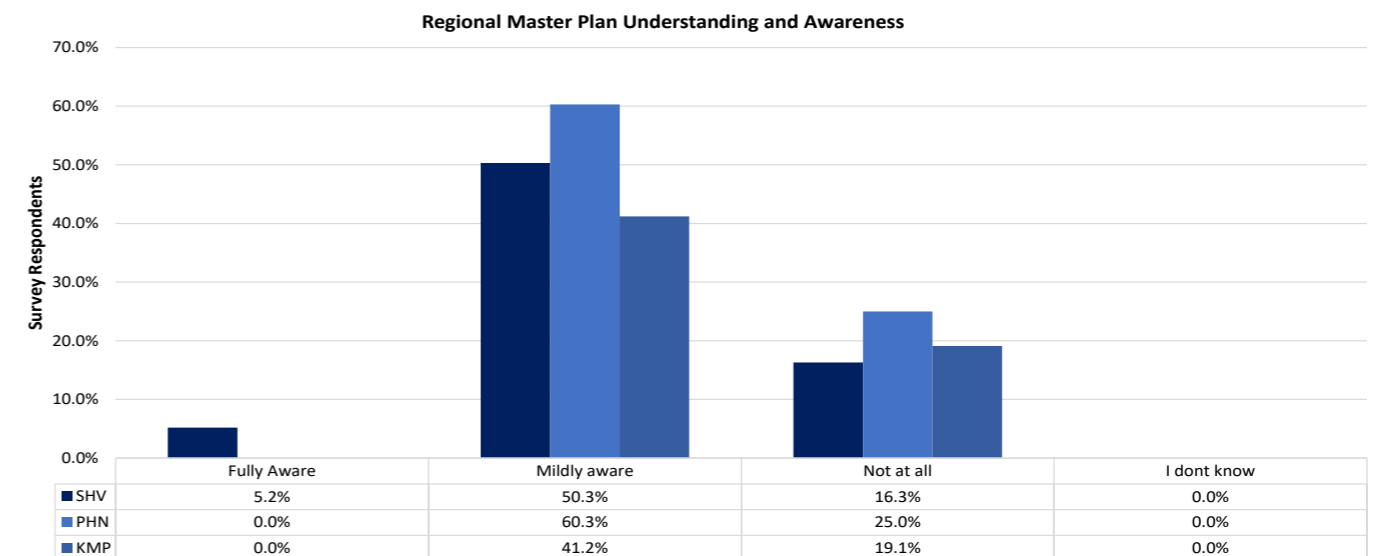


Figure 18 - Regional Master Plan Understanding and Awareness

2% of the total 377 survey respondents reported having a comprehensive and full understanding of the master planning for development projects planned in their immediate area. During follow-up discussions, it became clear that the vast majority receive sporadic and unreliable information, often via social media. Transparency in the development sectors is key in enabling at-risk communities to shape effective advocacy strategies – a major tenet of inclusive development. It is essential that local governance bodies, especially at the commune level, are equipped with the necessary information and the ability to effectively disseminate it to their constituents.

In 2001, the government adopted the Decentralization and Deconcentration strategy (D&D) – a project funded

by the Asian development Bank⁸⁵ to enhance the role of the commune through a series of local elections every five years. While the emphasis of the D&D revolves around local level fiscal management⁸⁶, the commune should also take a more active role on information dissemination. By doing so, they can motivate community engagement and participation in shaping the investment environment at the regional scale, ensuring that development aligns with the needs and aspirations of the people it is meant to serve.

Additionally, there is a compelling need for the private sector to adopt a transparent approach by openly sharing their project plans and actively involving the community⁸⁷ during social and environmental impact assessments⁸⁸. Concerning private sector data that

⁸⁴ In the case of any misunderstanding, the interviewer spent time explaining the question to the respondent to ensure consistency.

⁸⁵ Cambodia: Commune Council Development Project. Asian Development Bank, 2013 <https://www.adb.org/documents/cambodia-commune-council-development-project-0>

⁸⁶ Decentralization and Deconcentration (D&D) Reforms Bring Public Service Delivery Closer to People in Cambodia. World Bank, 2022 <https://www.worldbank.org/en/country/cambodia/publication/decentralization-and-deconcentration-d-d-reforms-bring-public-service-delivery-closer-to-people>

⁸⁷ It is useful to note here that the Cambodia-Republic of Korea Friendship Bridge in Phnom Penh, covered earlier in this report is a good case in point as the government of Korea has already started engaging local civil society and communities as part of a multi-stakeholder consultation process.

⁸⁸ All projects in Cambodia must complete an EIA. Sub-Decree N 72 on 'Environmental Impact Assessment Process', 1999.

is publicly accessible, it is typically fragmented, and distributed through platforms such as Facebook, which presents its own set of challenges for comprehensive public access and understanding.

FDI Growth with a Commitment to Human Rights

This report illustrates the mounting pressures on tenure and tenure security across cities in Cambodia. Beyond Phnom Penh, secondary cities are increasingly affected by new dynamics of urban development.

The recent developments surrounding the Prek Funan canal signify a shift in strategy that Cambodia will have to navigate when it comes to tenure security. Traditionally affected by agro-industrial development and concession-granting, rural and peri-urban communities now face threats to their livelihoods and land due to urban projects and initiatives aimed at enhancing connectivity to urban centers, exemplified by the canal. These territorial transformations are creating insecurity for urban and semi-urban communities, introducing new profiles of victims experiencing heightened pressures and vulnerabilities to their right to land.

As Cambodia continues to pivot towards a market-driven development model, the influx of FDI, and other forms of local and private investments, can be a sign of economic vitality. However, this can also pose profound challenges for the urban poor, who are frequently marginalized when it comes to housing, job security, and basic access to essential services such as road infrastructure, water and electricity. This report has highlighted the critical juncture at which Cambodia stands: the potent promise of its legal framework to guide economic development, resettlement and eviction practices, juxtaposed against the necessity for its refinement and enforcement.

With Cambodia's goal to ascend to high-income status by 2050, it is incumbent upon the Cambodian government to ensure that legislative instruments, designed to indemnify those displaced by development, are not merely symbolic. They must be applied and enforced to preserve livelihoods and prevent the exacerbation of poverty.

For Cambodia to achieve sustainable development, the government must prioritize environmental protection and refrain from converting the

nation's limited coastlines, rivers, and lakes into resorts and luxury real estate projects. Independent watchdogs must closely monitor cases of violence in relocation sites or areas undergoing eviction, ensuring that communities, whether in Sihanoukville or around the new Kandal Airport overseen by OCIC, are free from threats or intimidation, regardless of the legal status of the land they occupy. Additionally, communities across Cambodia are deprived of essential services. To address this, all investment projects must conduct thorough assessments and evaluations of their potential social and environmental impacts, both immediate and long-term, before finalizing deals with the government. The Cambodian government should develop a policy of social responsibility for foreign investments to safeguard the well-being of its citizens.

Picture 39 - Prek Takong 60 metres community, affected by the ING City project



Recommendations

The following recommendations are submitted to the Royal Government of Cambodia. They are provided to assist the Government to regulate land use in a clear and fair manner, improve business practices and to create a more inviting business environment for international businesses, and are based on the principles of law found within Cambodia's international obligations under treaties that Cambodia is a party to.

While recommendations aim to be as specific as possible, they often interpret multiple laws and policies to reach a conclusion. The recommendations are grouped thematically and cover the following areas:

- Public property and public interest;
- Compensation and relocation;
- Good governance and the committee system;
- The right to property and the right to housing and;
- Human Rights Due Diligence.

If adopted, the recommendations will improve the rights of all Cambodians, increase business opportunities within the country, especially for international businesses, ensure greater environmental protection can be achieved, and help Cambodia achieve implementation of human rights pertaining to land and housing.

Public property and public interest recommendations

Relevant laws and regulations:

- Land Law (2001)
- Sub-decree No 118 on State Land Management (2005)
- Royal Decree No. 339 (2006) 'Provisional Guidelines and Principles Regarding the Reclassification of the State Public Properties and of Public Entities'
- Sub-Decree No.118 on the Rules and Procedures on Reclassification of State Public Properties and Public Entities (2006).
- Sub-Decree on River Basin Management (2015).

Recommendation 1

State public property should be clearly demarcated and accessible through an online, free database.

- The Ministry of Land Management should undertake a project to develop an online, publicly accessible and free, database that provides access to all state-held property. Funding should be allocated for this purpose and development partners may seek to co-fund this project.
- Article 17(d) of Sub-Decree No.118 on the Rules and Procedures on Reclassification of State Public Properties and Public Entities (2006) should be amended to reflect public access to the online database and should be made freely accessible.

State public property is any property held by the state on behalf of the people of Cambodia because of its 'public interest use'.⁸⁹ This includes places like rivers, public parks, hospitals and schools. However, there is often a lack of clarity about what land is and is not public property, especially where the land has a natural origin,⁹⁰ like lakes, forests and rivers.

This lack of clarity about state public property has contributed in part to the resettlement of private citizens who had previously, and often unknowingly, occupied state land. Article 15 of the Land Law (2001) provides an open-ended definition of property types that fall within the scope of 'state public property':

Article 15

The following property falls within the public property of the State and public legal entities:

- Any property that has a natural origin, such as forests, courses of navigable or floatable water, natural lakes, banks of navigable and floatable rivers and seashores;
- Any property that is specially developed for general use, such as quays of harbours, railways, railway stations and airports;

- Any property that is made available, either in its natural state or after development, for public use, such as roads, tracks, oxcart ways, pathways, gardens and public parks, and reserved land;
- Any property that is allocated to render a public service, such as public schools or educational institutions, administrative buildings and all public hospitals;
- Any property that constitutes a natural reserve protected by the law;
- Archaeological, cultural and historical patrimonies;
- Immovable properties being royal properties that are not the private properties of the royal family. The reigning King manages royal immovable properties.

This is useful to the extent that it clarifies that some clearly bounded places, like 'railways' and 'airports', are state public property. But it is not clear on where boundaries begin and end for other areas like 'lakes' or 'forests'.⁹¹ For example, wetland areas provide 'courses of navigable or floatable water', but such conditions are not necessarily consistent or permanent. Rice fields are also susceptible to flooding during heavy rains. The Land Law, and subsequent legislation and policies, do not provide clear guidance on how the law is to be interpreted.

Sub-decree No. 118 enhances the understanding of state public property management by specifying what is considered state public property, detailing the classification procedure in Chapter 4, and mandating that all state land must be recorded in the 'Land Register' as stated in Article 3(c). Finally, the decree requires that public access to the Land Register be provided with the payment of a fee under Article 17(d).

Accessing the Land Registry is difficult in practice. Attempts made by researchers were often frustrated. Additionally, the process of retrieving public land documents is complicated for much of the population

who may be unaware of the law, unable to pay for the documents, or lack the technical expertise to understand them.

In addition, for groups with an interest in land holdings, such as real estate businesses, CSOs and NGOs working in conservation, the lack of a publicly accessible online data registry is counter-productive to their work. During discussions with real estate professionals and Cambodian lawmakers, researchers were told the government is reluctant to provide clear and free access to the land registry. This is due to the heightened potential of land grabs prior to development as a financial motive and therefore creating a heightened risk for speculation. This needs to be addressed as communities are suffering from the inability to effectively discern land perimeters. The release of a free land registry needs to be compounded with good governance and anti-corruption measures.

Human rights issues

The lack of clarity around boundaries and what is and isn't state public property presents a problem for persons living near areas that might be public property. This is the primary cause of community relocation in Phnom Penh and remains a serious concern for communities around the country who do not have title or any ownership documentation for their land.

Amendment and remedy:

Having reliable information is essential for communities facing uncertainty about their land rights. A public land registry would serve as an initial measure to clarify the legal status of land ownership for those communities. Additionally, for enterprises, public interest organizations, and Civil Society Organizations (CSOs) assisting communities with insecure tenure and those registered with the ID Poor system, the availability of a comprehensive and free online registry of all state public properties would significantly improve their access to necessary data. This would not only facilitate a more secure business climate but also enable public interest groups and CSOs to carry out their responsibilities more effectively in the public's interest.

⁸⁹ Land Law (2001), Article 16.

⁹⁰ Land Law (2001), Article 15.

⁹¹ Most details on boundary delineation can be found in the following decision, however in practice, most criteria can be open to interpretation, or disregarded in the advent of private interests: DECISION TO PUT THE TEXT ON CRITERIA FOR STATE LAND CLASSIFICATION AS AN ANNEX OF THE PRAKAS NO. 42 DNS.BK DATED 10 MARCH 2006 ON STATE LAND IDENTIFICATION, MAPPING AND CLASSIFICATION

Recommendation 2

To enhance transparency and accountability, it is important that the procedures governing the management of state public and state private property, as outlined in Sub-Decree No. 118 (2006), be made accessible to the public either through online publication or in an official governmental gazette. Similarly, decisions enacted pursuant to Royal Decree No. 339 (2006) must take into consideration the potential environmental, social, and human rights repercussions, and these decisions should also be publicly disclosed in the same manner.

Furthermore, the timeline for transitioning state public land to state private land should be standardized to a 12-month period, except in cases where urgent circumstances—such as those related to health or security concerns—justify a shorter waiting period. This standardization would ensure a balanced approach between necessary expedience and the opportunity for thorough review and public scrutiny.

Currently, there is little transparency in the process of transitioning state public property to private individuals and corporations, which has dangerous consequences for public safety and trust in governance processes. The ramifications of such lack of transparency upon international businesses and Foreign Direct Investment may be counterproductive for Cambodia in its aspirations for sustainable economic growth and competitiveness in the region. In addition, state public property serves important purposes for the whole of Cambodia, and to an extent, the Southeast Asia region. Natural resources like forests, lakes, rivers, and wetlands provide food, water, and can help mitigate some of the nefarious effects of climate change, like flooding and excessive heat.

Under the Land Law (2001), the sale of state public properties to private individuals and corporations is only legal where the property in question has lost its ‘public interest use’. Under Article 16, state public property that loses its ‘public interest use’ can be transferred to state private property, after which it can be sold.

Article 16:

- State public property is inalienable and ownership of those properties is not subject to prescription. ...
- When State public properties lose their public interest use, they can be listed as private properties of the State by law on transferring of state public property to state private property.

The process for transferring land from state public classification to state private classification is set out in Royal Decree No. 339 (2006) ‘Provisional Guidelines and Principles Regarding the Reclassification of the State Public Properties and of Public Entities’ and the Sub-Decree on the Rules and Procedures on Reclassification of State Public Properties and Public Entities (2006).’

A key issue that has been identified is that state public property is too often being transferred to state private property without transparency. It is not currently clear from any of the laws or policies what is meant by ‘public interest use’, and in what ways the ‘public interest use’ of state public property is assessed before decisions are made.

Environmental issues:

Over the last 20 years, more than two thirds of Phnom Penh’s lakes have been infilled, often using the process of transfer from state public property to state private property and then leasing the property to developers.⁹² The United Nations Special Rapporteurs on housing, the environment, and the situation of human rights in Cambodia, recently highlighted the issues with transferring state public property to private property without adequate impact assessment and public consultation in relation to ING City in southern Phnom Penh. The Public Communication discusses the reclassification of a wetlands and specifically notes that:

- [T]he wetlands are in the public interest to protect Phnom Penh and Ta Khmao from flooding, and in treating the waste water of Phnom Penh. They continue to perform both of these public interest functions and are vital in doing so.

The absence of a clear and transparent declaration detailing the criteria for determining the ‘public interest’ in the management of state public property poses a significant risk. If this process continues without proper public disclosure, it could lead to adverse environmental consequences and diminish public confidence in institutional integrity. It is crucial to establish and communicate a well-defined methodology for assessing the ‘public interest’ to prevent these negative outcomes and to maintain the trust and engagement of the community.

Amendment or remedy:

Safeguarding the environment is a critical responsibility of the Government. In adherence to its environmental legislation and international commitments such as the Ramsar Convention, the Government is mandated to implement measures for the preservation of environmentally significant areas. However, the current legal framework lacks transparency regarding how the Government fulfills this mandate in relation to state public property. This opacity could lead to environmental degradation and erode public confidence in governmental bodies.

To mitigate these risks and uphold its environmental duties, the Government must enhance the visibility of its decision-making processes concerning state public property. By incorporating comprehensive impact assessments that address environmental, social, and human rights concerns, the Government can demonstrate its commitment to environmental stewardship and reinforce public trust in its institutions. Transparent and accountable practices are essential for ensuring the protection of the environment and maintaining the credibility of governmental operations.

Compensation and relocation recommendations

Relevant laws and regulations:

- Land Law (2001)
- The Law on Expropriation (2010)
- Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law. (2019)

Recommendation 3

When compensation is required under The Law on Expropriation (2010) it should be based on market-value, and an Annex should be added to the The Law on Expropriation (2010) that outlines the process for calculating the market-value, and ensure a minimum amount of compensation to be paid to individuals with an interest in land.

There is a lack of transparency and consistency in the compensation process for persons affected by expropriation of property. The need to simplify the compensation process is important for communities, businesses, and the Government. Compensation processes are likely to continue, especially as FDI inflow and infrastructure projects increase. The need to balance the benefits of business, economic growth and infrastructure against the compensation of individuals requires sufficient clarity so as to promote a simple and fair system to ensure rights holders are not unjustly aggrieved and development is not slowed by lengthy mediation processes.

Land Law 2001:

- Article 5
No person may be deprived of his ownership, unless it is in the public interest. An ownership deprivation shall be carried out in accordance with the forms and procedures provided by law and regulations and after the payment of fair and just compensation in advance.

Law on Expropriation 2010:

- Article 8
The state shall buy any part of the immovable property remaining after the expropriation for fair and just compensation as proposed by the immovable property’s owner and/or holder of real right to the immovable property who cannot live near the project area or cannot build a residence or conduct any businesses.
- Article 22
The amount of compensation to be paid to the owner of and/or holder of real right to the immovable property shall be based on the market price or replacement cost as of the date of the issuance of the declaration on the expropria-

⁹² Smoke on the Water. Sahmakum Teang Thaut, 2018

tion project. The market price or the replacement cost shall be determined by an independent committee or agent appointed by the Expropriation Committee.

Current practice is inconsistent:

An analysis of compensation for relocation in Phnom Penh over the past 20 years has found that there is little consistency in the processes⁹³. Inconsistency may lead to compensation disputes where aggrieved parties seek more compensation, rightly or wrongly, because the process is not clearly determined. Ensuring fair compensation is paid requires a transparent system which clearly demonstrates the processes for calculating compensation rates.

Current practice does not align with international best practice:

The present approach seems to be at odds with globally recognized standards. When discrepancies arise between the policies of international organizations and the practical policies implemented by the Government, it can lead to a climate of unpredictability that may deter international businesses from investing in Cambodia. For instance, when the Japanese International Cooperation Agency (JICA) executes projects in Cambodia, it is obligated by its own policies to offer compensation for land use affected by its projects, even in situations where such use may not align with Cambodian legal definitions⁹⁴. This requirement by JICA exemplifies the potential conflict between international standards and domestic policy, underscoring the need for harmonization to ensure a stable and attractive environment for foreign investment and cooperation.

- “[T]he land occupation and use are illegal, compensation will be necessary, based on JICA environment and social guideline.”⁹⁵

This same inconsistency may be found across a range of international businesses, especially where the

international law and home-country law requires human rights due diligence and the payment of compensation based on human rights impacts. Inconsistencies between the law in Cambodia and the obligations that international businesses face may discourage investment by creating a business environment that is murky.

Even where the payment of compensation is not controversial, the amount can be. Businesses may find it difficult to calculate costs when facing projects where compensation is not clearly understood and where the “land value” is temperamental.

Developing a transparent compensation model that details the adjudication procedures and specifies the methodology for calculating compensation could significantly bridge the gap between international standards and Cambodian domestic law. By incorporating safeguards to prevent potential corruption among officials, such a model would not only align more closely with global best practices but also foster a fairer and more predictable legal environment. This would diminish the conflicts that currently pose challenges for international entities operating in Cambodia, thereby enhancing the country’s appeal as a destination for international investment and collaboration.

Picture 40 - Kandal airport construction zone, June 2024.



⁹³ Sahmakum Teang Tnaut, ‘Eviction and Relocation’, 2020.

⁹⁴ For MDB/Development Agency loans, the borrower is responsible for ensuring that land acquisition meets the bank or agency’s standards. This includes conducting impact assessments, creating action plans, and properly applying relevant laws or establishing processes that meet the bank/agency standards if such laws are lacking. For individuals without legal claims to the land, the standards typically require that they are not made worse off and are provided with alternative housing that meets adequate standards, rather than necessarily receiving compensation.

⁹⁵ JICA, ‘Preparatory Survey Report on the Project for Sewerage System Development in the Phnom Penh Capital City in the Kingdom of Cambodia’, 2019, p 62.

Amendment or remedy:

A benchmark minimum amount of compensation should be outlined in an Annex to The Law on Expropriation (2010). The Annex should include a table that outlines minimum amounts to be paid in compensation for different types of property. In addition, the procedures for the independent committee, or agent, or Expropriation committee, should be outlined and should include calculating the compensation of any recent sales of property in the last 12 months within the immediate area.

Example table for minimum compensation.

Property/process of relocation	Minimum compensation to be paid
Farm land (1 ha)	1,000 USD
House	1,000 USD
House (primary dwelling)	1,000 USD
Farm land (1 ha) with immediate access to water supply such as well or river or lake	1,500 USD
Costs for relocation per family	800 USD
Costs for relocation where land was primary source of income	1,200 USD

This table should include calculations to increase the minimum amounts based on factors such as the increasing cost of living, based on regularly updated standards. This table should not be used to reduce the costs of compensation where market-value indicates a higher rate of compensation.

A commitment to transparency, fairness, and uniformity in land management can be realized through the official announcement of market values prior to any resettlement or land acquisition initiatives. Improving the governance of the compensation procedures will not only promote equality in these processes but also position Cambodia in line with international benchmarks for compensation practices. This proactive approach ensures that all stakeholders are informed and can trust in the system's integrity, thereby enhancing the overall legitimacy and effectiveness of land management policies.

Recommendation 4

Implement a 'one-year guaranteed transitional revenue system' for all evictees across Cambodia. Adequate compensation is a crucial and indispensable lifeline that allows evictees to rebuild a new home and reintegrate a potentially new community. However, the current eviction process is inconsistent, and communities often find themselves relocated in barren or remote areas, far from any economic activity. Evictees need time to re-integrate themselves and find new employment. The government should provide every evicted household with a guaranteed monthly stipend of \$350 per month, for one year – on top of existing social security mechanisms and compensation.

Compensation, whether through land, cash, a new house, or a mix of these, serves as an interim remedy. Communities require a period of adjustment after

relocation. Offering a monthly stipend for one year could serve as a social safety net, that could potentially be integrated into the existing ID poor framework or the National Social Security Fund (NSSF). The current ID poor system is a positive first step in the right direction, despite some discrepancies in implementation.⁹⁶

Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law, (2019):

- Article 13
Ensure the benefit provision of social security schemes to the NSSF members in a bid to alleviate the hardship of their livelihood when encountering the contingent risks—old age, invalidity, death, occupational risk, unemployment, maternity, illness or injury and other contingencies.

The following should be included in Article 13:

Evicted persons and households

Instigating an additional transitional income program could provide displaced communities, particularly those with traditional agricultural or fishing livelihoods, the opportunity to establish similar practices in new locations without the pressure to switch abruptly to different industries such as construction, which may not align with their skills or interests.

A guaranteed minimum \$350 per evicted household transitional revenue system would expand on Cambodia's Cash Transfer Program (CTP) that was put in place during the pandemic. This could have positive repercussions on Cambodia's image, and a much-needed lifeline for evicted communities while the country is pursuing economic diversification.

Good Governance and the committee system recommendations

Relevant laws and regulations:

- Land Law (2001)
- The Law on Expropriation (2010)

Recommendation 5

Committees set up under The Law on Expropriation (2010) should be representative, accountable, and transparent. To achieve this, the Expropriation Committee (Article 11), the Independent Committee (Article 22), and the Grievance Redress Committee (Article 32), should be constituted based on a set of principles outlined in a sub-decree to prevent corruption.

In their current form, the Expropriation Committee (Article 11), the Independent Committee (Article 22), and the Grievance Redress Committee (Article 32) are vulnerable to corruption and lack transparency in their appointments and processes. A sub-decree should be published to clearly outline the processes for formulating the various committees, and for the process and procedures that the committees should undertake.

The committees have a variety of responsibilities including but not limited to:

- oversight of expropriations in the public interest,⁹⁷
- determining the compensation to be paid for expropriations,⁹⁸
- holding consultations with affected and interested parties, and⁹⁹
- promulgation of declarations and of expropriation.¹⁰⁰

Fulfilling these duties necessitates a high level of expertise to competently perform the required tasks and an assurance of autonomy to guarantee that the oversight of expropriations and the determination of compensation are impartial and equitable. Therefore, the enactment of a sub-decree that clearly defines the composition of the committees, their operational procedures, and the mechanisms in place to regulate and prevent corruption is essential. Such a regulation would enhance transparency, mitigate corruption risks, and refine the compensation processes, thereby advancing good governance practices in matters of public interest concerning expropriation.

⁹⁶ 'Sahmakum Teang Tnaut,' ID-Poor Program: The On-Demand ID-Poor from urban poor communities in Phnom Penh, 2022.

⁹⁷ Article 16, The Law on Expropriations (2010).

⁹⁸ Article 17, The Law on Expropriations (2010).

⁹⁹ Article 16, The Law on Expropriations (2010).

¹⁰⁰ Article 17, The Law on Expropriations (2010).



Picture 41 - Fisherman, behind AEON Mall within ING City, February 2024.

The following should be included in the sub-decree:

The committees should consist of persons appointed to independently assist in the execution of The Law on Expropriation (2010) under relevant articles.

- The committees should not consist of politicians or tycoons (Okhnas), or of persons who have connections to political parties or tycoons (Okhnas). A separate oversight body should be appointed to investigate the allegations of any connections to political parties or tycoons (Okhnas).
- The committees should not consist of any persons with an interest in the expropriation of land in which the committee is set up to oversee. An interest could be any of the following situations:
 - » A person who will benefit from expropriation of land.
 - » A person whose family members will benefit from expropriation of land.
 - » A person who will benefit from compensation paid for expropriation of land.
 - » A person who owns land that will be expropriated or is purchasing land that will be expropriated; or whose family members own land that will be expropriated or who is purchasing land that will be expropriated; or that is part of a corporation that owns or is purchasing land that will be expropriated; or whose family members are part of a corporation that owns or is purchasing land that will be expropriated.
 - » A person who sits on the board of a corporation that is involved in expropriation.
- If there is a perceived conflict of interest that arises because of a potential interest in land, such as those listed above, then this must be declared and made public knowledge before the appointment of a person to the committee. A separate oversight body should be appointed to adjudicate declared conflicts of interest and should publish conclusions of investigations for the public record.
- The committee members should be made known to the public and their qualifications should be made known to the public.
- Any decisions, reports, recommendations, or investigations, made by the committees should be published to encourage transparency and promote consistency in decision making by committees.
- In making decisions, the committees should be guided by a set of principles that includes considering any effect expropriation might have on human rights.
- In making decisions, the committees should be guided by relevant impact assessment processes required under various laws in Cambodia.
- In appointing persons to the committees, the aim should be to achieve gender parity. Where possible, the committee should aim to appoint persons with a disability. Where expropriation projects are near to or affecting indigenous lands, the committee should aim to appoint indigenous persons, but should not appoint persons with an interest in land to committees unless they are to be appointed as non-voting members of the committee.

In addition, the sub-decree should clarify that the survey produced under Article 16 should be published for review. Without the publication of this survey, there will exist some uncertainty as to how this process works.

Article 16:

- Within 30 (thirty) working days after the completion of the survey, the Expropriation Committee shall produce a report with recommendations and submit it to the Royal Government for approval.

The right to property and the right to housing

Recommendation 6

The law should prohibit the taking of physical deeds as collateral for loans. A sub-decree should be promulgated prohibiting the physical collection of land titles by lenders for loans.

The microfinance sector in Cambodia currently provides millions of loans across the country. Many of these loans are collateralized with land titles. While there is no prohibition of the taking of a physical title for a loan under the Land Law (2001), it is also not a legal requirement for a loan.

Double-pledging:

Originally, the justification for the taking of physical titles was to avoid “double-pledging”, or the practice of using one land title as collateral for two loans. However, there is little evidence that the risk of double-pledging is significant, and there are current safeguards in place, such as the registering of land titles at the commune level, to protect against this risk.

Microfinance loans are able to operate without taking physical land titles. Once a title is registered, and photocopies have been made, the risk of double-pledging is mitigated and microfinance institutions can accept the collateral without having to possess it physically.

Unnecessary practice:

The risk of physical possession of the land titles by microfinance institutions outweighs any benefits. As discussed, the risk of double-pledging is already mitigated through the registration of loans. As such, the need to retain the physical title for microfinance institutions is unnecessary.

Further, the taking of physical land titles by microfinance institutions can have unwanted coercive effects. Researchers have pointed to the fact that once a microfinance institution possesses the physical title, even though they only hold it as collateral, it still affects the dynamic of lender-borrower by providing

more power to the lender. The physical retention of the title must be understood as potentially creating a power dynamic in which borrowers feel ‘at the mercy’ of lenders.

Given the lack of necessity for this practice, as well as the potentially harmful effects it can have on borrower-lender relations, the taking of physical land titles ought to be prohibited by law. The best way to achieve this is to promulgate a sub-decree disallowing it, and providing measures, including a timeline, to return physical titles to borrowers.

Human rights due diligence recommendations

Relevant laws and regulations:

- Land Law (2001)
- The Law on Expropriation (2010)
- Sub-decree No 72 on Environmental Impact Assessment Process (1999)
- Sub-Decree No 22 on the Promulgation of the Standard Operating Procedures for Land Acquisition and Involuntary Resettlement for Externally Financed Projects in Cambodia (2018)

Recommendation 7

Begin consultations and create a working group consisting of human rights NGOs and legal professionals to produce regulations for mandatory human rights due diligence (HRDD). HRDD should be required of all projects operating in Cambodia, especially where the risk to land and human rights issues is prevalent. This includes all major infrastructure projects i.e. dams, mining operations, airports, and large projects involving significant funding from international corporations and/or significant supply chains.

Human rights due diligence is a process for undertaking risk assessment based on the risk of causing or contributing to human rights abuse. HRDD is a requirement for businesses under the United Nations Guiding Principles on Business and Human Rights.¹⁰¹ It

is also required under OECD agreements and becomes heightened as a responsibility when the operating environment of business activities is high-risk. Currently, no law requires human rights due diligence be undertaken. Sub-decree No 72 (1999) prescribes the processes for environmental and social impacts; Sub-decree No 22 (2018) describes resettlement procedures for externally financed projects. But no regulation requires human rights impact assessment or due diligence be undertaken to mitigate the risks of human rights abuses.

Mandating Human Rights Due Diligence (HRDD) prior to the initiation of projects offers a proactive approach to preventing potential harm. It also shields businesses from potential legal issues and fosters trust within the corporate and business sectors by demonstrating a commitment to responsible risk management and ethical business practices.

Aligning domestic law with international human rights norms

Current Cambodian regulation requires companies operating in Cambodia undertake impact assessment, but not human rights impact assessments. This is at odds with the international system of business regulation which promotes HRDD through a variety of legal instruments. International businesses have faced legal actions and withdrawn funds from Cambodia because of a failure to complete HRDD. For example, ANZ bank’s failure to properly conduct HRDD led to them withdrawing funds and paying compensation to affected Cambodian families.¹⁰² A Cambodian legal system requiring HRDD would help to reduce the risk of future human rights abuses occurring and assist international corporations to understand that their obligations at Cambodian law align with international norms.

The risk that Cambodia will fall behind in a competitive international market due to lagging regulations is significant. This risk can be mitigated by promulgating mandatory HRDD to encourage businesses to operate in Cambodia in a responsible manner.

¹⁰¹ John Ruggie, Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises — Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, 17th sess, Agenda Item 3, UN Doc A/HRC/17/31 (21 March 2011) annex (‘Guiding Principles on Business and Human Rights’), UNGP 15.

¹⁰² Follow Up Statement Regarding complaint submitted by Equitable Cambodia and Inclusive Development International on behalf of Cambodian families, Australian National Contact Point for the OECD Guidelines for Multinational Enterprises, 27 February 2020, < https://ausncp.gov.au/sites/default/files/2020-02/Complaint_11_statement.pdf > 4.

About the publisher

Die **Stiftung Asienhaus** follows the guiding principle „Connecting people, promoting insights, shaping the future“ and contributes to building bridges between civil societies in Asia and Europe. It is committed to the implementation of human rights, the strengthening of social and political participation, as well as the protection of social justice and the environment.

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